OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 25 June 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 (*Acting*)
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
SECRETARY FOR ECONOMIC SERVICES
MR. DAVID GREGORY JEAFFRESON, 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 LEWIS MERVYN DAVIES, C.M.G., O.B.E., J.P.
SECRETARY FOR SECURITY

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

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, C.B.E., J.P.
DIRECTOR OF MEDICAL AND HEALTH SERVICES

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

THE HONOURABLE JOHN MARTIN ROWLANDS, C.B.E., 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 DONALD LIAO POON-HUAI, O.B.E., J.P.
SECRETARY FOR HOUSING

THE HONOURABLE JOHN GEORGE STEAN, O.B.E., J.P.
DIRECTOR OF PUBLIC WORKS (*Acting*)

THE HONOURABLE AUGUSTINE CHUI KAM, J.P.
SECRETARY FOR THE NEW TERRITORIES (*Acting*)

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

THE HONOURABLE LI FOOK-WO, 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 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.

ABSENT

THE HONOURABLE ALAN JAMES SCOTT, J.P.

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

THE HONOURABLE JOHN MORRISON RIDDELL-SWAN, J.P.
DIRECTOR OF AGRICULTURE AND FISHERIES

THE HONOURABLE OSWALD VICTOR CHEUNG, C.B.E., Q.C., 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 ALEX WU SHU-CHIH, O.B.E., J.P.

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.	
Designation of Museums (Hong Kong Space Museum) Order 1980	140
Evidence Ordinance.	
Evidence (Authorized Persons) (No. 7) Order 1980	141
Immigration Ordinance.	
Immigration (Unauthorized Entrants) (Amendment) Order 1980	142
Evidence Ordinance.	
Evidence (Authorized Persons) (No. 8) Order 1980	143
Immigration Ordinance.	
Immigration (Places of Detention) (Amendment) Order 1980	144
Immigration Ordinance.	
Immigration (Treatment of Detainees) Order 1980	145
Public Health and Urban Services Ordinance.	
Public Health and Urban Services (Amendment of Fifth Schedule) Order 1980	146
Companies (Amendment) Ordinance 1979.	
Companies (Amendment) Ordinance 1979 (Commencement) Notice1980	147
Inland Revenue Ordinance.	
Inland Revenue (Interest Tax) (Exemption) (Amendment) (No. 4) Notice 1980	149

Sessional Paper 1979-80:

No. 55—Statement of Accounts and Report of the Activities of the Hong Kong Examinations Authority for the period1 August 1977 to 31 August 1978 with Certificate of the Director of Audit (published on 25.6.80).

Oral answers to questions

1. Kwai Chung Godown fire

MR. F. W. LI asked:—*Did the Fire Services Department experience difficulties ties in fighting the recent Kwai Chung Godown fire? If so, what appropriate steps will be taken to ensure more effective fire fighting in future?*

SECRETARY FOR SECURITY:—Sir, the answer to the first part of the question is yes. A fourth alarm fire occurred in the Chung Nam Industrial Building in Kwai Chung on 14 June.

The fire was reported at 11.02 p.m. and the Fire Services were on the scene four minutes later. At the height of the blaze 21 fire appliances and 16 ambulances were in attendance. Extreme difficulties arose in dealing with this fire because of the amounts of combustible goods stored in the godown, the passageways and exits of the affected premises. As a result fire officers were prevented from gaining rapid access to the source of the fire.

Despite these conditions the Fire Services succeeded in containing the blaze to the building of origin and mainly to the original floor, though it was not until 11.12 a.m. on 16 June (that is to say, 36 hours later) that the fire was under control. 38 firemen were treated for inhalation of smoke and exhaustion.

The answer to the second part of the question is that the Fire Services provide a highly effective 24-hour a day emergency fire fighting service. The Service is staffed, equipped and organized and the stations are sited to ensure in the urban areas that it is at the scene of a fire within six minutes of the alarm call being received. Steps are continuously being taken to maintain a high standard of effectiveness by updating fire-fighting equipment, recruiting and training firemen and fire officers of suitable calibre, by routine daily fire exercises and by the construction of additional fire stations.

A large programme of fire prevention is also implemented. Under this the Fire Services Department publicizes the dangers of obstructing exits, staircases and lift lobbies, carries out inspections to abate fire hazards and also checks the plans of new buildings to ensure that appropriate minimum fire protection is provided. It does its best through its inspectorate and by the use of its legislative powers to ensure that areas are cleared of obstruction after an inspection. It also relies very properly on the co-operation of owners and occupants of buildings to keep the access to their premises and their surroundings clear and free of obstruction.

MR. F.W. LI:—*Sir, besides the Fire Services Department, is there any other Government department that is in any way involved in preventing obstructions in factories and godowns for fire fighting purpose?*

SECRETARY FOR SECURITY:—Yes, Sir, the Labour Department carries out inspections of all factories, though not of godowns; and if during these inspections fire hazards within common areas are identified the Fire Protection Bureau of the Fire Services Department is notified by telephone and action is taken.

MR. CHEN:—*In the case in point where goods were found blocking the passageways and exits, would Government take any action against the owner?*

SECRETARY FOR SECURITY:—Sir, this particular incident is still under examination. I should stress that the way in which this particular godown had goods stored in it made it very difficult to progress through the godown. That is to say that the goods were apparently stored right up to the door in a solid mass. It is not possible, of course, to say what action will be taken until the report which is now being compiled has been considered.

MR. PETER C. WONG:—*I noticed that in one of the recent fires some 50 or so firemen were immobilized. Has that any short-term significance on the Fire Services Department?*

SECRETARY FOR SECURITY:—No, Sir. At the height of this fire one-quarter of the strength of the New Territories Fire Services was deployed, but those who suffered during this incident and who had to remain for any long period of treatment were very small. It does emphasize, of course, the enormous deployment of manpower which is required in these circumstances to fight this type of fire.

REVD. JOYCE M. BENNETT:—*Sir, had this building been inspected recently or not?*

SECRETARY FOR SECURITY:—Yes, Sir, it had been inspected on the 8 of February.

2. Lifting appliances on goods vehicles

MR. SO asked in Cantonese:—

政府可否說明：
（甲） 對於在貨車裝置及使用起重機械，有何管制；
（乙） 裝有起重機械的貨車數目有若干；以及
（丙） 過去一年來，因使用此類機械而對工人造成意外有多少宗？

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

Will Government make a statement on:—
(a) the control exercised over the installation and use of lifting appliances on goods vehicles;

(b) the number of licensed goods vehicles equipped with lifting appliances; and
(c) the number of accidents to workers during the last 12 months arising from the use of such appliances?

COMMISSIONER FOR LABOUR:—Sir, (*a*) Lifting appliances on goods vehicles are subject to the control of the Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations and/or the Construction Sites (Safety) Regulations only when such goods vehicles are working in an 'industrial undertaking'. Outside such situations they are probably not within the purview of these Regulations. It will be appreciated though that in view of the great mobility of such goods vehicles the exercise of control of installation and use of lifting appliances mounted on them is difficult. Nonetheless, I have been informed by the Commissioner for Transport that when such vehicles are undergoing inspection at a vehicle inspection centre, measures are taken to ensure that the lifting appliance is properly fixed to the vehicle, but the mechanical parts and operation of the lifting appliances are outside the ambit of the Road Traffic (Construction and Use) Regulations.

(*b*) I have been informed by the Commissioner for Transport that he does not keep specific records of licensed goods vehicles equipped with lifting appliances, but he estimates that there must be several thousand of them by now.

(*c*) No separate statistics are kept on the number of accidents to workers arising from the use of lifting appliances on goods vehicles. However, in the view of the Factory Inspectorate, the number of these accidents involving lifting appliances on goods vehicles is a fairly small proportion of lifting appliance accidents as a whole, but the rapid increase in the number of these vehicles in recent years is a cause for concern in relation to accidents.

I should add that now that annual inspection of goods vehicles is becoming established, what is not a particularly satisfactory control situation in practice can and should be improved. I am therefore approaching the Commissioner for Transport to see whether some testing or certification of lifting gear on lorries could be combined with this annual inspection. It needs also to be considered whether introduction of some features of the 'lifting appliance' regulations might usefully be imported into the Road Traffic (Construction and Use) Regulations, bearing in mind that the public safety as well as worker safety may be involved where loading and unloading by these appliances takes place on public thoroughfares.

3. Crime prevention in countryside

DR. HO asked:—*What measures are being taken by Government to protect picnickers from being preyed on by robbers in the countryside?*

SECRETARY FOR SECURITY:—Sir, the Police mount special uniformed and plain clothes patrols, both mobile and on foot, in all popular picnicking areas. Police dogs are also used. Patrolling is increased at weekends and public holidays when large numbers of members of the public visit the countryside, and in especially popular areas.

Within country parks, the Agriculture and Fisheries Department also maintain a presence and liaises closely with the Police. Daily patrols (including holidays and weekends) are undertaken by Forest Guards throughout the year and Police help can be summoned quickly if necessary through the Country Park Management Centres. The Department has also introduced an experimental scheme of using uniformed Park Rangers to patrol the two most popular country parks at Plover Cove and South Lantau. The Department intends to extend the Park Rangers Scheme to all country parks within the next two years.

DR. HO:—*Sir, can Government also consider using mounted policemen to patrol popular picnic areas where vehicular access is difficult or impossible?*

SECRETARY FOR SECURITY:—Sir, mobile patrols provided by vehicles are already mounted if that's what the honourable Member means. As to whether we should use horses I would need to take advice (*laughter*).

4. Squatter control

MR. WONG LAM asked in Cantonese:—

政府可否將市區及新界目前之僭建情況告知本局，並請說明有何措施使問題得以控制及改善？

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

Will Government report on the present scale of squatting both in the urban area and the New Territories and the measures being taken to contain and reduce the problem?

SECRETARY FOR HOUSING:—Sir, the present scale of squatting throughout the territory is substantial.

The most active area is East Kowloon, where jobs are readily available and where racketeers have been quick to capitalize on the growing market, which mainly consists of new immigrants who are flowing in in such numbers and who are unable to obtain or afford private rental accommodation. These racketeers are building on every available piece of land, and huts of 200 sq. ft. are now commanding prices in excess of $10,000. The added lure of eventual public housing, should the squatter lose his home as the result of a fire, development clearance or squatter control action, permits the racketeers to charge these exorbitant prices.

In 1976 Government recognized that the total prevention of new squatting would not be practicable without disproportionate expenditure on the reinforcement of squatter control staff and on the provision of temporary housing for those displaced as a result of squatter control action. The same policy is being followed today, that is, to contain squatting in areas scheduled for development, by intensive patrolling, whilst other areas are subject only to more general patrolling. Huts which are quickly erected and occupied by families in the general patrol areas are allowed to remain, in order to avoid the considerable rehousing commitment which would result from their demolition.

In the past three months alone, Sir, approximately 5,000 huts have been demolished by squatter control staff, but despite these efforts, the number of new occupied huts is increasing by some 400 per month.

There is another important aspect: that is that there is an ever-increasing concentration of squatters within existing squatter areas. This element forms a significant part of the increased squatter population and gives rise to particular concern when squatter structures are cleared for development, or as the result of a fire or other disaster.

In the absence of a full-scale survey, no accurate figures are available regarding squatters. However, it is now estimated that this sector of the population could comprise as many as ¾ of a million people.

At present the Housing Department is responsible for the control of squatting in the urban area and in the new towns of Tsuen Wan, Sha Tin and Tuen Mun. Squatter control for the other New Territories districts, currently undertaken by the New Territories Administration, will be gradually taken over by the Housing Department, which will be responsible for the squatter control of the whole of the territory by 1981. In view of increasing pressure, it has been found necessary to greatly strengthen the establishment of the Squatter Control Division. Additional posts were provided for the new towns last year; a new control district has recently been formed in Kowloon and some 200 posts have been provided for this purpose; also a further considerable increase of staff is planned for next year, in order to provide the necessary protection for the other New Territories areas.

The strengthening of staff resources will enable the Housing Department to concentrate its efforts on known squatter blackspots which are daily attracting new squatters and hut builders. Also, with vigorous law enforcement action it will prove possible to contain fresh squatting in areas due for development, but I am under no illusions about reducing the problem. The people are here in Hong Kong, more are arriving daily and they have to live somewhere. In our present housing situation, for most of them that 'somewhere' is inevitably a squatter hut.

MR. WONG LAM asked in Cantonese:—

閣下，由此項答覆引起，本人想知道在執行管制僭建方面，現正採取甚麼行動？

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

Sir, arising from this reply, I would like to know in controlling squatters what sort of measures are being taken?

SECRETARY FOR HOUSING:—Sir, the amendments to the Crown Land Ordinance approved by this Council in July 1979, and in particular the amendment which makes it an offence to be engaged in building or directing the building of structures on unleased land, have enabled effective action to be taken against offenders. In this connection I would like to express appreciation to the Royal Hong Kong Police Force for their assistance and co-operation. The realistic sentences now being imposed by the courts will, I hope, prove to be a further deterrent. Also it is gratifying to note the disapproval expressed by members of the public regarding these unlawful activities and the strong support given by the media to the enforcement action now being taken.

MR. WONG LAM asked in Cantonese:—

閣下，有關水上僭居情況如何？

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

Sir, for squatters on floating residences what sort of measures are being taken?

SECRETARY FOR HOUSING:—Sir, boat squatters pose another threat to our housing resources. Some immigrants are arriving by boat and are joining our floating population in the various shelters and anchorages in the territory. As quickly as old boats are sunk or removed and the inhabitants housed ashore new arrivals take their place, where they inhibit development and port works and cause congestion. The Director of Marine estimates that there are at present just over 2,000 house—boats in these areas.

MISS DUNN:—*Can the Secretary for Housing estimate, very roughly, how many squatters there would have been today in the absence of the large influx of immigrants in the last 2½ years?*

SECRETARY FOR HOUSING:—Sir, as I said most of the squatters are new immigrants, so the new immigrants are probably the net increase in the squatter population.

MISS DUNN:—*Can he put a number on it, Sir?*

SECRETARY FOR HOUSING:—The figure is 280,000 people in the two years 1978 and 1979.

MR. F. K. HU:—*Sir, can the Secretary for Housing advise whether the survey to be conducted will cover details of squatters besides details of huts?*

SECRETARY FOR HOUSING:—The detailed survey, Sir, will be included in the 1981 census when both the structures and the people will be tabulated.

5. Prevention of disorder at public entertainment events

MR. SO asked in Cantonese:—

請問政府現在如何防止在公開集會中，例如本月八日在九龍公園舉行的音樂會，有惡意破壞及混亂的情形出現？

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

Will Government state what measures are being taken to prevent vandalism and disorderly conduct arising from gatherings such as the recent concert held on 8 June, 1980 at Kowloon Park?

SECRETARY FOR SECURITY:—Sir, the concert at Kowloon Park on 8 June was one of about 800 entertainment events organized by the Urban Council at various outdoor venues such as parks and playgrounds. Unfortunately minor disorder involving no casualties but including damage to three vehicles occurred on this occasion. The organizers estimated an audience of between six and seven thousand for this concert and plans were made on this basis. In the event the actual turn-out was three or four times that number and may have been influenced by an ill-founded rumour that a particularly popular local 'pop' star would perform at the concert. This created problems of crowd control.

To prevent a recurrence of similar incidents three measures have already been taken—

the Urban Services Department has decided not to organize public entertainment events which are likely to draw large audiences at places such as Kowloon Park where proper admission control is impracticable. Instead, facilities which are designed to accommodate large numbers of spectators, such as the Hong Kong Stadium and the Mong Kok Stadium will be used;

the Department will also exercise careful and appropriate control of pre-event promotion and publicity to avoid drawing excessively large crowds; and

the Commissioner of Police has advised Police District and Divisional Commanders to liaise more closely with the Urban Services Department in future so as to ensure a sufficient Police presence at all Urban Council public entertainment events.

Government business

Motions

HONG KONG AND YAUMATI FERRY COMPANY (SERVICES) ORDINANCE

THE SECRETARY FOR THE ENVIRONMENT moved the following motion:—With the consent of the Company, that, with effect from 1 July 1980, the Schedule to the Ordinance be amended in Appendix II under the heading 'A. SERVICES OTHER THAN BETWEEN JUBILEE STREET FERRY PIER AND KWUN TONG FERRY PIER'—

(a) in item (*c*) by deleting '50 cents' and substituting the following—
'60 cents';

(b) in item (*h*)by deleting '$6.00' and substituting the following—
'$7.00';

(c) in item (*i*) by deleting '$6.00' and substituting the following—
'$7.00';

(d) in item (*j*) by deleting '$6.00' and substituting the following—
'$7.00';

(e) in item (*k*) by deleting '$9.00' and substituting the following—
'$10.00';

(f) in item(*l*) by deleting '$12.00' and substituting the following—
'$15.00'; and

(*g*) in item (*o*)—

(i) by deleting '$20.00' and substituting the following—
'$24.00'; and

(ii) by deleting '$10.00' and substituting the following—
'$12.00'.

He said:—Sir, I rise to move the first motion standing in my name on the Order Paper. It provides, under section 5 of the Hong Kong and Yaumati Ferry Company (Services) Ordinance (Chapter 266), for increases in passenger fares on the shorter cross-harbour scheduled services and in fares for selected categories of vehicles on scheduled vehicular ferry services to come into effect on 1 July 1980. These increases, if approved, will be effected through amendments to Appendix II of the Schedule to the Ordinance and they have the consent of the Company.

The main change proposed is that passenger fares, which are now set at 50 cents for a single adult trip, would rise to 60 cents. Child fares would, however, remain at 30 cents but monthly tickets would increase from $20 and $10, for adults and children respectively, to $24 and $12. With regard to vehicular charges, increases are proposed for light buses and omnibuses (from $6 to $7), and goods vehicles (from $6, $9 and $12 to $7, $10 and $15 respectively, according to weight). No increases are proposed in charges for other vehicles, including private cars, taxis and motor cycles.

Sir, on 17 October 1979, when increases in fares and charges on all the Hong Kong and Yaumati Ferry Company's scheduled passenger services were approved by this Council, I said that the possibility of a further increase in fares for cross—harbour services in the course of 1980 could not be ruled out. The rate of return on average net fixed assets was then predicted to be in the region only of 7% in 1979 and 6% in 1980, even with the increased revenue to be generated from the higher fares. In the event, the rate of return in 1979 was 6% and the predicted rate of return in 1980 has now fallen to less than 2% of average net fixed assets.

This decline in profitability has come about mainly for two reasons. The first and most important has been the dramatic, but not entirely unexpected, increase in the cost of fuel, the price of which so far in 1980 has risen at twice the rate previously assumed, that is by 50% instead of 25%. The second reason has been a drop in the predicted revenue from vehicular ferry charges as a result of lower than expected patronage, particularly by dangerous goods vehicles. The increases in fares and charges now proposed are expected to bring back the profitability of the Company's ferry operations in 1980 to between 5% and 6%, but this is still a relatively modest figure. It could again be vulnerable to erosion should operating costs, particularly fuel costs, increase further, or if passenger numbers were to drop as a result, for instance, of more people using the air-conditioned M.T.R. in the hot summer months. Given these uncertainties, careful monitoring of developments will continue to be necessary in the coming months to ensure that the Company's ferry services remain viable and, in the circumstances, I cannot rule out the possibility that a further general increase in ferry fares may become necessary later this year or early in 1981.

