

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 23 July 1980****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
THE HONOURABLE THE CHIEF SECRETARY
SIR JACK CATER, K.B.E., 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 DAVID AKERS-JONES, C.M.G., J.P.
SECRETARY FOR THE NEW TERRITORIES

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

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

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

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

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

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

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

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 JEREMY FELL MATHEWS
LAW DRAFTSMAN (*Acting*)

THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS (*Acting*)

THE HONOURABLE COLVYN HUGH HAYE, J.P.
DIRECTOR OF EDUCATION (*Acting*)

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

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

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

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

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

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

THE HONOURABLE 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 HO KAM-FAI, J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, J.P.

THE HONOURABLE ANDREW SO KWOK-WING, J.P.

THE HONOURABLE HU FA-KUANG, J.P.

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

ABSENT

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

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

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

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

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

THE HONOURABLE CHARLES YEUNG SIU-CHO, J.P.
THE HONOURABLE DAVID KENNEDY NEWBIGGING, 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):—

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Quarantine and Prevention of Disease Ordinance. Quarantine and Prevention of Disease (Scale of Charges) (Amendment) Regulations 1980.....	170
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Summary Offences Ordinance. Summary Offences Ordinance (Exemption from Section 13) (No. 4) Order 1980	172
Public Health and Urban Services Ordinance. Food Business (New Territories) (Amendment) Regulations 1980.....	175
Metrication Ordinance. Metrication Amendments (Post Office Regulations) Order 1980.....	176
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<i>Subject</i>	<i>L.N. No.</i>
Import and Export (General) Regulations. Import and Export (General) Regulations (Amendment of First Schedule) Order 1980	182
Public Health and Urban Services Ordinance. Public Health and Urban Services (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 5) Order 1980	183
Chinese Permanent Cemeteries Ordinance. Chinese Permanent Cemeteries Rules 1975	184
Commodities Trading Ordinance. Commodities Trading (Amendment of First Schedule) Order 1980 (Commencement) Notice 1980.....	185
Public Health and Urban Services Ordinance. Pleasure Grounds (Amendment) By-laws 1980.....	186
Public Health and Urban Services Ordinance. Declaration of Markets in Urban Areas (No. 2)	187

Sessional Papers 1979-80:

- No. 58—Statement of Accounts of the Chinese Recreation Ground and Public Square Yau