Sir, I beg to move.

Question put and agreed to.

MASS TRANSIT RAILWAY CORPORATION ORDINANCE

THE SECRETARY FOR THE ENVIRONMENT moved the following motion:—That the Mass Transit Railway (Amendment) By-laws 1980, made by the Mass Transit Railway Corporation on 10 June 1980, be approved.

He said:—Sir, I move that the second motion standing in my name on the Order Paper, that is that the Mass Transit Railway (Amendment) By-laws 1980 made by the Mass Transit Railway Corporation on 10 June 1980 be approved by this Council. These amendments to the principal By-laws are considered necessary by the Corporation as a result of experience gained in the operation of the railway since its opening in October last year. A number of problems have arisen relating to ticketing arrangements and fare evasion

and the amendments seek, through a revision of Part III of the principal By-laws, more clearly to define offences and penalties in this context.

By-law 8 in this Part now defines the 'paid area' of the railway premises as the area which is set aside for the purpose of fare paying passengers and which is provided with ticket gates or turnstiles for the purposes of entry or exit. New offences are then created, each carrying a maximum fine of $500, for entering the paid area or travelling without having paid a fare and obtaining a ticket, that is By-law 12, for failing to surrender a ticket (By- law 15) and for refusing to pay a fare, excess fare or surcharge which is By-law 16A. Further offences, relating to altering a ticket and using a damaged or altered ticket, are provided for in By-law 16. The proposed maximum penalty for these offences is $1,000. The amendments also include a number of other detailed arrangements concerning such matters as the levels of excess fares and surcharges which may be charged and loss of tickets.

As it is sometimes necessary for Police officers and members of Her Majesty's forces to carry arms on the railway whilst not on duty, the opportunity has also been taken to amend By-law 34 of the principal By-laws to permit this.

Sir, I beg to move.

Question put and agreed to.

APPRENTICESHIP ORDINANCE

THE COMMISSIONER FOR LABOUR moved the following motion:—That the Apprenticeship (Amendment) Regulations 1980, made by the Commissioner for Labour on 27 May 1980, be approved.

He said:—Sir, I move the motion standing in my name on the Order Paper for the approval of the Apprenticeship (Amendment) Regulations 1980, which I made on 27 May 1980. In accordance with section 47(3) of the Apprenticeship Ordinance, these Regulations have been submitted to Your Excellency and are now referred to this Council for approval.

The review of the Apprenticeship Ordinance and its subsidiary legislation which I shall refer to later when moving the second reading of the Apprenticeship (Amendment) Bill 1980 has shown the desirability of and the need for these amendments to the Regulations. The major amendments are contained in Regulations 3 and 4.

Regulations 3(*a*)(i), 3(*b*) and 3(*c*) seek to limit the period during which registered apprentices aged below 18 years can be employed to between 7 a.m. and 7 p.m. Regulation 4 further states that this limitation will apply

even if overtime is worked. Together, the above Regulations will effectively ensure that young apprentices below the age of 18 years will have a night rest of 12 consecutive hours. This is in line with the Government's intention to comply with article 2 of International Labour Convention 90. The Women and Young Persons (Industry) Regulations recently approved by this Council also stipulate a similar limitation. Additionally, Regulation 3(*b*) will also allow registered apprentices of 16 years and above to work up to ten hours in any day between 7 a.m. and 7 p.m. such that the hours worked in excess of eight hours will not be counted as overtime employment, provided that the total hours worked in any week does not exceed 48. Regulation 3(*a*)(iii) will provide a registered apprentice with another rest day in any week which contains a statutory holiday. These provisions already exist in the Employment Ordinance and apply to young persons who are not registered apprentices.

Like the amendments to the Apprenticeship Ordinance which I shall place before this Council for approval later, the underlying principles of these amending Regulations have been considered by and have the full support of the Hong Kong Training Council and its Committee on Apprenticeship.

In order to give employers and apprentices adequate notice of the changes, I propose to give a period of notice of about two months before bringing these Regulations into operation on 1 September 1980.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

ESTATE DUTY (AMENDMENT) BILL 1980

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1980

MONETARY STATISTICS BILL 1980

TRADE DESCRIPTIONS BILL 1980

DANGEROUS DRUGS (AMENDMENT) BILL 1980

ROYAL HONG KONG AUXILIARY POLICE FORCE (AMENDMENT) BILL 1980

EDUCATION (AMENDMENT) BILL 1980

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) (NO. 2) BILL 1980

WATER POLLUTION CONTROL BILL 1980

APPRENTICESHIP (AMENDMENT) BILL 1980

WORKMEN'S COMPENSATION (AMENDMENT) BILL 1980

THEFT (AMENDMENT) BILL 1980

DUTIABLE COMMODITIES (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

ESTATE DUTY (AMENDMENT) BILL 1980

THE CHIEF SECRETARY moved the second reading of:—'A bill to amend the Estate Duty Ordinance'.

He said:—Sir, I move the second reading of the Estate Duty (Amendment) Bill 1980.

The ceiling at which duty on estates of deceased persons becomes payable was last lifted to $400,000 in 1977. Having regard in particular to prevailing property prices, I put forward a proposal, in paragraph 201 of this year's Budget Speech, to lift this ceiling to $600,000. This Bill seeks to implement that proposal.

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 CHIEF SECRETARY.

Question put and agreed to.

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1980

THE CHIEF SECRETARY moved the second reading of:—'A bill to amend the Inland Revenue Ordinance'.

He said:—Sir, I move the second reading of the Inland Revenue (Amendment) (No. 3) Bill 1980.

The Bill seeks to give legislative effect to the proposals made in paragraphs 190 to 199 of this year's Budget Speech to exempt credit unions from interest tax, to reduce the tax burden of those on lower taxable incomes, and to remove some existing taxpayers and potential taxpayers from the tax net by lifting tax thresholds.

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 CHIEF SECRETARY.

Question put and agreed to.

MONETARY STATISTICS BILL 1980

THE CHIEF SECRETARY moved the second reading of:—'A bill to provide for the collection of statistical information from banks and deposit-taking companies'.

He said:—Sir, I move that the Monetary Statistics Bill 1980 be read the second time.

We obtain monthly—and we have done so for some 15 years—detailed financial returns from each bank and deposit-taking company in Hong Kong. These returns, which are called for under the Banking Ordinance and the Deposit-taking Companies Ordinance, are submitted to the Commissioner of Banking so that he can satisfy himself that each individual institution is trading prudently and within the terms of the law. The information in these returns is used to calculate the amount of monetary credit available to the economy and the money supply. But, in a sense, this is a misuse of these returns, because the definitions on which these aggregates are based are not designed for statistical purposes as such. Furthermore, for monetary policy purposes, we need some information which the Commissioner of Banking does not need for his prudential supervision purposes.

So the purpose of this Bill is to enable the Government to collect statistical information expressly designed to describe and to measure developments in the monetary sector of the economy.

The Bill was foreshadowed in this year's Budget Speech and has the support of the Banking Advisory Committee and the Deposit-taking Companies Advisory Committee, with whom the format of the returns to be submitted will be discussed as soon as possible.

Clause 1 provides that the Bill shall come into operation on a day to be appointed by you, Sir, by notice in the *Gazette*. I anticipate that this date will be in November this year, so that the first returns made will relate to the end of December.

Clause 3 provides for a basic monthly return to be furnished to the Secretary for Monetary Affairs by every bank and deposit-taking company; it also enables him to call for other returns from some or all banks and deposit-taking companies. These returns may be required to be verified by the bank's or company's auditors. A similar requirement applies to the returns already made to the Commissioner of Banking under the Banking Ordinance and the Deposit-taking Companies Ordinance.

Clause 4 provides that any information provided by a bank or a deposit-taking company is to be treated as secret, and may not be revealed by the Secretary for Monetary Affairs to anyone other than the Financial Secretary; but it also provides that information relating to a number of banks or deposit-taking companies may be published. It is my intention that as much information as possible collected under this Bill shall be published, in aggregated form of course, and probably we shall then cease publishing statistics based on the returns supplied to the Commissioner of Banking for his prudential supervision purposes.

Clause 5 sets out the penalties for a breach of the secrecy provisions, and for a failure to provide the information required by the Secretary for Monetary Affairs.

A small statistical unit will be established in the Monetary Affairs Branch, Government Secretariat, to handle the returns collected under. this Bill, at an estimated annual cost of $312,000.

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

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

Question put and agreed to.

TRADE DESCRIPTIONS BILL 1980

THE FINANCIAL SECRETARY moved the second reading of:—'A bill to prohibit false trade descriptions, false marks, and misstatements in respect of goods provided in the course of trade; to confer power to require information or instruction relating to goods to be marked on or to accompany the goods or to be included in advertisements; to prohibit the unauthorized use of devices or emblems signifying an award by the Queen or the Governor; to restate the law relating to forgery of trade marks; to repeal the Merchandise Marks Ordinance; and for purposes connected therewith'.

He said:—Sir, I move that the Trade Descriptions Bill 1980 be read the second time.

In Hong Kong, consumer protection is dealt with in a number of ordinances. Of these, the Merchandise Marks Ordinance which seeks to provide protection against 'fraudulent marks on merchandise', was enacted as long ago as 1891. After an extensive review of what is required for Hong Kong today and detailed study of similar legislation in the United Kingdom, the Trade Descriptions Bill 1980 now seeks to repeal the Merchandise Marks Ordinance and to replace it with more up-to-date legislation. I shall deal with the Bill under the existing broad headings contained in the Merchandise Marks Ordinance, namely trade descriptions and trade marks.

Trade descriptions

As regards trade descriptions, the Bill continues to make it an offence for any person to apply a false or misleading trade description to goods or to supply goods to which false trade descriptions have been applied. The definition of 'trade description' has been refined in clause 2 to cover all those characteristics of goods which can be factually assessed and which are likely to be important to purchasers of them. These new characteristics include the method of processing or reconditioning, testing and its results, and other history, including previous ownership or use, which may be of interest to buyers.

In addition, the definition of 'trade description' has been extended to operate in two areas, advertisements and marking orders. In the case of advertisements, as a means of stopping possible unethical practices by advertisers or their agents, clause 8 of the Bill extends the law by bringing within its operation misdescriptions used in advertisements; and clause 6(2) does so in respect of misdescriptions by word of mouth. 'Advertisements' here include catalogues, circulars and price lists. In order to confer protection on innocent publishers, the Bill in clause 27 provides that it will be a valid defence if they can prove that they received the advertisement containing a false trade description in the course of their business and did not know that the advertisement infringed the provisions of the Bill.

As regards marking orders, at present there are no requirements for the provision of such information on goods as the composition, ingredients, net weight and date of manufacture. As a means of facilitating the mandatory provision of such information to consumers, the Bill in clause 4 empowers the Governor in Council to make 'marking orders' which require goods to be marked or to be accompanied by information or by instructions relating to the goods. It is envisaged that marking orders will be sought only for goods in respect of which purchasers can be easily deceived, for example food and gold articles. The Director of Trade, Industry and Customs intends to establish an advisory committee, to include trade and Consumer Council representatives, to advise on the types of goods which should be subject to marking orders. A person will commit an offence if he supplies or offers goods in the course of trade and fails to give the information or instructions required by a marking order, or if he provides inaccurate or incorrect information in

the form or manner specified in the marking order. As a corollary to this provision, the Bill in clause 5 also confers a power to require advertisements for goods to carry specified information whether or not there is a marking order in force in relation to the goods advertised.

The Bill retains existing provision in the Merchandise Marks Ordinance prohibiting the description of an article as gold if its gold content is less than eight carats. This provision was originally made in 1972 as a result of complaints that there was serious and widespread misrepresentation of the gold content in jewellery sold in Hong Kong. The intention is to protect consumers by means of marking orders and gold will be one of the first commodities the Director of Trade, Industry and Custom's advisory committee will be considering.

Trade marks

Turning now to the trade marks, the Bill restate the existing law relating to the forgery of trade marks and the application of forged trade marks to goods. The most significant change is that the Bill omits the requirement for complainants to provide a security against costs incurred by the Government as a pre-requisite to official prosecution. This is because, as trade mark offences are basically invasions of private rights, civil action provides a more suitable and equitable method of dealing with infringement. The intention is that, as with official prosecutions undertaken under the Merchandise Marks Ordinance, criminal prosecutions will now only be instituted in two main types of cases. *First,* where the trade marks enjoy world wide recognition and the toleration of their infringement will be detrimental to Hong Kong's reputation as a trading and shopping centre. *Second*, where the trade mark infringements are detrimental to the interests of consumers in Hong Kong who could not otherwise be expected to protect themselves in the circumstances. Where public interest as so defined demands that there should be prosecution, then there can be no justification for the Government to require security for costs or damages. The effect of the abolition of such a requirement means that liability for costs and damages consequent upon an unsuccessful prosecution rests solely on the Government.

Exemptions

The Bill prohibits the import or export of goods to which a false trade description or forged trade mark is applied, but there are two exemptions. Goods in transit are not subject to the provisions of the Bill; and goods for export are exempted from the quantity, size and gauge aspects of a trade description. The latter exemption is made because most Hong Kong manufacturers work to order and have to conform to the specfications stipulated by overseas buyers. So to enforce the Bill without this exemption might unnecessarily frustrate export trade. What constitutes a false trade description in Hong Kong may not be so elsewhere.

Enforcement of the Bill will rest with the Trade, Industry and Customs Department. The fines involved have been raised from their present levels in

the Merchandise Marks Ordinance so that any person who is convicted of an offence is liable, on summary conviction, to a fine of $100,000 and imprisonment for two years, and upon conviction on indictment, to a fine of $500,000 and imprisonment for five years.

The Bill differs from its U.K. counterpart in one significant aspect, in that it makes no provisions for the prohibition of misdescription in respect of prices, services, accommodation and facilities. We have carefully considered bringing these areas within the scope of the Bill, but after much discussion with such organizations as the Consumer Council, it has been generally agreed that the difficulties of enforcing appropriate provisions would be such that they should not be included for the time being. Nonetheless, it is the Government's intention that this issue should be reconsidered in the light of experience in enforcing the new legislation.

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

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

Question put and agreed to.

DANGEROUS DRUGS (AMENDMENT) BILL 1980

THE SECRETARY FOR SECURITY moved the second reading of:—'A bill to amend the Dangerous Drugs Ordinance'.

He said:—Sir, I move that the Dangerous Drugs (Amendment) Bill 1980 be read a second time. The main purpose of the Bill is to improve the effectiveness of the principal Ordinance by enabling action to be taken against those persons who traffic in substances represented or held out to be dangerous drugs.

During 1979, owing to the shortage of illicit drug supplies, there have been numerous cases of attempted sales of narcotics where either the drugs were not in existence or were fake powders purporting to be dangerous drugs. In 1979, 338 cases of counterfeit heroin, representing about 10% of all heroin seizure cases made during the year, and other substances purporting to be dangerous drugs, were detected.

Although the Dangerous Drugs Ordinance provides for the offence of offering to traffic in a dangerous drugs, it does not cover cases where the party offering to traffic in a substance purporting to be a dangerous drug knows that what he is offering is not a dangerous drug. While he may be charged with deception, legal advice is that in the overt circumstances of such an offence it is extremely difficult to secure a conviction before of the necessity of having to establish a dishonest intention. The Bill now

proposes that such cases should be made an offence in the same way as an offence to traffic in dangerous drugs, but with penalties corresponding to those provided for the offence of deception. The need to prove a dishonest intention would be eliminated.

At the same time it is proposed to amend section 4(1)(*b*) and (*c*) of the principal Ordinance to make it clear that a person who offers to traffic in a substance which he genuinely believes to be a dangerous drug is guilty of an offence under the section, even though it is not in fact a dangerous drug.

In addition, the Bill also provides that where a person is acquitted of unlawful trafficking in a dangerous drug he may be convicted of the lesser offence of trafficking in a substance represented or held out to be a dangerous drug.

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 SECRETARY FOR SECURITY.

Question put and agreed to.

ROYAL HONG KONG AUXILIARY POLICE FORCE (AMENDMENT) BILL 1980

THE SECRETARY FOR SECURITY moved the second reading of:—'A bill to amend the Royal Hong Kong Auxiliary Police Force Ordinance; and to make a consequential amendment to the Auxiliary Forces Pay and Allowances Ordinance'.

He said:—Sir, I move that the Royal Hong Kong Auxiliary Police Force (Amendment) Bill 1980 be read a second time.

The Auxiliary Police Force came into existence in 1959 on the amalgamation of the two former reserve bodies known as the Police Reserve and the Special Constabulary. Its role was to provide a nucleus of trained personnel who would be available to supplement the regular police in times of emergency.

However as a result of the deteriorating crime situation in 1972 it was decided that elements of the auxiliary police should be called out to supplement the uniform branch of the regular police in a normal constabulary role. What was then regarded as a temporary measure has, in practice, continued ever since because there has been a need to make good shortfalls in the strength of the regular police, occasioned by the expansion of the past few years and because the auxiliaries have shown that they have a most valuable role to play in certain types of policing.

In view of this continuing and beneficial involvement in normal constabulary duties it is proposed in clause 9 of this Bill that in future when on duty the auxiliaries should have the same statutory powers as their regular counterparts and for which their training qualifies them. At present they possess only the general police powers such as arresting, detaining and searching, under the authority of the Police Force Ordinance. There are many specific powers in other Ordinances which the auxiliaries should possess to be fully effective on the job and which the general level of the performance of their duties has indicated they can handle.

In other respects the principal Ordinance is more than twenty years old and needs to be updated for the reasons set out in the Explanatory Memorandum.

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 SECRETARY FOR SECURITY.

Question put and agreed to.

EDUCATION (AMENDMENT) BILL 1980

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

He said:—Sir, I move the second reading of the Education (Amendment) Bill 1980.

The main object of this Bill is to clarify the powers of the Director of Education contained in section 83 of the Education Ordinance, concerning closure of school premises in certain circumstances.

It gives effect to the recommendation at paragraph 54 of the Final Report of the Committee of Enquiry into the Precious Blood Golden Jubilee Secondary School, that the Education Ordinance be amended to empower the Director of Education only to suspend a school for a period of time.

In the past the closure of a school under the terms of section 83 of the Ordinance has been interpreted as the permanent closure of the school. The amendment contained in clause 2 of this Bill will enable the Director to suspend the operation of a school for a specified period. Should it be necessary to close a school, the existing powers of the Governor in Council are available.

Clause 3 of the Bill provides for the making of regulations concerning the remission of fees.

Under the terms of Regulation 61 of Education Regulations, no school supervisor, manager or teacher may accept payment of any school fees whatsoever other than the inclusive fee as published in the *Gazette.*

Thus, acceptance of a lesser fee under a scheme of fee remission is forbidden.

Clause 3 of this Bill removes this anomaly by enabling the Governor in Council to make regulations providing for the approval by the Director of any scheme of fee remission, the remission of the whole or any part of inclusive fees and the persons who may grant such remission.

Finally, clause 4 of the Bill repeals Part X of the principal Ordinance, concerning Recorded Schools.

The provisions contained in this Part of the Ordinance were introduced in 1971 to deal with the problem of unregistered schools. It was known that a considerable number of such schools—kindergartens and small primary schools—were in operation. It was found that prosecuting those who operated, or taught in, these schools did not provide a satisfactory approach to the problem.

Under the terms of Part X of the Ordinance, therefore, the operators of such schools were given a limited period of time in which in come forward to record themselves, thus securing exemption from the ordinance until 1 August 1979. During this period, they received assistance from my Department and the Fire Services Department in bringing these schools up to the standards required for registration under the Ordinance. A total of 281 schools recorded themselves under these provisions. Of these, 160 became registered under the Ordinance, while the remainder closed.

These powers, which referred to a period of time specified in the Ordinance, are now spent. I do not envisage any situation arising in the future which would call for the restoration of such powers.

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

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

Question put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) (NO. 2) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—'A bill to amend the Public Health and Urban Services Ordinance'.

He said:—Sir, I move the second reading of the Public Health and Urban Services (Amendment) (No. 2) Bill 1980.

Although all street names in Hong Kong are gazetted, this is not a statutory requirement and there has hitherto been no legislation covering the naming of streets. Street naming is done administratively by the authorities concerned, that is the Urban Council in the urban areas and the Secretary for the New Territories in the New Territories. The guiding principles for street naming are laid down in the Urban Council Policy Manual on Street Naming. Similar principles and procedures are followed in the New Territories.

As regards public streets, proposals for naming them are made by the relevant authority in consultation with the appropriate local bodies and Government departments. The agreed street names are then published in the *Gazette* and brought into use. In the case of private streets, the normal practice is for the private owners concerned to submit their proposals to the relevant authority who will vet and approve them before they are gazetted. Unless, however, the proposed names contravene the guiding principles laid down in the Urban Council Policy Manual on Street Naming, the authority usually has little choice but to accept the names put forward.

Although the present administrative system has on the whole worked reasonably well, there have been a few instances where the relevant authority has been unable, in the absence of statutory provisions, to prevent certain unsatisfactory private street names from being gazetted or to prevent the use of unofficial names which can cause considerable confusion to the public. This Bill therefore seeks to provide the authorities with statutory powers to deal with these situations and also generally to give statutory backing to the present administrative system.

The core of the Bill is in clause 2, which adds a new Part XA to the Public Health and Urban Services Ordinance to deal with street names. This preserves the existing right of owners of a private street to suggest to the authority a name for it, if it has not already been named, or to change its existing name. The proposed new section 111B would, however, vest the authority with powers to make, or to refuse to make, a declaration in the *Gazette* in this connection. Where the authority refuses to make a declaration, the owners would have the right of appeal to the Governor in Council whose decision would be final. This provision takes care of the interest of the owners while making sure that inappropriate names are not given to streets.

When public street names are to be changed the authority is required, under the new section 111C, to give prior notice of its intention to do so in view of the implications for, for instance, the people directly involved, the postal service and various legal documents making references to street names. This section also provides for an appeal procedure to enable objections to be considered by the Governor in Council.

Finally, the new section 111D empowers the authority to put a stop to the confusion caused by some owners of private streets displaying unofficial street names alongside the official gazetted names, and clause 5 of the Bill provides that an offence under this section will incur a fine of $2,000.

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

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

Question put and agreed to.

WATER POLLUTION CONTROL BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—'A bill to control the pollution of the waters of Hong Kong'.

He said:—Sir, I move the second reading of the Water Pollution Control Bill 1980.

Members will recall that on 14 February last this Council enacted the Waste Disposal Ordinance 1980. This was the first of five pieces of environmental legislation which were proposed following the consultants' study of the measures necessary for environmental protection in Hong Kong. The Water Pollution Control Bill 1980, which I am introducing this afternoon, is the second of these five pieces of legislation and it is hoped that the three remaining bills, that is the Air Pollution Control Bill, the Noise Abatement Bill and the Environmental Impact Assessment Bill, will be brought before this Council within the next twelve months.

Water pollution has been a subject of increasing public concern for some years now. Although the coastal waters of Hong Kong are in general still in a reasonable state, certainly compared with some other areas in the world, there are a number of black spots where serious pollution is building up. And these polluted areas are likely to spread as the population continues to grow and as Hong Kong's industrial base continues to expand and diversify.

Two major sources of water pollution in Hong Kong are domestic sewage and industrial effluent, both of which enter the harbour and other coastal water after very minimal treatment. They have given rise to a number of pollution problems, such as the transfer of bacteria to marine recreational areas from untreated sewage, and the contamination of certain types of seafood by cadmium and other toxic metals. Agricultural wastes (predominantly pig and poultry manure) are another major source of water pollution. These wastes are discharged direct to New Territories streams, creating very serious pollution. The polluted waters are then eventually carried down to the sea and can give rise to a number of particular problems such as 'red tides'.

Although therefore the overall situation with regard to water pollution in Hong Kong is not yet critical, the presence and gradual extension of these black spots, when combined with the pace of development and expansion of the population and of economic activity to which Hong Kong is accustomed, means that it is necessary to begin taking remedial measures now in order to prevent a significant deterioration of the situation over the next few years.

As with the Waste Disposal Ordinance 1980, the purpose of this Bill is to introduce a legal framework within which it will be possible to regulate the amounts and types of pollutant which enter our streams and coastal waters. But this will be done in such a way as to allow existing industry to continue operating in a reasonable manner, while gradually improving the overall situation by imposing conditions on new undertakings. These will, in any case, be in a much better position to install pollution abatement equipment than existing, established, factories.

I must emphasize that this Bill is of an enabling nature only and that it will require to be followed up with detailed regulations in order to become effective. These regulations, which will be drawn up following detailed monitoring work by the Government's environmental protection staff, will be designed in such a way as to permit the control of specific types of pollutant, in specific areas and for specific periods of time. In other words, the imposition of blanket controls, which could seriously inconvenience existing industries, will be avoided. The basic approach of the legislation is to prevent any further deterioration in the quality of Hong Kong's streams and coastal waters by permitting existing dischargers to continue their present levels of emission, but to require any new discharge, arising from either the introduction of a new industry or the expansion of an existing industry, to be adequately treated at source. In the longer term it is expected that levels of water pollution will be reduced as the proportion of new dischargers increases and older established sources of pollution change the nature of their operations as part of the natural evolution of the economy. It will also be reduced by the more seriously polluted black spots being given particular attention.

Throughout the drafting process the provisions of the Bill have been the subject of close consultation with the Federation of Hong Kong Industries the Chinese Manufacturers Association and the Hong Kong General Chamber of Commerce, both directly and through their representatives on the Environmental Protection Advisory Committee. Detailed consultations have also been held with all the Government departments involved and the draft Bill has also been referred to and accepted by the Urban Council. These consultative processes will continue as regulations are framed to give practical effect to the Bill.

I should like now, Sir, briefly to outline the manner in which this Bill will operate.

On the basis of detailed analyses of pollution levels in various parts of Hong Kong waters, and after consultation with the Environmental Protection Advisory Committee (E.P.C.O.M.), I shall be required to identify those areas for which water quality objectives will need to be set and which will consequently need regulation. Your Excellency in Council will then be invited to establish water pollution control zones and to declare a date, to be known as 'the first appointed day', with effect from which it will become an offence to permit any poisonous, noxious or polluting matter of a specified type to enter such a zone unless the discharger has obtained an exemption or a licence from the Water Control Authority. Existing dischargers, that is those in business on the first appointed day, will be permitted to continue their emissions, so long as they are not endangering public health, and provided they do not exceed by more than 30% the level of discharge recorded during the 12-month period preceding the first appointed day. A second appointed day will also be set, by which time all existing discharges must be declared to the Authority in order that the discharger may obtain an exemption in respect of them. Discharges declared after the second appointed day will be treated as new discharges.

A person seeking to make a new discharge of a specified kind after the first appointed day will need to obtain a licence under Part V of the Bill. All applications for such licences will be made available for public comment for a period of 30 days after publication, to enable any person who wishes to object on the grounds that granting the licence will lower the relevant water quality objective. Provision has also been made, in Part VI of the Bill, for the creation of an Appeal Board to whom those aggrieved by decisions of the Water Control Authority or the Secretary for the Environment can appeal against what they consider to be unreasonable requirements. The Appeal Board will also be empowered to hear objections from the public. In addition, there is provision for the Water Control Authority to appeal to the Governor in Council against a decision of the Appeal Board should the Authority consider that decision to be against the public interest.

Those who fail to obtain an exemption or licence for a prohibited discharge or deposit will be liable, if they make such a discharge or deposit, to a maximum penalty of $50,000 for a first offence, $100,000 for a subsequent offence and a further $5,000 daily, if the offence is a continuing one. It is hoped that these penalties will be sufficiently high to deter potential offenders.

Provision has been included in the Bill for exemptions and licences to be amended where there has been a change in the circumstances under which they were granted, for example changes in the quality of the receiving waters. Should such amendments be required to rectify misjudgments on the part of the issuing authority, then the Bill provides for compensation to be paid to the discharger so affected.

The effectiveness of the regulations—when introduced—in preventing any further deterioration in the water pollution control zones will be determined

by continual monitoring of water quality. Exempted and licensed discharger will also be kept under surveillance to ensure than the nature and quantity of their discharges remains within the specified limits.

Sir, this Bill, in common with other environmental protection bills, will be binding on the Government which is willing to abide by the same pollution controls that it imposes on the private sector. In the case of water pollution, in particular, a very large part of the burden of improving the situation will fall on the Government rather than on manufacturing industry. The collection, treatment and disposal of domestic sewage is almost entirely a Government responsibility and, as the generators of agricultural waste in Hong Kong operate on a small scale, the Government will inevitably also have to take the lead in ensuring that adequate collection and disposal systems are introduced to deal with this major source of water pollution.

It is the firm intention of the Government that this Bill should be implemented in such a manner as to minimize inconvenience and cost to industry and the economy generally while, at the same time, maximizing the benefits to the community of clean recreational waters and healthy seafood. Blanket controls are not needed and will be avoided by the adoption of specific measures to remove those pollutants which can do the most harm from the areas where they are doing the most harm.

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

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

Question put and agreed to.

APPRENTICESHIP (AMENDMENT) BILL 1980

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

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

Members will recall that this Council enacted the Apprenticeship Ordinance in February 1976. This Ordinance aims to promote apprenticeship training and to regulate the training and employment of young persons in trades specified by Your Excellency as designated trades. Since coming into force, it has had far-reaching beneficial effects on apprentice training in Hong Kong. It has brought about improvements, both qualitative as well as quantitative, in the training of young persons engaged in designated trades and, to a lesser extent, in non-designated trades. To date, 36 craft trades have been specified by Your Excellency as designated trades. By April this

year, the number of registered apprentices in these trades was over 7,600. In addition, there were 533 craft and 886 technical apprentices in non-designated trades, whose contracts have been voluntarily registered under the Ordinance, bringing the total of registered apprentices to over 9,000. Since 1976 more than 13,700 apprentices have had their contracts registered.

In the light of experience gained from enforcing the Ordinance and its subsidiary legislation, I have carried out a comprehensive review of the legislation. Resulting from the review, various amendments are proposed to tidy up the wording in places, to remove minor anomalies, to rectify some commissions and to reflect recent developments in other legislation governing the employment of young persons. The principles underlying the amendments have been considered and endorsed by the Hong Kong Training Council and its Committee on Apprenticeship.

Clause 2 of the Bill adds a new provision to provide that a registered apprentice possessing the requisite academic qualifications for a course of instruction at a technical institution which is relevant to his trade, and which he should attend, should be given preference for a place on the course. This accords with Government policy that wherever possible a registered apprentice should be given the necessary technical instruction to complement his on-the-job training. Clause 5 tidies up the wording of section 31 to remove an apparent anomaly and to apply the same sanction to any registered apprentice whose contract is terminated on the ground of misconduct or repudiation, irrespective of whether the apprenticeship is in a designated or non-designated trade, as was originally intended.

Because there are no substantial adjustments to be made by employers, I would propose to bring this legislation into operation on 1 August 1980.

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

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

Question put and agreed to.

WORKMEN'S COMPENSATION (AMENDMENT) BILL 1980

THE COMMISSIONER FOR LABOUR moved the second reading of:—'A bill to amend the Workmen's Compensation Ordinance'.

He said:—Sir, I rise to move the second reading of the Workmen's Compensation (Amendment) Bill 1980.

Honourable Members may recall that on 23 November 1977 when my predecessor moved the second reading of the Workmen's Compensation (Amendment) (No. 2) Bill 1977, he said 'workmen's compensation is an

area of social activity which requires regular review and amendment'. He also said that a working party would shortly be set up to make the next comprehensive review of the Ordinance.

The working party was established in February 1978 and submitted its report to me in December the same year. It was then distributed to various employers' associations, trade unions, Government departments and other interested organizations for their consideration and comments. Following receipt of these organizations' views on the report the advice of the Labour Advisory Board was sought. The report recommended extensive amendments to the Workmen's Compensation Ordinance. Because of the number and complexity of these recommendations it was felt necessary to implement them in two stages. The Bill now before honourable Members deals with those recommendations which need to be more urgently implemented. These include the extension of workmen's compensation to all employees, raising the various levels of compensation, payment for repair and renewal of prostheses and surgical appliances, and revision of the First Schedule. All the other recommendations of the working party will be dealt with in a further bill, or bills, to provide for the introduction of compulsory insurance, which has recently been approved in principle by Your Excellency in Council, for the establishment of a two-tier Employees Compensation Board, several measures to expedite the processing of compensation cases and various other amendments aimed at improving the effectiveness of the existing provisions of the Ordinance. I hope to introduce further legislation to this Council during the 1980-81 session.

Clause 3 of the present Bill seeks to remove the existing wage ceiling of $5,000 per month for non-manual employees, so as to extend the Ordinance to cover all employees irrespective of their earnings. As Hong Kong becomes more industrialized and adopts higher technology and more sophisticated equipment, the distinction both in legal terms and in practice between manual and non-manual workers is fast disappearing in many trades and industries. In the present state of our development, it is inequitable to continue to exclude certain employees from legislative protection merely because their earnings exceed a certain level. Furthermore, the idea of legislating for the protection of lower paid workers only is becoming out-of-date in industrialized countries. It is estimated that about 55,000 employees who have hitherto been unprotected will be brought within the ambit of the Ordinance by this amendment.

With the removal of the wage ceiling, the Workmen's Compensation Ordinance will be re-titled the 'Employees' Compensation Ordinance'. This is effected by clauses 2 and 15.

Clauses 4 and 5 seek to raise the various levels of compensation provided for in the Ordinance. The present levels were introduced in 1974 and are now unrealistically low in view of the increases in wage levels and the cost of living which have taken place since then. In addition, provision is made for

the age of the employee to be taken into account in the determination of the compensation payable. The present maximum levels of $60,000 for death and $80,000 for permanent total incapacity are raised to $147,000 and $168,000 respectively; and the minimum levels are raised from $9,000 for death and $12,800 for permanent total incapacity to $49,000 and $56,000 respectively. At the same time three age groups are introduced for the purpose of awarding compensation in terms of the number of months' earnings so as to recognize the fact that a younger person injured at work inevitably suffers a greater loss of future earning capacity than an older person. For employees under 40 years of age the maximum number of months' earnings proposed is 84 months for death and 96 months for permanent total incapacity; for employees aged 40 to under 56 the limits are 60 months for death and 72 months for permanent total incapacity; and for employees aged 56 and over the limits are 36 months for death and 48 months for permanent total incapacity. However, these limits will be subject to the maximum and minimum levels of compensation in cash terms which I mentioned previously. I am glad to be able to say that this age-weighting approach to employees' compensation has been accepted by all the organizations consulted.

The maximum amount of medical and burial expenses payable for a deceased employee leaving no dependants is increased from $800 to $2,000 and the maximum amount of constant attention allowance payable in the case of total permanent incapacity is increased from $32,000 to $67,000.

The proposed new levels of compensation are in fact higher than those originally recommended by the working party in 1978, having been adjusted to take account of the increases in wages and cost of living which occurred during 1978-79. Nevertheless, if honourable Members consider that they are still on the low side and wish to adjust them further to take account of the increases which have taken place during 1979-80, I should be prepared to consider doing this at the committee stage. On the whole I consider that there is a case for doing this particularly in view of the time necessary to bring the Bill into force. In any case, it is my intention to review biennially the levels of compensation to take account of changes in wage levels and the cost of living. The facilitate future adjustments clause 13 of the Bill provides that the various levels of compensation may be amended by resolution of the Legislative Council.

I should like to point out at this juncture that workmen's compensation is a statutory responsibility imposed on the employer and is based on the 'no fault' principle. In cases where there may be negligence on the part of the employer the injured worker (or his dependants in case of death) can claim civil damages through the courts for which there is no fixed maximum level. Payment of compensation under the Ordinance is no bar to a claim for damages.

At present, the Ordinance only imposes a liability on an employer to meet the initial cost of a prosthesis or surgical appliance. Clauses 6 to 12 require an employer to be responsible also for the cost of repair and renewal of any prosthesis or surgical appliance which has been supplied and fitted to an injured employee. Under the new arrangements, an employer will be required to pay to the Government the assessed cost of repairs and renewals of an item required by an injured employee within a period of ten years after its initial fitting, subject to a maximum of $30,000. After the expiry of the ten-year period, the cost of any further repair and renewal will be borne by the Government. The director of Medical and Health Services will be responsible for ensuring the repair and renewal of prostheses and surgical appliances required by an injured employee. The enactment of these provisions should also enable Hong Kong to improve its application of International Labour Convention No. 17—Workmen's Compensation (Accidents) Convention 1925.

Clause 14 amends the First Schedule to the Ordinance, which stipulates the percentages of loss of earning capacity for the various injuries listed. These amendments and additions have been proposed following a careful examination of similar schedules in the workmen's compensation legislation of a number of countries, including Singapore, Malaysia, Japan, New Zealand and the United Kingdom.

Sir, these proposed changes will expand considerably the benefits payable to employees who are injured in accidents arising out of and in the course of their employment. Although this will inevitably impose extra financial responsibilities on employers, it is nevertheless considered to be a socially desirable and necessary step to take.

In order to allow both employers and insurance companies sufficient time to make the necessary arrangements to comply with the new provisions and to avoid imposing too heavy an additional financial burden on employers at one time, provision has been included in the Bill for you, Sir, to appoint different operative dates for different provisions. It is proposed that all the provisions, except those concerning the amendments to the First Schedule, should be brought into operation about four months after the date of publication of the amending Ordinance in the *Gazette.* I have been advised that this would be a realistic period for the insurance industry to make the necessary adjustments to premium rates and current insurance policies, particularly as on this occasion differential age groupings are being introduced for the first time. The amendments to the First Schedule however will come into effect about 16 months after the date of publication in the *Gazette.* This delay is necessary for two reasons. Firstly, it will separate the two sets of amendments which involve a substantial increase in the financial burden on employers, by a period of 12 months. Secondly, the revised schedule may better tie in with the new system of assessment of compensation to be introduced by a further bill.

Sir, I move that the debate on the second reading of the Workmen's Compensation (Amendment) Bill 1980 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.

THEFT (AMENDMENT) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—'A bill to amend the Theft Ordinance'.

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

Like most of the rest of the Theft Ordinance, section 18 is derived from the 1968 Theft Act of the United Kingdom. Section 18, with specific reference to subsection (2)(*a*), makes it an offence to dishonestly obtain a pecuniary advantage by deception where a debt or charge is reduced or is in whole or in part evaded or deferred. In this respect our section 18, and section 16 of the 1968 Theft Act, upon which it is modelled, have presented the courts with major difficulties of interpretation and application. The Court of Appeal in England in 1971 described section 16 as a judicial nightmare. Far too wide a range of frauds by debtors, including the fraudulent use of cheques, had to be covered by these sections. Although the House of Lords subsequently cleared up some of the problems, the Home Secretary felt it necessary in 1972 to ask the Criminal Law Revision Committee in United Kingdom to consider whether any changes were desirable in section 16 of the Theft Act 1968, having regard to the working of that section.

In 1977 the Committee recommended a major restatement of subsection (2)(*a*). The Committee's recommendations were accepted in substance and the following year the Theft Act 1978 was enacted to give effect to them.

The Bill now before honourable Members seeks to follow suit, but with one important difference to which I shall comment in a moment.

Clause 2 of the Bill deletes the offending subsection (2)(*a*) of section 18 of the principal Ordinance, and clause 3 in effect replaces it with 3 new sections, numbered 18A, 18B and 18C.

New section 18A makes it an offence for a person dishonestly to obtain by deception services which it is understood have to be paid for. Thus obtaining a service for which there is to be no payment, for example a service which is free or one for which there is to be a reciprocal service as opposed to payment, would be outside the ambit of new section 18A. This

section covers the sort of situation where a taxi ride or lodgings in an hotel are obtained by a person who has no intention of paying

New section 18B creates the offence of evasion of a legally enforceable liability by deception. The situations it covers are firstly, where a person dishonestly secures the remission of an existing liability to make payment. Secondly, where with intent to make default whether permanent or otherwise, a person dishonestly induces a creditor to wait for payment or to forgo payment. And thirdly, where a person dishonestly obtains an exemption from or an abatement of a liability to make payment. The second situation, that is, the dishonest obtaining of time for payment by deception, represents a significant divergence from the Theft Act of 1978. That Act makes such obtaining of time an offence only if the intention is to make permanent default; so that in the United Kingdom such obtaining of time is not a criminal offence if the debtor intends ultimately to pay. This, as I have indicated, has not been followed in the Bill and new section 18B, in subsection (1)(*b*) specifically retains the present legal position in Hong Kong by providing that it is an offence to dishonestly induce a creditor by deception to wait for payment even if the default is not permanent. The reasons for doing so may be shortly stated in the following way. Firstly, while there is no objection to obtaining time for payment, it is wrong to do so dishonestly and by deception. Secondly, in the commercially oriented circumstances of Hong Kong the implications of permitting deferment of the due payment of large sums to be secured dishonestly by deception are too grave to be sanctioned unchecked. And thirdly, the task of successfully prosecuting offences of this sort would become largely impossible if an intention to pay up at some indefinite time in the future were a defence. It would be all too easy for a debtor to claim that he was merely playing for time and that he intended ultimately to pay; to rebut this would ordinarily be impossible.

If I may proceed to section 18C, this creates the offence of dishonestly making off without payment and is intended to deal with fraudulent conduct commonly known as ‘bilking’. It covers cases where a person dishonestly and with intent to avoid payment leaves a restaurant without paying the bill or drives away from a petrol station without paying for petrol obtained, or collects goods without payment, knowing that payment is expected on the spot. It overcomes a flaw in the existing law which makes such offences difficult to prove as it is necessary to establish that the dishonest intention not to pay existed at the outset and was not formed later. In practical terms this has meant that a person who decided not to pay only after consuming his restaurant meal or obtaining petrol, would not be guilty.

The remaining clauses of the Bill are consequential in nature.

Like the 1978 Theft Act, which has now been in operation for over 18 months in the United Kingdom, these amendments should effect a considerable improvement in our law relating to the dishonest obtaining of

pecuniary advantage by deception. But they are far from being the last word on the matter. The Criminal Law Revision Committee left to the Law Commission in the United Kingdom the consideration of fraudulent conduct not involving deception, and of problems associated with the fraudulent use of cheques and credit cards. These and the ingenuity of those who seek to circumvent the law will almost certainly mean that further amendments will have to be made in 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 LAW DRAFTSMAN.

Question put and agreed to.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1980

THE DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS moved the second reading of:—'A bill to amend the Dutiable Commodities Ordinance'.

He said:—Sir, I move the second reading of the Dutiable Commodities (Amendment) Bill 1980.

New brewing methods, which were not envisaged when the existing Dutiable Commodities Ordinance was enacted, are about to be introduced in Hong Kong.

The purpose of the Bill now before the Council is to permit such methods to be legally employed and to allow brewers to claim justifiable reliefs in relation to such processes which under the present law could not be allowed. At the same time the proposals will ensure that there is no loss of revenue in consequence of the new methods. The proposed legislation will be compatible with existing brewing methods in Hong Kong where these continue to be followed. A technical description of what is involved appears in the Explanatory Memorandum attached to the Bill.

The opportunity has been taken to incorporate some other relatively minor amendments to the Dutiable Commodities Ordinance. These amendments are mostly of an administrative nature, dealing with brewing and breweries in general, and are intended to provide for better supervisory control by the Government. The only exception is clause 4(*c*) of the Bill which seeks to amend the definition of 'liquor', 'alcoholic liquor', 'spirituous liquor' or 'spirit' to exclude spirits contained in pharmaceutical products registered under the Pharmacy and Poisons Ordinance. These products are currently exempt from duty as 'denatured' spirits', but only if they are certified as such by the Government Chemist. This means that every consignment of pharmaceutical products containing spirits has to be sampled

by Customs and examined by the Government Chemist. The proposed amendment seeks to remove this requirement which creates unnecessary work, administrative and otherwise, for both importers and the Government.

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

Motion made. That the debate on the second reading of the Bill be adjourned—THE DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS.

Question put and agreed to.

PYRAMID SELLING PROHIBITION BILL 1980

Resumption of debate on second reading (11 June 1980)

Question proposed.

MR. PETER C. WONG:—Sir, in recent years Hong Kong has encountered some unpleasant experience from pyramid selling, but fortunately the scale of operation has not been alarming. Pyramid selling, also known as multilevel selling, is illegal in some parts of the world, and is widely considered as undesirable.

So far as I am aware, there are two types of legislative ban. One is by way of administrative control and the other by direct prohibition.

Countries such as the United Kingdom, California U.S.A. and one or two states in Australia adopt the control method, while Singapore legislates for direct prohibition.

For good reasons, Hong Kong has opted for direct prohibition. Control is complicated and involves substantial expenditure and manpower. Direct prohibition, on the other hand, merely requires spelling out the features that would constitute an offence. It is a much simpler method with no financial or administrative implications. Furthermore, direct prohibition does not lend itself to corrupt practices.

The ad hoc group of the Unofficial Members of this Council has carefully considered the provisions of the Bill, which call for close scrutiny as it treads on delicate ground. The group had a useful session with senior Government officials, including the Deputy Secretary for Economic Services and a representative from the legal department.

Several aspects of the Bill were discussed and the group is satisfied that, given the complexity of the matter, Government has succeeded in producing a bill that should stop those now engaged in pyramid selling and serve as a deterrent to those contemplating such undesirable activities.

The efficacy of the proposed legislation remains to be tested. However, with experience from actual application, amendments would no doubt rectify any defects that might be found to exist.

Sir, on the recommendation of the ad hoc group, Unofficial Members of this Council 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).

CRIMES (AMENDMENT) BILL 1980

Resumption of debate on second reading (11 June 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).

INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL 1980

Resumption of debate on second reading (28 May 1980)

Question proposed.

THE ATTORNEY GENERAL:—Sir, two of the proposals contained in this Bill are concerned with extending the Commission's powers of investigation and arrest. The first of these proposals will enable the Commission to investigate blackmail committed by a Crown servant or through the misuse of his office. The second will enable Commission officers to arrest without warrant persons suspected of theft or false accounting if these offences are disclosed during an investigation.

My honourable Friends upon the ad hoc group of Unofficials, chaired by my honourable Friend, Mr. T. S. LO, were concerned that these powers should not be exercised in an independent investigation of such offences.

They specifically asked to be assured that the powers will be exercised only when the Commission comes across such offences in the course of their investigation into corruption offences. Sir, I happily give that assurance. As I mentioned in my speech to this Council on 28 May, the offence of blackmail committed by a Crown servant by or through the misuse of office is very closely related to corruption and it is clearly desirable that it should be brought within the Commission's range of duties. But, as I made clear then, and repeat now, other forms of blackmail will continue to be the responsibility of the Police Force.

The powers of arrest for theft and false accounting only arise where those offences are uncovered in the course of an investigation into a corruption offence. This is a matter of law, so provided in section 10(2) of the main Ordinance. So there can be no question of the Commission carrying out independent investigations into these offences.

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).

(4.08 p.m.)

HIS EXCELLENCY THE PRESIDENT:—I think at this point honourable Members might like a short break. Council will resume in 10 minutes.

(4.25 p.m.)

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

PREVENTION OF BRIBERY (AMENDMENT) BILL 1980

Resumption of debate on second reading (28 May 1980)

Question proposed.

MR. LO:—Sir, this Bill is designed to enable the I.C.A.C. to fight bribery more effectively. However, different sectors of the public have voiced reservations on a number of the proposed changes to the law. As is now customary, an ad hoc group was formed by the Unofficial Members of this Council with the view to resolving the various points of view. The group held an in-house meeting and subsequently it held a lengthy meeting with the Attorney General, the Deputy Law Draftsman, the Commissioner of the I.C.A.C. and its Acting Director of Operations. At that meeting all of the points were

resolved and this was confirmed by the Unofficials as a whole when the group reported to them on the matter.

The points that we dealt with were:—

Firstly, the Exchange Banks Association as well as the business community were concerned over the breadth of the proposed definition in the Bill of banker's books and company's books. They were concerned that members of the I.C.A.C. would as a result of this definition be given an absolutely free rein to roam over the affairs private individuals irrespective of whether they are suspects or are perfectly innocent people. Bankers are naturally worried by further in-roads made to their duties of secrecy towards their customers. Traders are worried about their legitimate secrets. Everyone is worried about having to provide voluminous copies of documents. On the other hand, society would suffer if the I.C.A.C. is to be hamstrung by technicalities. We considered the possibility of laying it down that the right to such documents should be monitored by the courts by insisting that a document can only be looked at after the Commissioner has made an application to the courts. However, we considered that perfectly innocent people would probably prefer not to have the matter aired in the courts where no matter how innocent they may be, a bit of mud would stick. Moreover, the effect of such monitoring appears to be more theoretical than real for it would be difficult to set out the grounds upon which a court could refuse an application. Accordingly we agreed to leave the Bill as it stands but I believe that the Commissioner of I.C.A.C. will establish a biennial review of the situation with the Exchange Banks Association and that the Attorney General will consider revising the law if in practice serious problems arise.

Secondly, we felt that employees of scheduled public bodies authorized to accept or solicit advantage by the employers should not have to rely on the defence of reasonable excuse. Such a case should never have been an offence in the first place. However, we also felt that to have proper control authority ought to be in writing. The Administration agrees with us and the Bill will be amended accordingly. However, a slight anomaly is caused when consequential amendments are made to section 9 covering the private sector where there is at present no requirement that authority must be given in writing. This anomaly is not the result of any intended double standard but simply because it was felt that it wouldn't be right to impose a new requirement on the private sector in an amendment to an amending bill. I trust that consideration would soon be given to removing this anomaly.

Thirdly, we were concerned that the proposal to allow the I.C.A.C. to require a person to furnish information or documents to which he merely has access may be quite oppressive because access can mean very many different things. For example, the whole of the Land Office records as well as the Companies Registry is open to everyone, and documents

contained therein are documents to which everyone has access. It would be obviously oppressive if the I.C.A.C. were to require a person to furnish information therefrom, since members of the Commission could freely attain access themselves. This is perhaps a minor point and is agreed by the Administration and appropriate amendments will be moved in committee.

Fourthly, we considered the power sought by the Commission to freeze a suspect's bank accounts or his deposit-taking company accounts. On the one hand, it is very important to ensure that the corrupt should not be allowed to salt away his ill gotten gains and every effort ought to be made by the I.C.A.C. to deny him of them. However, not all suspects are criminals. Whilst I do not know the exact percentage of suspects who are ultimately found guilty, I am sure that they are merely a small fraction of those originally suspected of having committed a crime. If an innocent person's account is frozen, who will pay for the damage that he may suffer for failing to meet a contractual obligation? Moreover even the guilty must live and pay for his daily needs. Ultimately, these conflicting interests are resolved in this way: in the first place, only the Commissioner, and by definition this includes his Deputy, may order the freezing of an account and we are assured that he will be in a position to and will take into account the suspect's moral, legal as well as daily needs. Against the Commissioner's decision, as is the case at present an appeal will lie to the courts. If between the period of his decision and final resolution by the courts, the freezing of a person's account has caused him to suffer damage through failure to meet his legal obligations and the existence of such obligation was previously drawn to the attention of the Commissioner, then the I.C.A.C. would be liable for damages in the event that the suspect is not charged or is subsequently acquitted. Appropriate amendments will accordingly be moved in committee.

Fifthly, the notice restraining the disposal of a suspect's property to be registrable in the Land Office caused at the end of the day less of a problem than we anticipated. The notice is not an incumbrance on the property and a third party is not prohibited from say, buying it, but obviously it would be wise for the buyer to ensure that suitable arrangements are made in regard to any funds payable to the suspected owner. Otherwise, he may well find himself suspected of conspiracy. In the case of innocent people, the Commission will, I understand, arrange to expunge the entry from the Land Office records through a clever system invented by the Registrar General. In connection with this point, I would crave Council's indulgence for a minor digression. I have been concerned over the years that anyone investigated by the I.C.A.C. is automatically treated as a criminal, worse, as a leper, by his employer, associates and acquaintances, no matter how innocent the person turns out to be. In a sense the I.C.A.C. is a victim of its own success. I am pleased to say, however, that the Commissioner has now agreed to consider adopting a procedure of

writing, perhaps upon application, to those suspects in respect of whom all investigations are terminated and no charges are contemplated. Not only will this ease the mental burden of the innocent suspect himself and of his family but it would also greatly assist right thinking employers to decide whether they should retain the services of such employees.

To return to the Bill, sixthly, the power sought by the Commission the detain a person found in premises being searched. This does pose considerable difficulties. On the one hand, it is clearly important for the I.C.A.C. to ensure that a raid planned in respect of different premises at the same time does not become abortive, simply because someone can rush out to a telephone and warn those concerned in other premises where because of traffic problems the raid may be delayed for some moments. On the other hand, perfectly innocent people may be by chance at any premises raided by the I.C.A.C. They certainly would not take it kindly if they could be arrested and detained with the rest, simply because of their physical presence at an unlucky hour. It was pointed out to us that this is no new power, that it already exists in separate ordinances for the Police as well as for the Preventive Service. This seems to me to be good argument for amending those ordinances as well. In this Bill the matter was resolved by our agreeing to limit the period of such arrests to three hours from the moment of I.C.A.C. entering the premises. Appropriate amendments will accordingly be moved in committee.

Seventhly, the extension of time for bringing summary prosecutions in regard to certain offences from six months to three years. I do not wish to lengthen this report by giving a detailed account. Suffice it to say that one of the offences was deleted from the list and in respect of the balance we agreed to extend the period to two years instead of three. Appropriate amendments will be moved in committee. However, the position is unsatisfactory because trivial offences which really ought to be dealt with summarily ought to be dealt with within six months. On the other hand, the more serious offences ought not to have a two years' limit. I am glad that as a separate exercise the Attorney General will reconsider the list and do away with the present unhappy stop-gap measure.

Eighthly, the most controversial proposal relates to the prohibition that the courts can order against a convicted person preventing him from being employed after his release from prison in a particular business or a class of business or partnership in a managerial position for up to seven years. Whilst it is possible to look upon it as no more than a part of the punishment, this was not the real intent. The real intent is two-fold. Firstly, it is to do away with the mischief that a person can be thus rewarded by his superiors in his business for having taken the blame to enable one or more of his superiors to escape justice. Whilst it is true that he may be rewarded in many other different ways, to be rewarded in this way is scandalous and must be stopped. Secondly, it is to prevent members of

the public being scandalized by having the corrupt employed in an important position. However, despite its laudable intent, the provision does offend against the basic principle that criminals need to be rehabilitated. Ultimately the compromise that we agreed upon was that where the convicted person was employed at the time of the offence by a company the prohibition is limited to employment by that particular company or its subsidiaries. However we agreed that the prohibition may cover employment by any of the scheduled public bodies or partnership or firm. Accordingly appropriate amendments will be moved in committee.

Sir, I would like at the same time to refer to the amendment to the I.C.A.C. Ordinance by which it is proposed to extend the power of investigation, arrest and prosecution to blackmail, theft and false accountancy. It is quite clear to us that this is not an undue extension because this power can and will be used only when such offences are discovered during the course of an investigation into an allegation of corruption, and not otherwise.

I have taken an unusual amount of Member's time to endeavour to explain some of the thinking of Unofficial Members of Legislative Council in regard to these two Bills as I think it is important for members of the public to be aware of the various conflicting views and to share some of the difficulties that we have had in endeavouring to resolve them.

We are fully aware that in our efforts to improve the effectiveness of our weapons against bribery, we mustn't forget to balance it against the inevitable loss of personal liberties. We think We have achieved this balance. Accordingly subject to the amendments to which I have referred, I fully support the Bill.

MR. TIEN:—Sir, we have imagined ourselves to have discovered the truth about Hong Kong's problem of corruption. One person said that God is merciful and men are bribable. That's how His Will is done on earth as it is in heaven. That is, of course, a cynical view.

I personally believe that the vast majority of Hong Kong's law-abiding citizens would support the proposed amendments. However there are certain points which appear to need clarification in order to remove all possible doubt.

The first pertains to the definitions of 'banker's books', 'company books' and 'document' which investigating officers of the I.C.A.C. may seize for purposes of investigation. An over zealous officer may make such a 'clean sweep of documents' that those having no bearing on the case under investigation may unnecessarily be impounded for a period of time and thus cause undue disruption to the business of a firm and its other clients. I seek an assurance from the Government that the implementation of this particular provision be carried out with extreme care and discretion. I have in mind the ledger of a bank or a company's order books being carted away. No

doubt with modern photocopying processes, extracts of the relevant information could be made without the actual impounding of the documents, for purposes of investigation but not as evidence in court.

The second concerns the definition of 'employer' in respect of permission given to an employee to accept an advantage. In those cases where the 'employer' is himself a senior employee or a paid executive of a public organization, the possibility of collusion could exist. It would therefore be preferable to define the term 'employer' more closely and to specify the nature of such advantage. Afterall, in modern business organizations we cannot easily separate employers and employees; it is not an absolute difference as between men and women. There should also be provision for a person, who in certain circumstances is unable to obtain the necessary prior permission in writing to seek approval from his employer at the earliest opportunity after the offer or receipt of the advantage.

My third point is that I cannot but agree with the freezing of the assets of a person who is on trial but to a lesser extent of those under investigation. Provision must however be made for that person to be able to withdraw such reasonable sums as are necessary for maintaining the livelihood of his dependants without his having to apply to the court on each occasion. Where a person may have a prior contractual liability and his assets are frozen, and if he were to be subsequently found not guilty or no proceedings have been instituted against him, would Government undertake to recompense him for any losses or damages incurred as a result of such freezing?

My fourth point refers to the proposal of Prevention of Corruption Officers detaining persons found on premises where investigations are taking place. I myself am certain that I.C.A.C. officers would not detain people indiscriminately and without the due exercise of care and discretion. But I would remind honourable Members there is an old Italian proverb, most appropriate to corruption, namely that a closed mouth catches no flies (*laughter*). However, in the tense situations which can prevail under certain circumstances, third parties who are on the premises on quite legitimate business not at all connected with the case under investigation may find themselves under temporary detention. I agree that a time limit should be placed on such detention unless the I.C.A.C. officers have a justifiable reason to detain a person longer.

My fifth and last point touches on the re-employment of a convicted person who has served his prison sentence. Having paid the penalty for his crime, that person should be rehabilitated and given employment, otherwise he will become a burden on society. I understand that the person could be employed elsewhere in different business. The question of whether he should be re-employed in a similar position in the same field of work remains. It could perhaps lead him to further temptation on the one hand and on the other give rise the loss of confidence by others having dealings with that organization if that person were to occupy the same position again or a

position in that field carrying a similar degree of responsibility and influence. It would thus be best for him not only to turn over a new leaf but to start afresh in some other field. If his skills and knowledge are such that his opportunities for employment are narrowly circumscribed then he should be allowed to return to his field but not to occupy a position of responsibility for some time until he has fully rehabilitated himself. A maximum time limit of seven years seems rather excessive.

Sir, before I resume my seat, I would like to make a general comment. Honourable Members might note the wise words of a former English noble-man. He said: before I got married, I had six theories about bringing up children, now I have six children and no theories (*laughter*). So it is with the problem of corruption. What we need, Sir, is a strong sense of realism. For example, I recall that some years ago the limit on the value of a gift which may be offered to a civil servant was set at $500. This may or may not have been revised since then, but with continuing inflation and rising prices, I wonder whether Government should not consider a more realistic figure (*laughter*).

With these remarks, Sir, I support the motion.

MR. PETER C. WONG:—Sir, I rise to support the motion before Council subject to the various amendments referred to by Mr. LO.

As a lawyer trained to respect the British concept of justice, I am naturally inclined to view with suspicion any proposal to increase the powers of a law enforcement agency which has already extremely wide powers far exceeding the limit acceptable within the bounds of justice.

Having said that, I must hasten to add that in this instance, the law enforcement agency is I.C.A.C.—an agency established to combat corruption. During the six years of its existence, I.C.A.C. has an extremely good track record. There have been few instances of abuse of power and indeed, there is evidence that the powers it has are exercised with care and discretion.

Corruption has posed a real threat to society. I.C.A.C. has so far done a good job, and if we are to expect that this good work be maintained, perhaps with improved efficiency, then the amendments sought should be supported.

In any event, some of the amendments are in essence not an extension of but rather to clarify what has so far been the practice of I.C.A.C. in carrying out its statutory duties.

Sir, I support the motion.

THE ATTORNEY GENERAL:—Sir, I am grateful for the support of my honourable Friends which they have afforded this Bill and the Independent Commission Against Corruption (Amendment) Bill and, in particular, I am grateful for the very helpful and thorough study undertaken by the group of

Unofficial Members under the chairmanship of my honourable Friend Mr. T. S. LO who spent a lot of time and took a lot of care to improving what we have initially put forward.

Sir, this group studied in detail the proposals in the Bills, taking into account the views of various bodies representing different sectors of community and business interests.

I am happy to say that, as a result, I shall be moving at the committee stage certain amendments to both Bills to cater for those suggestions made by the *ad hoc* group which were acceptable to the Commissioner and to the official side.

In the course of discussions with the group, certain assurances were sought concerning the use of the wider powers proposed and conferred by this Bill. In some fields, the Commissioner Against Corruption undertook to put into effect certain administrative arrangements relating to those powers. And I would like to take just a moment to give the assurances that were sought and also to describe those administrative arrangements.

The first of these concerns the power of the Commission to call for the production of the wider range of documents covered by the new definition of 'bankers' books'. Concern has been expressed by my honourable Friend Mr. TIEN and others at the possible damaging effect caused, both to a bank's customers and to a bank's own operations, by such a requirement. First, I would like to stress that the Commission does not inspect anything that it does not need to look at for the purposes of an investigation. It doesn't first go on a fishing expedition, it goes looking for particular documents. Before an authorization is issued in the first place, requiring the production of banker's books (or, indeed, any other document), the matter is considered personally either by the Commissioner or by his Deputy. The power to inspect banker's books has been on the statute book now for some six years and, so far as I am aware, has not caused undue inconvenience to the banking community. But, in order to meet the point of the Unofficial Members and to see whether the small extension of these powers does cause such inconvenience, the Commissioner has undertaken to meet regularly with the Exchange Bank's Association, and to do so, say, approximately every six months. If it were found to be the case that the new definition of 'banker's books' had caused problems, then the Government would certainly consider whether any change in the law should be made to deal with the problems.

Sir, the second assurance sought concerns appeals under section 14B of the main Ordinance. Section 14A enables the Commission to 'freeze' the assets of a suspect by serving a notice on him. And he cannot therefore dispose of those assets without the Commissioner's consent. The Commissioner, as Mr. LO rightly said, gives consent in the overwhelming majority of cases for the overwhelming majority of applications ranging from requirements for people's daily needs to even their legal costs and expenses. But if the Commissioner

does refuse to give consent, then it is to be noted that the appeal does lie to the District Court who can then rule upon the matter. And I should add here that it is the policy of the Commissioner always to give consent in all cases where it appears to be reasonable for the suspect to use his property. However, my honourable Friends are worried about the consequences of a delay between a refusal by the Commissioner and the hearing of an appeal. I can well appreciate their concern and, so I intend to discuss with the Chief Justice the possibility of reducing any time lag so that such appeals can be heard in practice very quickly. Arising out of that same concern, it is proposed to amend the Bill in committee to provide a right of compensation in those cases where a suspect who has had his property frozen and, as a result of being unable to fulfil prior commitments which he has disclosed to the Commissioner at the time of seeking the Commissioner's consent, nevertheless suffers loss as a result of that refusal.

One of the proposals in the Bill is to extend the time within which a prosecution for a number of summary offences can be brought. These are offences generally only triable before a magistrate. While agreeing to the proposals, my honourable Friends urged me to consider whether these offences should also be made triable in some cases on indictment, and with the more serious penalties of trial in a higher court involved. This would mean that they could be dealt with either in District Court or possibly in the High Court and, so, would not be subject to the time limit. I shall, as Mr. LO has correctly said, as a separate exercise, be looking into this suggestion of theirs to see whether in all circumstances it would be right to adopt it or not.

Sir, the speeches of my honourable Friends on this Bill have shown the need to strike a balance between, on the one hand maintaining the legitimate rights and interests of members of the public, and on the other the need to make sure that the Independent Commission Against Corruption has the necessary powers to carry on that fight against corruption. I hope, Sir, that I may correctly suggest that, with the concerned and constructive help of the Unofficial Members, a proper balance has continued to be maintained in the area. In that connection I know that the Commissioner and the members of the I.C.A.C. share the appreciation which I personally would wish to express to Mr. Peter WONG for what he said in his speech a moment or two ago when he said that 'there have been few instances of abuse of power by the I.C.A.C. and indeed there is evidence that the powers it possesses are exercised with care and with discretion'.

Sir, if I may end by taking up Mr. TIEN's suggestion in relation to the acceptance of advantage regulations which he mentioned in connection with the six children. I think, Sir, that is a matter which in due course the Government will consider. By that I mean they will consider acceptance of advantages rather than the six children (*laughter*).

MONEY LENDERS BILL 1980

Resumption of debate on second reading (28 May 1980)

Question proposed.

MR. F. W. LI:—Sir, on behalf of the Unofficial Members I would like to welcome the introduction of this Bill into Council. We agree that existing legislation is not really capable of dealing with the prevailing evil of loansharking. Taking into account recent legislative changes in the United Kingdom and the fact that our own Ordinance is completely out-of-date, we consider the Bill to be very timely. While no one is so naive as to think that this new Bill will completely suppress the activities of loansharks, it is obvious there is general public support for Government's determination to combat the menace posed by the more unscrupulous elements in the money lending business.

When moving the second reading of the Bill the Attorney General stated that its object is to provide a framework within which to tackle the serious social problem of loansharking in Hong Kong. A system of licensing money lenders and regulating their operations is to be introduced. This system will in future allow a person to obtain a loan on terms which are considered to be more reasonable. Because these terms are not extortionate, it will normally be within the borrower's means to repay the loan.

The concept of the Bill is to regularize the effective rate of interest which may be charged on unsecured loans to wage-earners who, for genuine and legitimate reasons, must approach a money lender instead of a bank. Under the existing Ordinance there is virtually no control over the activities of money lenders, and it is well known that a considerable number of people from all walks of life—including members of the civil service—have become heavily indebted to loansharks who lend money at usurious rates.

The Bill accordingly proposes a maximum effective rate of interest of 60% per annum for such loans. Any rate exceeding 60% will not be enforceable. and the person making or offering a loan with such an excessive rate will be subject to criminal sanctions whether or not that person is a money lender. Where proceedings are taken in any court in respect of a loan any effective rate of interest exceeding 48% but not 60% per annum will be *presumed* to be extortionate unless, having regard to all the circumstances relating to the loan agreement, the court is satisfied that such a rate is not unreasonable or unfair.

While it may be argued that this two-tier rate of interest is on the high side, it has been represented to the Unofficial Members that both ceilings are too low and therefore unprofitable for legitimate operators to remain in the business. On balance, however, we take the view that the rates are

appropriate at this particular point in time, and allow sufficient margin for the reputable money lender to meet a genuine social need.

It was also suggested to us that, as the licensing system proposed in the Bill is already very comprehensive and time-consuming, a simpler procedure should be devised for renewal of the licence. We think that there is some merit in this proposal, and would ask Government for an assurance that the procedure for renewal be kept under review to avoid unnecessary delay.

In any effort to counter the evil effects of a long-outstanding social problem of such enormous proportions, it is necessary to consider whether there are remaining loopholes. For example, are the provisions in the Bill adequate to discourage money lenders from entering false particulars in the loan agreement relating to the capital sum or the effective rate of interest, either to the ultimate disadvantage of the borrower or the Inland Revenue Department, or both, in cases where the borrower is so desperate for a loan that he will, however reluctantly sign such an agreement? We have since been assured by the Attorney General that falsification of particulars would be a criminal offence under the Bill, and we accept this assurance and trust the operations of money lenders will be closely monitored.

We also gave careful consideration to the position of unincorporated businesses which make commercial loans in the course of their normal trading, although money lending as such is not their main activity. We thought that there should be provision for this type of transaction to continue, and we are satisfied with the proposed amendment the Attorney General intends to introduce at the committee stage to item 5 of Part 2 of the First Schedule of the Bill.

Finally, Sir, we would ask Government to allow sufficient time before the new Ordinance is brought into operation, so that existing money lenders can make their own arrangements, as necessary, to meet the requirements of this Bill. We therefore suggest a period of at least three months.

MR. PETER C. WONG:—Sir, I agree with the Attorney General that loansharking poses a real threat to society. The proposed legislation will certainly go a long way towards meeting this problem.

The Money Lenders Ordinance, enacted in 1911, is obviously inadequate. In the light of social and economic changes that have taken place during the past 70 years, new legislation is not only necessary but long overdue.

The Attorney General referred to the U.K. Consumer Credit Act 1974, which was enacted as a result of the report of the Crowther Committee on Consumer Credit 1971. This Act, it is said, is a remarkable landmark in the history of British legislation. Apart from a useful drafting novelty, it brings under one umbrella all forms of consumer credit, thus removing troublesome differences created by piecemeal efforts at regulation. So in U.K. today there is no Money Lenders Act as such, but consumer credit is regulated by the

Consumer Credit Act 1974. The present Bill represents a major effort towards consolidating our consumer credit law, and consumers should take comfort that Government is not unmindful of their interests.

The Bill borrows several ideas from the U.K. Act and incorporates, among others, some of our own. In its present form the Bill may be described as a milestone in our consumer credit legislation.

I shall now deal briefly with certain aspects of the Bill.

Money lender is defined in clause 2. Whether a person is a money lender is usually a matter of fact, but anyone whose business is that of making loans can safely be assumed to be a money lender within the meaning of the Bill.

Parts II and III of the Bill deal with licensing and money lenders' transactions. Thus a person, who is not a money lender but occasionally extends credit, does not have to be concerned with the provisions of these Parts.

Part IV deals with excessive interest rates and it should be noted that it applies to any person who lends money irrespective of whether or not he is a money lender. The public will be well advised to study this Part carefully.

The present Money Lenders Ordinance does not provide any ceiling for interest rates. Clause 24 of the Bill, however, makes it an offence to charge simple interest exceeding 60% per annum calculated in accordance with the Second Schedule. And the penalty is severe: a fine of $100,000 and imprisonment for two years. Furthermore, where the effective rate of interest exceeds 48% per annum, the transaction is presumed to be extortionate.

Rates of interest on loans are considered extortionate if they are grossly exorbitant or otherwise grossly contravene principles of fair dealing. The factors which the court takes into account when deciding these points include rates of interest prevailing at the time when the agreement was made; age, experience, and health of the debtor; and the degree of any financial pressure driving him into making such an onerous contract.

It is interesting to note that in the U.K. Consumer Credit Act 1974, no ceiling is set for interest rates. In this respect, it is generally in line with our present Money Lenders Ordinance. However, the Attorney General has argued persuasively why ceilings should be fixed and the advantages of having a two-tier system. The proposed 48% and 60% interest rates may seem to be arbitrary but I am persuaded that they are realistic, having regard to the social and economic structures in Hong Kong. And these rates are not final as they may be altered by resolution of this Council if it should appear that the rates were no longer appropriate.

Part V deals with general matters. One important provision is the restriction on money lending advertisements. The aim here is to protect the interest of consumers by providing for 'truth in lending'. This provision in a way complements Part III of the Bill, which regulates money lending transactions.

Finally a word on loansharking. The Attorney General has laid considerable emphasis on this aspect of money lending. It is true that the proposed legislation would make it difficult for loansharks to operate with impunity within the framework of the law, but I have some reservations as to its effectiveness in stamping out loansharking altogether, particularly where triads are involved. This Bill is useful only if disputes are brought before the court. But in many cases, they are not. Loansharks run by triads will continue, as they do now, to resort to illegal means to extract repayment and this Bill will not materially assist the married woman, referred to by the Attorney General, who was driven to prostitution in a desperate attempt to repay what her husband owed. For obvious reasons, such people are not eager to seek protection of the law.

The answer to this problem is not simple. Perhaps greater vigilance on the part of our law enforcement agencies and better public relations campaigns to encourage victims to report criminal activities might in time reduce the menace posed by triads. Nothing short of a determined and concerted effort by Government and the public will enable Hong Kong to rid itself of loansharking on a scale that poses a threat to society.

Sir, with these observations, I support the motion.

MR. SO delivered his speech in Cantonese:—

督憲閣下：儘管本人支持這項法案，用以管制本港迅速增長的放債業務。但本人所關注的是，該法案並無條款禁止放債人對拖欠的借款人採取恐嚇手段以收回放出的款項。大家都知道，過去若干放債人曾張貼海報，聲明某借債人賴帳。若干放債人甚至歐打未能償債的借款人，或採用其他極端手段收取款項，這些手段包括使用或威脅使用暴力，或其他刑事行動引致借款人在名譽或財產方面受到損害。因此，本人促請政府對放債這一方面的經營加以考慮。

督憲閣下，關於放債人使用的借據形式，本人認爲註冊總署署長應制訂一種簡單但有適當法律效力辭句的文件，介紹給放債人採用。在一份貸款合約上簽署前，有誰會細閱其中的文字，更談不上完全明白其內容了。

(The following is the interpretation of what Mr. SO said.)

Your Excellency, while I support the Bill which serves to control and regulate the rapidly growing money lending business in Hong Kong, I am concerned that there is no provision in it to prohibit money lenders from resorting to intimidatory methods to recover money from delinquent borrowers. It is well known that some money lenders in the past have put up posters stating that a certain borrower has welshed on his debt. Some even beat up borrowers who fail to repay their debts or use other extreme means to collect: means that involve the use or threatened use of violence, or other criminal acts to cause harm to the borrower, his reputation or his property. I therefore urge the Government to consider this aspect of money lending operations.

Sir, on the format of promissory notes I suggest that the Registrar General should draw up and recommend for use by money lenders, a document in

simple and yet legally adequate language. For who reads—let alone understands—a loan agreement before signing it?

THE ATTORNEY GENERAL:—Sir, I am most grateful for the support which Unofficial Members have given to this Bill and for the care with which they have scrutinized it since I introduced it into this Council some weeks ago. Out of that scrutiny has come one important improvement which I shall be moving as an amendment in committee later this afternoon, and also various ideas for the Bill's implementation which will, I am sure, make it work better in practice. For instance, I can assure Mr. Andrew SO that the Registrar will draw up and publish a suggested form of agreement, and that he will bear fully in mind the particular matters which Mr. SO raised in discussion and especially the need for a document of this sort, which is going to be used frequently by simple people, to be in readily understood and non-technical language if possible. I can also assure him that where money lenders resort to criminal methods to enforce repayment they will, if there is evidence to justify it, be prosecuted. The problem created by other intimidatory methods (such as that of displaying publicly on posters the names of borrowers suggesting that they have welshed on their debts) is more difficult to deal with because such conduct is not in itself criminal. The way that we intend that it should be dealt with under the Bill, however, is this—that there is a provision when the licensing court is considering renewal of a licence, for the court to look into and hear evidence about any such practices, and if the court was of the view that the frequency of the practices or the practices themselves was sufficiently reprehensible, they could refuse renewal of the licence as not being in the public interest.

It is obviously true as my honourable Friends Mr. F. W. LI and Mr. Peter WONG have pointed out, that this Bill, when enacted, will not provide a magic cure for the problem of loansharking; but I do believe that by creating it a criminal offence for anyone and anyone at all, after the Bill comes into force, to lend money at an interest rate in excess of 60% per annum, a powerful weapon will have been provided to the Police to use against loansharks. In many jurisdictions the problems of prosecuting illegal money lenders have foundered on the provision of the necessary evidence to show that they are in the business of money lending. This comparatively simple provision with regard to the 60% per annum will, I hope, get over that evidential problem.

I am sure Mr. LI is correct that there may be a danger in some cases of money lenders entering false particulars in order to evade the provisions of the Bill. But they will do so at their peril, for not only will it constitute a criminal offence, but also that the borrower will have the right, if steps are taken at law to enforce the loan, to urge the court to say that it is irrecoverable, as indeed it will be.

There will always be in this type of business criminal elements who will try to evade the law but I agree with Mr. WONG that the answer to that

is to encourage the public and victims to report such activities as they occur. It is the Government's intention shortly before the Bill comes into operation, and that will not be for more than the three months which Mr. LI has asked for, but before the Bill comes into operation there should be mounted a public relations compaign, both in the Chinese press and elsewhere, so that the public may be fully informed of those provisions of the Bill which are intended for their protection, and during that campaign they will be encouraged at the same time to report future breaches of the law by loansharks after the Bill has come into operation.

Lastly, Sir, may I say a word about the two rates of interest of 48% and 60% per annum contained in the Bill. Obviously these rates, as my honourable Friends Mr. WONG and Mr. LI have both pointed out, are to some extent arbitrary, but I am glad that they both feel them, with their experience of Hong Kong and their knowledge of the business community here, nevertheless to be appropriate rates. The Government will however watch to see how they operate in practice and will not hesitate to invite this Council to alter them should they be proved to be either too high or too low in the light of experience.

Similarly I can give Mr. LI the assurance for which he asks that the licensing and in particular the renewal of licence procedures will be kept under review by the Registrar to see that in practice they operate expeditiously and fairly and that if changes appear desirable, then we shall bring the necessary amendments before this Council in due course.

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).

PENSIONS (AMENDMENT) BILL 1980

Resumption of debate on second reading (11 June 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).

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) (AMENDMENT) BILL 1980

Resumption of debate on second reading (11 June 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).

TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) BILL 1980

Resumption of debate on second reading (11 June 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 of bills

Council went into Committee.

PYRAMID SELLING PROHIBITION BILL 1980

Clauses 1 to 6 were agreed to.

CRIMES (AMENDMENT) BILL 1980

Clauses 1 to 2 were agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

Clause 4

THE ATTORNEY GENERAL:—Sir, I move that clause 4 be amended as set out in the paper before honourable Members.

The effect of this amendment is to introduce a time limit on the detention of persons when officers of the Commission are searching premises. It follows similar amendments made or to be made to the Prevention of Bribery (Amendment) Bill in a moment.

Proposed Amendment

Clause 4

That clause 4 be deleted and that there be substituted the following—

'Amendment of section 10C.

4. Section 10C of the principal Ordinance is amended—

(*a*) in subsection (1)—

(i) by deleting the full stop at the end of paragraph (*c*) and substituting a semicolon; and

(ii) by inserting after paragraph (*c*) the following—

"(*d*) subject to subsection (1A), detain any person found in any premises or place which he is empowered by this Ordinance to search until such premises or place have or has been searched."; and

(*b*) by inserting after subsection (1) the following—

"(1A) A person may not be detained under subsection (1)(*d*) for more than 3 hours after the officer first entered unless, in the meantime, the person so detained is arrested.".'.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 8 were agreed to.

PREVENTION OF BRIBERY (AMENDMENT) BILL 1980

Clause 1 was agreed to.

Clause 2

THE ATTORNEY GENERAL:—Sir, I move that clause 2 be amended as set out in the paper before honourable Members.

The purpose of the amendment is to correct an unfortunate printing error in the definition of 'banker's books'. The amendment makes clear that the

documents referred to in the body of the definition must be used in the ordinary business of a bank before they can be regarded as 'banker's books'.

Proposed Amendment

Clause 2

That clause 2(*a*) be amended in the definition of 'banker's books' by deleting paragraph (*c*) and substituting the following—

'(*c*) any copy of anything referred to in paragraph (*a*) or (*b*), used in the ordinary business of a bank;'.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3

THE ATTORNEY GENERAL:—Sir, I move that clause 3 be amended as set out in the paper before honourable Members.

This amendment will make clear that where a public servant, other than a Government servant, has the permission of his employer to accept or solicit an advantage, then in so doing neither he nor the person offering the advantage will commit the offence of bribery.

Proposed Amendment

Clause 3

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

'(*c*) by inserting after subsection (2) the following—

"(3) If a public servant other than a Crown servant solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

(4) For the purposes of subsection (3) permission shall be in writing and—

(*a*) be given before the advantage is offered, solicited or accepted; or

(*b*) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.".'.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 and 5 were agreed to.

Clause 6

THE ATTORNEY GENERAL:—Sir, I move that clause 6 be amended as set out in the paper before honourable Members.

In the discussions with the *ad hoc* group of Unofficial Members, they expressed unease about the width of the amendments proposed by clause 6(*b*) and (*c*) of the Bill. It was feared that the Commission would use the extended powers to seek information which they could, quite easily, obtain for themselves by other means. Since it was never intended that the Commission would use these powers to obtain information that was publicly available or to which access could reasonably be had, clause 6 is amended to make this clear.

Proposed Amendment

Clause 6

That clause 6 be amended—

(*a*) in paragraph (*b*)—

(i) in sub-paragraph (i) by deleting 'or to which he has access' and substituting the following—

'or to which he may reasonably have access (not being information readily available to the public)';

(ii) in sub-paragraph (ii) by deleting 'or to which he has access' and substituting the following—

'or to which he may reasonably have access (not being a document readily available to the public)'; and

(*b*) in paragraph (*c*) by deleting 'or to which he has access' and substituting the following—

'or to which he may reasonably have access (not being a document readily available to the public)'.

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7

THE ATTORNEY GENERAL:—Sir, I move that clause 7 be amended as set out in the paper before honourable Members.

Clause 7(*b*) enables notices under section 1A of the main Ordinance to be registered in the Land Office. My honourable Friends took the point that a section 14A notice is served on a person suspected of having committed a corruption offence. He may never be charged or, if charged, may be acquitted. But a notice registered in the Land Office would remain as a perpetual public reminder that he had been under investigation by the I.C.A.C. and that this would not only be a stigma but also might make it difficult for him subsequently to deal with his property. Sir, that point is well taken. Accordingly, arrangements have been made with the Registrar General whereby notices under section 14A (and restraining orders under section 14C) will be placed in a separate register in the Land Office. No entry at all will be made on the main register. If a person searches against a property the subject of a notice or order, he will be shown the entries in the separate register. I believe that these sensible arrangements will meet the objections raised by my honourable Friends. In order to give the Registrar General the flexibility necessary to give effect to these arrangements, clauses 7 and 8 are to be amended as proposed in this paper.

Proposed Amendment

Clause 7

That clause 7 be amended in paragraph (*b*) in proposed new subsection (2A) by inserting after 'Ordinance' the following—

'in such manner as the Land Officer thinks fit'.

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Clause 8

THE ATTORNEY GENERAL:—Sir, I move that clause 8 be amended as set out in the paper before honourable Members.

Proposed Amendment

Clause 8

That clause 8(*a*) be amended in proposed new subsection (3A) by inserting after 'Ordinance' the following—

'in such manner as the Land Officer thinks fit.'

The amendment was agreed to.

Clause 8, as amended, was agreed to.

Clause 9

THE ATTORNEY GENERAL:—Sir, I move that clause 9 be amended as set out in the paper before honourable Members.

The proposal that officers of the Commission should have the power to detain persons while they search premises has been thought to be a radical and unprecedented step. But, in fact it is not so. The Police have such powers under a number of Ordinances, as do members of other disciplined services, such as the Prevention Service. So there is nothing unusual about it. Nevertheless depriving a citizen of his liberty without lawful arrest is a serious thing and, quite rightly, caused my honourable Friends much concern. In practice, it is thought that the Commission would seldom detain any Person for longer than three hours. To recognize this, the Bill is to be amended, in both clauses 9 and 10, so as to limit the period of detention to three hours from the time the premises are first entered, unless, of course, the person detained is arrested.

Proposed Amendment

Clause 9

That clause 9 be amended—

(*a*) in paragraph (*a*)(ii) in proposed new paragraph (*c*) by inserting after 'may' the following—

', subject to subsection (1A),'; and

(*b*) by inserting after paragraph (*a*) the following—

'(*aa*) by inserting after subsection (1) the following—

"(1A) A person may not be detained under subsection (1)(*c*) for more than 3 hours after the investigating officer first entered unless, in the meantime, the person so detained is arrested.".'.

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clause 10

THE ATTORNEY GENERAL:—Sir, I move that clause 10 be amended as set out in the paper before honourable Members.

Proposed Amendment

Clause 10

That clause 10 be amended—

(*a*) in paragraph (*a*) by inserting after 'detain' the following—

', subject to subsection (1A)'; and

(*b*) by inserting after paragraph (*a*) the following—

'(*aa*) by inserting after subsection (1) the following—

"(1A) A person may not be detained under subsection (1) for more than 3 hours after the investigating officer first entered unless, in the meantime, the person so detained is arrested.".'.

The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clause 11 was agreed to.

Clause 12

THE ATTORNEY GENERAL:—Sir, I move that clause 12 be amended as set out in the paper before honourable Members.

Following discussions with my honourable Friends, it has been agreed that the time limit for bringing a prosecution for certain summary offences should be reduced from three years, as originally proposed, to two years. In addition, it has been agreed that the offence under section 14(4) of the main Ordinance should not be subject to the extended time limit.

As I said, Sir, earlier on, I shall review all the summary offences referred to in clause 12 to see in due course whether any of them should be made indictable.

Proposed amendment

Clause 12

That clause 12 be amended in proposed new section 31A—

(*a*) in subsections (1) and (3) by deleting '14(4),';

(*b*) in subsection (1) by deleting '3 years' and substituting the following—

'2 years'.

The amendment was agreed to.

Clause 12, as amended, was agreed to.

Clause 13 was agreed to.

Clause 14

THE ATTORNEY GENERAL:—Sir, I move that clause 14 be amended as set out in the paper before honourable Members.

The reasons for the amendments, and their effect, have been described in the speech earlier this afternoon by my honourable Friend, Mr. T. S. LO. However, I would like to stress again the broad purposes of the clause, for I believe that they may have been misunderstood. It may, in some cases,

I would suggest, be nothing less than a public scandal if a man convicted of a serious corruption offence (and that will always involve an abuse of his position in employment) remains in the employment of the company in a senior position. There would on occasions be something manifestly shocking to one's sense of what is right if that were to occur. Moreover, it places the convicted person in a position to place pressure, that is to have his revenge on any subordinates in the company who may have given evidence against him or information leading to his trial. So power is given to the courts to prohibit a convicted person's employment in a senior position. But, and here I must repeat what I have said many times before, it is a power that in my view is likely to be used only rarely. It is a power that is to be exercised by courts, and by courts acting in the public interest. In other words the courts will have to draw on their accumulated wisdom and use their judicial discretion to decide whether a person should be banned from certain types of employment —not from all employment. A person upon whom a ban has been imposed is permitted to apply to the court to have the ban lifted or varied, in the same way for instance as a person who has been disqualified from driving can later apply to have the disqualification lifted, I mention these aspects, Sir, to illustrate the point that the power is hedged around with safeguards and limitations—which are all part of the striking of the balance between the interests of the community as a whole in the control and the removal of corruption, and the interests on the other side of the individual.

I believe, Sir, that the clause, as amended, will be regarded generally by the people of Hong Kong as a reasonable and fair measure in the fight against corruption.

Proposed Amendment

Clause 14

That clause 14 be amended in subsection (1) of proposed new section 33A by deleting paragraphs (*a*), (*b*) and (*c*) and substituting the following—

'(*a*) in the case where the convicted person was employed by a corporation or a public body at the time of or prior to his conviction as a director or manager or in such other capacity concerned with whether directly or indirectly, the management of that corporation or any public body or any corporation that is a subsidiary of that corporation or any public body within the meaning of section 2 of the Companies Ordinance; or

(*b*) in the case where the convicted person was practising any profession or was otherwise self-employed at the time of or prior to his conviction, in the practice of his profession or in the business, or class of business, in which he was so employed, as the case may be;

(*c*) in other cases, as a partner or as a manager of or in such other capacity concerned with, whether directly or indirectly, the management

ment of such partnership, firm or person or such class of partnership, firm or person; and

(*d*) for such period not exceeding 7 years,'.

The amendment was agreed to.

Clause 14, as amended, was agreed to.

Clause 15 was agreed to.

New clause 3A 'Amendment of section 9'.

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

THE ATTORNEY GENERAL:—Sir, in accordance with Standing Order 46(6), I move that new clause 3A as set out in the paper before honourable Members be read a second time.

The proposed amendment to section 9 of the principal Ordinance arises, as my honourable Friend Mr. LO has pointed out, from the amendment to clause 3. I should stress that the amendment to section 9 makes no change of substance or principle. Section 9(4) already permits employers in the private sector to give permission to their employees to solicit or accept advantages. All that the proposed amendment does is to provide that an advantage solicited or accepted with permission creates no offence.

Question put and agreed to.

Clause read the second time.

THE ATTORNEY GENERAL:—Sir, I move that new clause 3A be added to the Bill.

Proposed Addition

New clause 3A

That the Bill be amended by adding after clause 3 the following—

'Amendment of section 9.

3A. Section 9 of the principal Ordinance is amended by deleting subsection (4) and substituting the following—

"(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

(5) For the purposes of subsection (4) permission shall—

(*a*) be given before the advantage is offered, solicited or accepted; or

(*b*) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.”.’.

The addition of the new clause was agreed to.

New clause 7A ‘Amendment of section 14B’.

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

THE ATTORNEY GENERAL:—Sir, in accordance with Standing Order 46(6), I move that new clause 7A as set out in the paper before honourable Members be read a second time.

New clause 7A confers a right of compensation in certain circumstances on a person whose property has been frozen under a notice issued by the Commissioner under section 14A of the main Ordinance. The reasons for this right of compensation, and the circumstances in which it will arise, have been described in the speech by my honourable Friend Mr. LO, and so I don’t propose at this time of the evening to repeat them.

Question put and agreed to.

Clause read the second time.

THE ATTORNEY GENERAL:—Sir, I move that new clause 7A be added to the Bill.

Proposed Addition

New clause 7A

That the Bill be amended by adding after clause 7 the following—

‘Amendment of section 14B.

7A. Section 14B of the principal Ordinance is amended by inserting after subsection (3) the following—

“(3A) Where the Commissioner has refused to give his consent under section 14A to a person the subject of a

notice under subsection (1) of that section and as a result of that refusal the person is, before the determination of any application under this section against that refusal, unable to meet any contractual liability incurred before the notice was served on him, that person shall, if he is not charged with an offence arising out of the investigation or, having been so charged, is acquitted, be entitled to compensation for any loss sustained by him as a consequence of being unable to meet the contractual liability.

(3B) Any compensation under subsection (3A) shall be paid from the general revenue.”.’.

The addition of new clause was agreed to.

MONEY LENDERS BILL 1980

Clauses 1 to 36 were agreed to.

First Schedule

THE ATTORNEY GENERAL:—Sir, I move that the First Schedule be amended as set out in the paper before honourable Members.

The purpose of this amendment, is to extend the exemption which is given to companies by item 5 of Part 2 of the First Schedule, to unincorporated businesses also.

As it stands, item 5 exempts *companies* whose main business is not money lending, but who make loans as an incidental aspect of their business, from the licensing requirements of Part II, and the mandatory procedures laid down by Part III of the Bill. As drafted, this exemption is not granted to firms or other unincorporated businesses who conduct their business in the same way as the companies mentioned in item 5.

One of the main aims behind this Bill is to provide machinery to assist in stamping out the scourge of loansharking. It was felt originally that to exclude firms and other unincorporated businesses from these provisions I have just mentioned would create a loophole in the law which loansharks might use.

However, and this is the reason I have decided to move this amendment, the exclusion of unincorporated businesses is ‘double-edged’. It has been represented to me by Unofficial Members, that there are many legitimate businesses, run by partnerships and individuals, who would be unnecessarily inconvenienced if they were required to be licensed merely because an incidental part of their business involves giving loans. Examples of such businesses would be import/export houses who gave loans to manufacturers who were making goods to their order. I recognize that there is a possibility

of inconveniencing such commercially necessary and perfectly respectable business arrangements so far as unincorporated businesses are concerned, to an extent that could not fully be justified.

Sir, it is not the intention of this Bill to inconvenience more than absolutely necessary anyone, and still less to harm the honest businessman in any way. The universal ban on interest in excess of 60% per annum *must* of course apply to *all* transactions where interest falls to be paid, whether or not the lending of money is the main object, or only an incidental or ancillary aspect, of the business in question. But I am persuaded that it would be unreasonable to insist that all such businesses where the lending of money is only incidental to other transactions (and which are not, I might add, treated as money lenders under the existing Money Lenders Ordinance) should become incorporated, or else cease to do any incidental lending business, in order to comply with the new law.

I think therefore that the exemption presently granted to companies under item 5, should also be granted to unincorporated businesses and firms. Although, as I have mentioned, the exemption of such businesses presents its own problems in the campaign to eliminate loansharks, I am confident that other equally effective means of countering their activities will be found within the context of the general provisions in the Bill.

Proposed Amendment

First Schedule

That the First Schedule be amended in Part 2 by deleting item 5 and substituting the following(A277)

‘5. A loan made by a company registered under the Companies Ordinance or a firm or individual whose ordinary business does not primarily or mainly involve the lending of money, in the ordinary course of that business.’.

The amendment was agreed to.

The First Schedule, as amended, was agreed to.

The Second Schedule was agreed to.

PENSIONS (AMENDMENT) BILL 1980

Clauses 1 to 5 were agreed to.

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) (AMENDMENT) BILL 1980

Clauses 1 to 4 were agreed to.

TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) BILL 1980

Clauses 1 to 11 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

PYRAMID SELLING PROHIBITION BILL

CRIMES (AMENDMENT) BILL

PENSIONS (AMENDMENT) BILL

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) (AMENDMENT) BILL

TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) BILL

had passed through Committee without amendment and that the

INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL

PREVENTION OF BRIBERY (AMENDMENT) BILL

MONEY LENDERS BILL

had passed through Committee with amendments 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 Members' motion

GREEN PAPER ON PRIMARY EDUCATION AND PRE-PRIMARY SERVICES

REVD. JOYCE M. BENNETT moved the following motion:—That this Council takes note of the proposals in the Green Paper on Primary Education and

Pre-Primary Services and urges the Government to implement improvements in pre-school services.

She said:—Your Excellency, it is with great pleasure that I introduce the motion standing in my name on the Order Paper. My Unofficial Colleagues and I have studied the Green Paper on Primary Education and Pre-Primary Services with great interest and enthusiasm. Sir, there are many aspects of the Green Paper that are commendable; on the whole the public has received it well. However there are certain basic points that must be challenged and we urge their reconsideration. As you know, Sir, many of us have been concerned for some time with the condition of our pre-primary services; we waited eagerly for the publication of the report of the inter-departmental working party on these services. Then in April this Green Paper spread our attention over a wider age group, not only on the pre-primary child, but also on the primary child. This surprised us considerably as we were already aware that a survey of the whole educational system in Hong Kong is planned to start in 1981. Of course there is a link between the pre-primary services and the primary schools. However there are important differences and it might well have been better to concentrate our attention first on the child up to the age of six. We further question the validity of excluding the child under the age of three from this paper.

The root of our dissatisfaction lies with the refusal to accept the recommendation of the Board of Education that there should be one department and one ordinance to control all pre-school services. We noted that this was rejected since it was thought the marginal advantages would not justify the administrative upheaval necessary to implement such a proposal. Sir, the public has awaited with eagerness this Green Paper because there is so much wrong at present with the affairs of children under six being administered by two departments. We expected a fresh approach to our pre-primary services. Instead we find the old systems perpetuated and no really fresh thinking. We searched for a clear distinction between the child care centres and the kindergartens. We found, and this was confirmed at our meeting with the officials, that the only difference is their hours of operation and the space required per child. What bankruptcy of ideas and what support for our request for a separate ‘Pre-School Services’ section of the Secretariat for Social Services where a clear policy on pre-school services can be developed!

A separate organization, where the needs of the pre-school child are clearly laid down, has many advantages. This Green Paper starts from the institutions that we have at present. It does not start from the child and the child’s basic needs, although there are occasional references to them. The Green Paper sees the child care centres as necessary to ‘supplement the lack of care at home’ where ‘family circumstances require the children to be in full-day institutional care.’ We need a Pre-School Services Section of our Social Services where the whole gamut of our services for the young can be drawn together. I see this new Section clarifying the needs of the children

not only of the poorer members of the community where both parents work, but also of the professional and middle class families where parents work in order to secure a higher standard of living. Undoubtedly there is much overlap between child care centres and kindergartens. The tightening up of two separate ordinances will not overcome the problems of separating these two types of institutions. Rather such laws will cause added frustration and cynicism to the operators who will seek to get round the regulations as they continue to serve the kinds of families for whom they are already catering.

This Green Paper does not really tackle the real questions of how these young children should spend their day or half-day. The real content of the curriculum is missing. We need to see how through play and other enjoyable activities, the language and numerical ability of the children are developed and how these tiny tots learn to socialize and make friends outside the immediate family.

The psychologists insist that the first years of the child's life are the most important of all, since they lay the foundation for all future development. Attitudes to life and to others will be created in these pre-school institutions. We must give greater care to them and ensure that our children are not left in the hands of those who have failed all other academic qualifications. We view with great disquiet the lowering of qualifications for future child care workers and kindergarten teachers. Our enquiries revealed a diversity of courses for training these young girls. Surely we need one institution and one alone which will train all workers for pre-school institutions. I have been able to see outlines of the two-year in-service training course for kindergarten teachers. Most of this should be applicable to any in-service course for child care workers. I note with alarm that teachers in kindergartens have to wait years and years to get on this course. To get all the present kindergarten teachers trained at the present speed will take 19 years without counting newcomers to the kindergarten profession during those years. The ladies, who presented to UMELCO the problems of this Green Paper regarding kindergartens in public housing estates, made it very clear that they needed more opportunities for the training of teachers and their proper recognition on completion of the course. They showed how the child care workers could soon be admitted to their 12 weeks in-service course and receive some training for their work. At the end of that course in the present subvented centres the workers can obtain a reasonable salary, a salary considerably better than many kindergarten teachers.

Hong Kong society is expecting better services for its children. Those allowed by law to teach and care for them must be given a proper training course in a properly organized institution, set up for this express purpose. For too long the Education Department has thought fit for inspectors of kindergartens to be appointed with the bare minimum of kindergarten qualifications and with no experience in running kindergartens or teaching in them. We are fortunate that there are now in Hong Kong a few specialists

trained in the care of the pre-school child. But this Green Paper does not envisage recruiting them for its training programmes. Instead it has been announced that the Lee Wai Lee Technical Institute will start a course for the training of child care workers this September. But the Principal and Vice-Principal of that Institute are both engineers and will surely find problems in integrating a training course for child care workers into a technical institute equipped with technical workshops for heavy machinery and equipped for other commercial and design courses.

Another aspect of this Green Paper that exercises our attention concerns finance. The demand for full Government involvement with subsidies to kindergartens has been rejected. Instead even the present method of subsidy to child care centres will be radically revised, so that the children in them or in kindergartens can be assisted after the family has been means-tested. Our fears concerning this method were brushed aside by the officials when we met to discuss the Green Paper. There seems little understanding by Government officials of the administrative problems these Green Paper proposals will raise for the voluntary organizations who run child care centres and kindergartens.

At present there are 10,493 subvented places in the former, out of a total of 14,594, but the aim is to have a total of 36,200 places in 14 months time. It is recognized that the proposals on space and student-teacher ratio will reduce the numbers in the kindergarten classes. Naturally the fees will have to be raised in order to meet the budgeted expenses unless the staff are to receive less. I venture to say that many of our kindergarten teachers are at the moment among the most exploited workers in our community. I hope their position will not be further eroded by this attempt to raise standards in the kindergartens. I find Appendix 9A with its chart to show the contributions of parents and the Government for a child from a six-member family in a public housing estate quite extraordinary. It contradicts so much of our family planning publicity where two children are advocated as the ideal. It concentrates on the families in public housing estates, where rents are cheaper than in rooms in blocks of flats. It perpetuates a policy of means-testing which is by no means perfect. Furthermore the Government plans to continue its policy of letting kindergarten premises in public housing estates by tender. Why must we encourage educational establishments to be profit-making and charge the highest fees that the market can bear? No, Sir, the future citizens of Hong Kong deserve better than this. And I note in paragraph 9.17 a hint that not all the officials are happy with the present policy. I suspect there has been some considerable in-house controversy on the question of premises for kindergartens and child care centres in housing estates. I sincerely hope that a long hard look will be taken to improve these aspects of the Green Paper.

Your Excellency is no doubt wondering whether I intend to refer to the other part of the Green Paper which deals with primary schools. I should

dearly like to leave that to the full-scale review of our educational system which is promised for next year. But I think some points cannot be delayed until then. First let me congratulate the authors on the decision to improve the quality of our primary education by promoting the 'Learning by Doing' educational method. I am also pleased to note the encouragement of libraries and the improvements in furniture and equipment. I do not think however that enough though has gone into how to improve the actual teaching in those schools where teachers dare to complain they 'seldom see a bright pupil'. What an indictment of the staff of a primary school!

The sooner Hong Kong's educationalists recognize that the six-year-old primary school child has tremendous innate potential the better. None should be considered useless and unworthy of a certain school. How sad it is to find that a number of so-called educational pressure groups are perpetuating this myth that some primary schools do well because at the age of six they can pick the winners from the hundreds or thousands of tots that apply. Naturally kindergartens have encouraged this myth as they wish to have full classes and have a more stable financial position. They have encouraged a situation where their services will be fully demanded by teaching the three to five-year-olds as if they were eight to nine years old. They have given long exercises for the child to do at home and taught most unsuitable English vocabulary and used the most old-fashioned teaching methods. Most of the teachers have not been trained, so they do not understand the disaster thus caused to the child's attitude to the learning processes.

The Government in this Green Paper has hopes of abolishing entrance examinations and interviews to primary schools in order to improve the content of kindergarten education. Surely this clearly shows that the Education Department recognizes that its Kindergarten Inspectorate has completely failed since it has decided to control the kindergartens by this new method of allocating children to primary schools by computer. Certainly the method has much to commend it, especially if we believe in a totalitarian type of society with the Government controlling the individual. However I understood that Hong Kong was the home of those who valued free choice and private enterprise. My reading of Chapter Six on the control of the entry to primary schools leaves me with the fear that our parents will in fact have very little choice of school for their children. The present entry system to secondary schools has already reduced parental choice to a minimum. But entry to secondary schools is influenced by the primary school performance of the student. When we deal with entry to primary school, we are only to consider whether or not a brother or sister or a parent previously attended that school. The authors of the Green Paper recognized that the older primary schools would wish to retain some choice of the children sent to them, so that there is to be a system by which 15% of the places can be given as discretionary places to children with some special connection with the school. Clearly 15% will satisfy none. Those who wish to preserve traditions and certain family connections with their schools will not consider 15% sufficient.

Others who are striving to end Hong Kong's well-established schools are demanding that no discretionary places be permitted. The new allocation system is fraught with opportunities for corruption and I urge very serious reconsideration of so radical a change in the basis of our society. Another factor which must not be overlooked concerns the Government's ability, or inability, to check that the addresses given are genuine; with the Chinese extended family it will be easy for a child to be registered as living near a so-called 'prestigious' primary school. I am sure many of us know the story of Mencius' mother moving house three times to provide the right environment for her son. There is a further very real danger of an increase in the number of private primary schools to cater for the children whose parents do not wish their children to be educated alongside children from poor and illiterate homes. This seeming attempt to educate children of different backgrounds together may indeed rebound, so that there will be even stronger competition to enter private primary schools with the consequent increased pressure on kindergarten children whose parents insist that they attempt the entrance examinations of the private primary schools.

No, Sir, we have not yet got the final solution to primary school entrance procedures. I urge considerably more thought on this aspect of the Green Paper, so that parental choice can be ensured without the schools testing them or their children by interview or written test.

The Green Paper deals with a number of other important issues, with which we must come to grips in this decade. I cannot resist reassuring its authors that our overseas trading competitors would not accept that Hong Kong's economic circumstances can preclude a better staff-pupil ratio as is implied in paragraph 5.20. Schools where more activities have been undertaken for the last few years should have more teachers. The proposal to add .05 of a teacher per class to cover the demands of remedial teaching and the duties involved in caring for teaching aids is considered laughable by many in the profession.

Sir, I find it difficult to draw this speech to a conclusion (*laughter*) as this Green Paper raises so many matters of interest to so many in our community. It is well known that parents of young children have far more to say about their schooling than about that of the older siblings. I look forward with interest to the continuing debate on Hong Kong's educational system.

DR. HENRY HU:—Sir, I have taken part in the deliberations of the *Ad Hoc* Working Group of Unofficial Members which was set up to study the Green Paper on Primary Education and Pre-Primary Services. Generally speaking, I support the Green Paper because the Government has shown care and attention in meeting the needs of future generations. I have however a few points to offer.

Firstly, I support the idea that pre-primary care of our children including child care centres and kindergartens should be linked with primary education,

because pre-primary and primary education is partly social welfare and partly education so that it is only fit and proper that these matters should be linked together.

The second point I would make is that it is reasonable for the Government to subsidize families with low incomes to meet some of the costs of preprimary education and note in particular that Government is proposing to introduce a sliding scale of assistance tailored to family incomes. This flexible approach should be supported, but I think that the Government should also set up free child care centres and kindergartens for those people who are not capable, for one reason or another, of educating their own children. Government should accept the financial liabilities of operating such a scheme. It seems to me that the role of the Po Leung Kuk should be enlarged and that Government should be more directly involved in its activities.

The third point I would like to make concerns the educational standards required for personnel employed in child care centres. It is proposed in the Green Paper that child care centre staff should be Form 3 school leavers having an additional two years' pre-service training. In normal circumstances, when we deal with machines or tools, a basic education of Form 3 plus some special training is sufficient, but in the case of child care centres, the human element is involved; I therefore think that the basic educational level should be Form 5 instead of Form 3. This recognizes that the education of human beings is more important and more complicated than the operation of machinery. I further support the view that a special training institute should be set up for this particular purpose.

The fourth point I wish to make concerns the manner in which premises are allocated for kindergartens and child care centres in public housing estates. The current practice of letting premises for these purposes by means of public tender runs totally against the principles set out in the Green Paper. Whilst the Housing Authority is a quasi-autonomous body I would urge Government to put pressure on it to bring its letting policies for kindergartens and child care centres into line with Government thinking on this subject as set out in the Green Paper.

Lastly, Sir, I support the activity approach for primary education, it is practical and efficient. At the same time we must strike a balance between this type of approach and the traditional way of learning. Past experience show that at one time we were urged to broaden the school curriculum and then, after three or four years, we were asked to investigate why the language standards of students had been lowered. We cannot achieve everything at the same time. The activity approach is a good educational method to employ in order to develop children's intelligence and their appreciation of various matters, but I consider it should only be applied up to Primary III to enable us to assess its implications and effects on the learning of young children.

With these remarks, Sir, I support the motion.

MR. WONG LAM delivered his speech in Cantonese:—

督憲閣下：「小學教育及學前服務」綠皮書對目前小學教育及學前各項服務有極深入的檢討，尤以後者而言，綠皮書的見解極爲中肯及切中時弊，而所提的改善方法大都不失爲經過深思熟慮的可行之法，實在是值得稱賀的。不過，本人對綠皮書中有關數項問題的見解，頗有不同的看法，認爲值得提出商討。

首先是小學入學分區派位問題，目前很多名校所舉行的見面試引致學生間極大的競爭，對他們做成很大的心理壓力；一旦不能通過該試而獲學位，則「失敗者」的形象，長烙心中，對其今後的發展，影響至巨。更甚的是這種情形使很多幼稚園的教育，完全失去應有的意義，而只爲訓練學童投考名校一年級而着力。此外，因爲受了名校的吸引，很多家長不辭跋涉把子弟送到離家相當遠的名校就讀，不單加重市面交通的擠塞，也使不少年齡幼小的學童長年的捱受舟車勞動之苦，實在是對其身心無益及浪費時間的做法。

不過，綠皮書所提議的小學入學分區派位法是否能夠徹底地解決這問題呢？本人雖然百份之一百支持任何減輕學童壓力及改善幼稚園教育的可行之法，但卻認爲綠皮書的提意實行起來，困難重重，甚至弊多於利。

綠皮書分區派位辦法其中一項目的是要避免精英學生的過份集中，但其提議卻有漏洞，使所謂「精英」份子，在派位辦法下，仍自然不過地頗爲集中於少數學校就讀。

根據綠皮書第六章第十五及十六節的提議，各學校在取錄學生時，可以自決百分之十五的學位，以取錄因宗教或其他特殊原因而與該校有關的學生。本人並不反對辦學者應有相當的自主權，以取錄某類情況特殊的學生，但實際上所謂百分之十五並非真確的百分比，因爲學校當局除了可以引用這百分比收錄學生外，仍可藉着綠皮書第六章第十七節所提的種種條件而取錄更多心目中理想的學生。換言之，即使施行分區派位的辦法，所謂「精英」份子仍會集中於少數學校。

本人基於此項理由及下面將要談及的理由，並不贊同分區派位的提議。但假如最後本局因其他特殊原因仍然採納這項安排的話，則本人認爲第六章第十六及十七節有關家中成員曾讀某校而其他成員則可列入特殊或優先考慮行列此點極不同意，此點理由極爲牽強，甚至全無意義，只有做成名校爲少數家庭服務的畸形現象。

另外一項使分區派位法實行起來困難重重的現象便是劃分區域的困難。事實上，目前很多名校都集中在三數個區域，而區內人士比較上都是較爲富裕的。一旦劃分不好，則變成富裕者自成一區，貧窮者另成一區，前者有錢子弟充斥，後者則多爲貧寒子弟，使不同社會背景的兒童無法聚在一起受教育。在兒童還未成長之前即已強加階級之分，當然全無好處，也違背了綠皮書第六章第九節所提及應使不同社會背景及階層兒童同受教育的愿意。

大家必須明白的是劃分小學網與劃分中學網有頗大的不同。中一學生年齡較大，可以到離家較遠或者甚遠的學校就讀；但小一學生則無此可能。所以在劃分小學區域網方面，政府基本上是受交通及距離所束縛着的，能夠達到公平而又方便的劃分的可能性並不大。

以上所言只是分區派位實行時的困難而已。但本人認爲值得政府及支持派位人士更爲三思的是此方法對整個小學制度質素的影響。目前名校之所以成爲名校，在很大程度上是優勝劣敗的結果，辦得好的成名校，不然則否。本人並不同意政府認爲名校盡收天下英才而教之的看法。世界上天才並不多，而只有五、六歲的小孩，一般而言，其智力也很難分出明顯的高低，他們所以能夠考入名校並不等於才智過人，而是正如綠皮書第六章第二節所言，因爲他們所讀的幼稚園所提供的入學考試訓練較好而已。

既然名校所收的學生並非聰穎過人，爲何畢業時其成績卻又較其他學生爲佳？這點大抵與名校的教學法、環境、校方及老師對責任的重視有關。

本人認爲要解決名校問題的方法不是把所有名校變成不名校，而是把所有不名校變成名校。當然，這是不易甚至不可能達到的理想；但這並不表示政府應該放棄這種應有的教育理想而以行政手法來解決這項重要的教育問題。目前很多小學報名的學生極少，前數年部份官立的小學根本收不到學生。當然這裡面牽涉到人口遷徙等等的因素，但不容否認的是與這些學校所提供的教育質素低及部份教師全無責任感有關。

目前家長有權選擇學校的做法雖然一方面使名校多人申請，但也使部份辦理不妥善的學校門堪羅雀，從而使校方及教師有所警惕，謀求改善教育質素。但分區派位法一旦施行，這些本來無人

問津的學校也隨着而有肯定的顧客，甚至更因爲每班人數的下降而成變相的滿額或近乎滿額；而且隨着升中試的取消，即使其畢業生水準低下也有機會進入良好的中學。這種現象給予這些學校及教師更大的安全感，繼續或變本加厲地因循下去，則整個小學教育的水準將大受其害。

基於上述原因，本人雖然絕對歡迎任何減低學生競爭壓力的提議，但並不認爲分區派位是可行之法。長遠而言，其弊可能遠多於利。政府應當處理的是對症下藥大刀濶斧地改善所有小學的質素。目前政府直接或間接地資助官校及津貼小學，假如決心整頓的話，相信一定會有良好的成果。本人深信，這種治本之法較諸分區派位的治標之法將更有成果，在提高小學質素及減少投考名校的競爭方面，有更積極的作用。

除了分區派位問題外，第二點要討論的是幼師的訓練和小學教師重新受訓的問題。綠皮書所提有關幼師的訓練，頗爲詳細，但似乎過於分散，因爲一方面二年制的在職訓練由各教育學院負責，另一方面爲期十二星期的幼師助理班則由教育司署視學組負責。本人認爲不妨考慮將所有幼師或幼師助理的訓練全部劃一，由一間教育學院或其中一部門負責。這樣統籌辦理，相信對於課程的改善及行政的管理，都會有更好的成效。

至於小學教師重新受訓方面，本人對於綠皮書第五章二十七節的提議，頗爲大惑不解。爲何所有在一九八一年九月以前的在職教師不須接受這類訓練，反而是在這個月以後才擔任教席的要接受這類訓練？

一般而言，新任教師（除了少數新轉行爲教師者）剛從學校或教育學院出來，其所學記憶猶新，所需要的不是重新接受理論訓練而是多接近學生，實踐所學的理論。相反而言，經已任教多年的教師，對於新的教學理論或多年前所學的教學方法，在在需要重新學習或溫故知新。換言之，應該重新接受訓練的是舊人而不是新人。本人認爲政府應當強迫所有教師在入行後每隔一段適當時間（例如五或十年），便應接受這項重新的訓練。

第三點要提及的是小學英文科的教學。綠皮書第一章二十九節提及大部份中學爲迎合家長的要求而於中一便開始以英語爲教學語言，但很多小學卻不能爲學生提供良好的英文訓練以達此目的。這裡牽涉到一項極爲重要的問題。假如小學教育的目的正如綠皮書所說，在乎「發展學童的表達能力，和計算技能；協助其養成群體生活所必須的習慣及學習有關技能；培養其道德感，教導其有關這個世界的知識，激發其一般興趣和好奇心，使其離校後不致停止學習」，則小學階段的英文科不可能亦不應該把學生訓練成爲有能力於畢業時即可以接受以英語爲教學語言的教育。

政府在這方面必須有明確及明智的抉擇。要不然便把小學的英文科當作特殊科目處理，把小學教育的目的暫時擱置，使學生在英文科上得到充份和深入的訓練，使他們踏入中學時即能符合新環境的新要求。要不然便必須明令各中學，不得於初中階段以英語爲教學語言（英文科當然例外），以免不必要地阻礙學生於各科的進展。此項矛盾一天不解決，則整個小學和初中教育，將一天存在着一個死結。

第四點要討論的是德育問題。剛才所引綠皮書有關小學教育目的的一段，提及培養學生的道德感，但綠皮書中並無實際討論如何加強學生的德育訓練。德育雖然是一項老生常談和畢業初中致訓辭最常被提及的問題，但事實上在今天的小學中卻並不大受重視。中國人談及德育時，往往有過份的要求，希望學生能藉此而變成聖人。這是不必要的做法，但並不表示小學教育可以完全忽略德育的培養。希望政府對這問題，能夠有更詳細的檢討和良好的安排。

最後要提及的是辦學團體與所辦學校的管理問題。綠皮書中提及要鼓勵牟利幼稚園改成不牟利幼稚園，這是很好的提議。不過，目前的教育則例，無意中使部份不牟利團體與所辦的學校的校董會有明顯的脫節，從而使其失去辦學的熱誠。

目前辦學團體雖然有權推薦人選供教育司委任爲校董，但卻無權另外推薦替換人選。依據過往部份不牟利團體的經驗，部份校董雖然已退出該不牟利團體，但仍然擔任校董，而教育司卻不肯接受該團體另委新校董的建議。這種情形使部份辦學之不牟利團體，於學校成立不久即斷了關係。這種現象，當然減少此類社團另辦新校的熱誠。現今綠皮書呼籲部份牟利幼稚園轉爲不牟利性質，其創辦者自然考慮到上述因素，希望政府在這方面，有更良好的安排和適當的改善。

督憲閣下，本人謹此陳詞，支持此項動議。

(The following is the interpretation of what Mr. Wong Lam said.)

Your Excellency, the Green Paper on Primary Education and Pre-Primary Services makes an in-depth study of primary education and pre-primary

services. It gives a fair assessment of the education system and rightly points out the existing defects, particularly with regard to pre-primary services. The Green Paper is to be congratulated on its proposals for improvement, which have been worked out after careful consideration and are on the whole feasible. However, I do not see eye to eye with the Paper on a number of issues and I believe they are worth discussing.

The first issue is the allocation of primary school places based on a district system. At present, interviews organized by many popular schools give rise to great competition among the children and subject them to immense a psychological pressure. Failure to pass this kind of examination and secure a place will imprint on the minds of these children the image of a 'loser' and will greatly affect their future development. Moreover, such a situation renders education in kindergartens completely meaningless as they only aim at preparing children for entrance to Primary 1 of popular schools. Many parents are prepared to send their children to a popular school far away from home, even though it means more serious traffic congestion in the urban areas and long-distance travel for their young children all the year round. Such trips not only impair their physical and mental health, but also waste a lot of time.

Nevertheless, is allocation of primary school places based on a district system, as proposed in the Green Paper, a perfect solution to the problem? Whilst I am willing to give one hundred percent support to any feasible suggestion that will alleviate pressure on school children and improve kindergarten education, I believe immense difficulties will crop up when implementing the proposals of the Green Paper and perhaps there will be more disadvantages than advantages.

One of the objectives of the district allocation system is to prevent the concentration of the most able children in certain schools. But the proposal is defective in that the 'cream' will still be concentrated in a small number of schools under this allocation system. Paragraphs 6.15 and 6.16 of the Green Paper state that the schools will be allowed an allocation of 15% discretionary places when selecting pupils so that pupils affiliated with the schools because of religious belief or for other special reasons can be admitted. I do not object to school authorities exercising their rights to admit certain types of pupils, treating them as special cases. But in actual fact, 15% is not an accurate percentage because apart from selecting pupils according to this percentage, the schools may admit pupils they favour under the conditions mentioned in paragraph 6.17 of the Green Paper. In other words, the 'cream' will still remain in a few schools even when the district system is implemented. Because of this and other reasons I am going to discuss later, I am not in favour of this district allocation proposal. But if this Council, for some special reasons, accepts the proposal, I would like to voice my objection to one point mentioned in paragraph 6.16 and 6.17 which state that an applicant will be specially considered or will receive priority if a

member in his family has previously attended the school. Such argument is unconvincing and totally meaningless, and will only serve to create an absurd phenomenon of popular schools rendering services to a few families.

Another difficulty in the implementation of the district allocation system is how to decide upon district boundaries. As a matter of fact, many popular schools are in just a few districts where the more affluent live. If the division of the territory into districts is imperfect, the rich will be grouped in one district and the poor in another, which means that children of the rich and of the poor, coming from different backgrounds, will never be able to receive education together. To impose class distinction on children before they grow up is unwise and is against the principle in paragraph 6.9 of the Green Paper which states that children with different backgrounds and from different social classes should be educated together. One should remember that district nets for primary schools and secondary schools are quite different. Form 1 students are older. Unlike Primary 1 pupils, they can afford to attend schools farther or even vary far from home. Hence, the Government must consider traffic conditions and distance of travel for children when introducing the district net system for primary schools. But then it is unlikely that a fair system convenient to all will be worked out.

What I have mentioned above is only the difficulties in implementing the district allocation system. What merits more attention on the part of the Government and those who support the allocation system is, I think, the effect on the whole primary school system. Popular schools enjoy a high reputation largely because of their excellent achievements. Schools not efficiently run are therefore unpopular. I cannot agree with the Government that schools are popular because they take in the most able children. The world does not abound with geniuses and, as a rule, it is difficult to compare the level of intelligence among little children who are only five or six years of age. Therefore, those who can get into popular primary schools are not necessarily more intelligent than others, but rather may have been better prepared in the kindergartens for entrance examinations conducted by primary schools, as suggested in paragraph 6.2 of the Green Paper.

If pupils studying in the popular schools are not necessarily more intelligent than others, why is it that they usually obtain better examination results when they leave school? I think this may have something to do with these schools' teaching methods, environment as well as the devotion to education on the part of both schools and the teachers. In my opinion, the proper solution is not to convert all popular schools into unpopular ones, but rather to make unpopular schools popular. Of course, this is an ideal difficult or even impossible to attain, but it does not mean that the Government should give up this ideal difficult or even impossible to attain, but it does not mean that the Government should give up this ideal and attempt to solve this important problem on education just by administrative means. Many primary schools nowadays receive only a small number of applications for enrolment and several years ago, some Government primary schools failed to get any applicants at all.

Various factors like population shifts are at work. However, it cannot be denied that it has something to do with the poor standard of education provided by these schools and the lack of sense of responsibility on the part of some of the teachers. The proposal that parents may have the right to choose schools will render popular schools more popular than ever, and unpopular schools more unpopular. This will teach the latter a lesson and prompt them to seek improvements. However, if the district allocation system is implemented, these unpopular schools would be able to enrol a definite number of pupils; and as the class size decreases, one might get a false impression that all or almost all places in these schools have been filled. Besides, with the abolition of the Secondary School Entrance Examination, even primary school leavers of low standard would have a chance to enter a good secondary school. This phenomenon would give these schools and their teachers a greater sense of security, and they would continue to indulge in undesirable management, thus adversely affecting the standard of primary education.

For reasons mentioned above, I do not think implementation of the district allocation system advisable, though I wholeheartedly welcome any recommendation that will reduce the pressure of competition on students. In the long run, the system may do more harm than good. What the Government should do is to take appropriate measures to effect overall improvement in primary education. At present, the Government directly or indirectly supports Government and subsidized primary schools. The Government will certainly find its effort rewarding, if it is determined to remedy the situation. I am convinced that it is more fruitful to get at the root of the problem than to implement the allocation system, which is by nature only an expedient measure. Furthermore, overall improvement in primary education will play a positive role in promoting the standard of primary schools and reducing the competition for admittance to popular schools.

The second issue I would like to discuss is the training of kindergarten teachers and the retraining of primary school teachers. The Green Paper has a fairly detailed section on the training of kindergarten teachers. However, such training proposed lacks co-ordination in that, as the Paper suggests, a two-year in-service training course is to be organized by the colleges of education while a 12-week training course for kindergarten assistants is to be run by the Inspectorate of the Education Department. In my opinion, the Government should standardize the training courses for kindergarten teachers and assistants and put them under the management of a college of education or a department. Such co-ordination would surely bring about better administration and an improvement in the curriculum.

As for the retraining of primary school teachers, I am rather puzzled by the proposal in paragraph 5.27 of the Green Paper. Why are teachers entering the profession before September 1981 not required to undergo this kind of retraining whereas new teachers entering after this date have to be retrained?

Generally speaking, newly appointed teachers (except a handful recently transferred from other professions) have just graduated from schools or colleges of education; they still have a clear memory of what they have learned. What they need is not retraining in theories but more contact with students to put into practice the theories they have learned. On the contrary, teachers who have been on the job for many years need to pick up new teaching theories and refresh their teaching approaches which they learned way back in the past. In other words, veteran teachers rather than new recruits should receive retraining. I think the Government should require all teachers to receive this kind of retraining at appropriate intervals (say every five or ten years).

The third issue I would like to talk about is the teaching of English in primary schools. It is mentioned in paragraph 1.29 of the Green Paper that 'due to parental preference, the vast majority of secondary schools aim to teach in the medium of English in Form I(A14B)but most primary schools are unable to produce pupils truly capable of learning in the medium of English.' This poses an extremely important problem. If primary education really aims, as the Green Paper puts it, 'to develop competence in communicative and numerical skill, help a child to develop necessary social habits and skills, develop a moral sense, teach him something about the world he lives in and generally stimulate his interest and curiosity so that the learning process does not cease when he is not in school', then it is neither possible nor proper for the English curriculum at the primary level to aim at training up pupils capable of receiving education in the medium of English once they leave primary school. The Government must come up with a clear-cut and wise decision in this respect. Either English is to be treated as a special subject at the primary level, and the aims of primary education have to be shelved for the time being in order that primary pupils may receive in-depth training in English, so much so that they can cope with a new environment on entering secondary school, or secondary schools must be clearly directed not to teach in the medium of English at lower secondary level (with the exception of the subject of English of course) so that the progress of students in various other subjects would not be unnecessarily hampered. As long as this contradiction exists, so will a Gordian knot in the entire primary and junior secondary education system.

The fourth issue I would like to discuss is moral education. The paragraph I quoted just now on the aims of primary education mentions the development of a moral sense, but the Green Paper makes no concrete suggestions on how to reinforce moral training for students. Although moral education is a topic most commonly mentioned in graduation speeches in a junior secondary school, it has not received much attention in today's primary schools. Chinese people often expect too much from moral education, hoping that students would become saints or sages through such education. This is something unnecessary, but then it does not mean that primary education can entirely ignore the development of moral education. I hope the Government

would undertake a more careful review of this topic and make better arrangements.

Finally I would like to talk about educational bodies and the management of schools run by them. The Green Paper proposes to encourage the conversion of profit-making kindergartens into non-profit-making ones. This is a good suggestion but the present Education Ordinance has somehow unintentionally created a wide gap between some non-profit-making bodies and the board of directors of the schools run by them. Consequently, these bodies tend to lose enthusiasm in running schools. Although they are entitled to recommend candidates to the Director of Education for consideration of appointment as directors of a school, they have no right to recommend replacements. Certain non-profit-making bodies have learned from past experience. Some school directors continued to take up appointment although they had already left those educational bodies. The Director of Education however, declined to accept recommendations made by those bodies to appoint new directors. The disappointment has induced some such bodies to sever all relations shortly after founding a school. This would naturally dampen their enthusiasm to run other new schools. Now that the Green Paper appeals for certain profit-making kindergartens to become non-profit- making, their founders would certainly take the above factors into consideration. It is hoped that the Government would make better arrangements and proper improvements in this respect.

Sir, with these remarks, I support the motion.

DR. HO:—Sir, the publication of the long-awaited Green Paper on Primary Education and Pre-Primary Services has been generally welcomed by the community, because it contains numerous far-reaching proposals for educational reforms and improvements.

In this debate, I shall confine my comments to the section on pre-school services.

I. *A Single Administrative Unit for All Pre-School Services*

Firstly I would like to commend the Government for its decision to replace the much criticized primary school entrance examination with a comprehensive allocation of school places. As a result, there should no longer be any fundamental difference in the services provided by a child care centre or by a kindergarten. Both types of pre-school institutions cater for children of a common age group and share the similar objectives of fostering the child's overall development in the physical, social, emotional, intellectual and moral realms. Why then perpetuate the division of responsibility for the provision of pre-school services between the Education and Social Welfare Departments? Surely it would be more efficient and effective to introduce a unified system of pre-primary education administered by a single unit or department which would be responsible for providing all pre-school services. This would

not only eradicate the present duplication of resources between departments, such as two separate sets of inspectorate staff for kindergartens and child care centres, but would also save time and money presently spent on co-ordinating and liaising between the two departments. I note that a similar suggestion put forward by the Board of Education was rejected by the Government and I urge the administration to reconsider this proposal.

II. *A Centralized Institute for Pre-School Training*

At present, training for child care workers and kindergarten teachers is regulated by two different departments and is provided by a number of independent bodies, including the Training Section of the Social Welfare Department, the Hong Kong Polytechnic, the Advisory Inspectorate of the Education Department, the Colleges of Education and the Department of Extra-Mural Studies at the Chinese University. In addition it is proposed that from September of this year, the Lee Wai Lee Technical Institute will also run training courses for child care staff. With such a segmented training system, it is virtually impossible to control and monitor the contents and standards of the training courses. I therefore suggest that either a separate institute is established or one of the existing colleges of education is made responsible for providing all types of pre-primary training courses. With this centralized arrangement, a curriculum can be developed to ensure that the trained workers are capable of working in all kinds of pre-school institutions. Moreover, the already scarce training manpower and resources can be put to more efficient use, and operational costs will be much reduced.

The current brief, in-service courses for child care workers and kindergarten teachers are only acceptable as stop-gap measures. In the long-term, all teachers in pre-primary institutions should be required to attend a two-year, pre-service full-time course. The academic qualification for admission to this course should be at the Certificate of Education level, to ensure that the trainees can derive maximum benefits from the course and are capable of meeting the demands arising from their professional activities later on.

III. *Direct Subsidy for Approved Kingdergarten*

Currently the Government is assisting non-profit-making kindergartens by way of rates and rent reimbursement and allocation of space in public housing estates. These measures are far from adequate, if the quality of services in kindergartens is to be raised and if the fees charged are to be maintained within the means of the average parents. I therefore suggest that the Government considers introducing some type of direct subsidy for approved non-profit-making kindergartens, for the following reasons.

Firstly, kindergartens need financial support in order to procure furniture and equipment in accordance with the standards laid down in the Green Paper. Replenishment of teaching aids and fitting-out of the premises to meet specified requirements also need a substantial amount of money.

Secondly, the present salary scale of kindergarten teachers is not sufficiently attractive to retain qualified teachers. Therefore, the salaries should be revised upward to reflect the level of training required and professional responsibilities to be undertaken.

Lastly, the gradual reduction in class size in kindergartens means a higher unit cost per pupil. Without financial subsidy from Government, the increased operational costs will be passed on to the parents and this may prohibit parents from sending their children to kindergartens.

With these remarks, Sir, I support the motion.

MR. SO delivered his speech in Cantonese:—

督憲閣下：立法局非官守議員專案小組曾舉行一連串會議，研究「小學教育及學前服務」綠皮書的各項建議。本人亦曾參與討論，獲益良多。由於小組主席班佐時牧師已詳細論述小組所提出的多項重要意見，因此本人僅摘其中一端，略爲一談。

綠皮書所研究的，主要是三歲至五歲兒童的教育問題，其中雖間有論及兩歲幼兒的照顧服務，但兩歲以下的，則付諸闕如。

兒童出生後的三年是一生中最重要的歲月，亦是最脆弱的階段，但卻是體能、情緒及心智發展最迅速的期間。養育子女是天下間要求最嚴格、而且是最困難的工作之一，可惜的是，在這段期間內，爲人父母者往往未諳撫育之道。兼且香港愈來愈多的家庭，父母都外出工作，年幼的子女便只有交人照顧。父母的關懷及愛護，對他們的成長極爲重要，但他們卻難得與父母共聚。現時推行的家庭生活教育計劃，無疑能夠發揮很大的作用，加強解釋幼兒獲得妥善照顧的重要。然而，下列各方面的工作，還有待我們努力：

一、在本港總體社會政策的範疇內，制訂一個以家庭及子女爲重的政策，

二、爲家長提供更多輔導服務，

三、訓練更多及格人員，發展學前教育，最好是盡早設立正式的學前教育師資訓練學院，

四、鼓勵編印家長讀物，及爲家長、教師及兒童製作電視及電台節目，

五、聘用及格人員，評定市面各類玩具的學習價值。

最後，本人謹借一句中國古語作結：「三歲定八十」。綠皮書爲何忽略了這重要的三年呢？

督憲閣下，本人謹以上述的意見，支持這項動議。

(The following is the interpretation of what Mr. SO said.)

Your Excellency, participating in the series of meetings of the Legislative Council *Ad Hoc* Group to study the Green Paper on Primary Education and Pre-Primary Services has proved to be an educational experience for myself. Since the convener of our group, Miss BENNETT, has spoken in more detail on the many important points expressed by the group, I shall touch briefly on only one point.

The Green Paper is primarily concerned with children in the three to five- year age group. To some extent, the Paper considers the care of the two-year- olds but it has not concerned itself with children below two.

The first three years are the most important years of a man's life. These are the years when the child is most vulnerable too. They are the years when the child is developing most quickly physicially, emotionally and intellectually. Unfortunately, this is also the time when most parents feel that they are

amateurs in proper parenthood, which is one of the most demanding and difficult of all vocations. Moreover, we find more and more families in Hong Kong where both parents are working and where their young children are cared for by someone else. These children hardly see their parents whose care and love are vitally important for their proper development. No doubt, the present family life education programme can do a lot to emphasize the importance of early proper child care. However, we can and should do more in the following areas:

1. formulating a family and child-oriented policy in the context of an overall social policy for Hong Kong,
2. providing more counselling services to parents,
3. training more qualified personnel to shape the course of pre-school education preferably by the early establishment of a proper pre-school teachers training college,
4. encouraging the publication of parents magazines, and the production of T.V. and radio programmes for parents, teachers and children,
5. recruiting qualified personnel to give expert opinions on the learning value of the many types of toys on the market.

I should conclude by quoting an old Chinese saying that the personality of an eighty-year-old person was formed during his first three years of life. Why then has the Green Paper not considered these crucial years?

With these remarks, I support the motion.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: — Perhaps I have already strayed rather far from discretion allowed me under Standing Order 8(2) and I must therefore interrupt this debate. The Council will stand adjourned until 2.30 p.m. on Wednesday, 9 July 1980.

Adjourned accordingly at fifteen minutes past six o'clock.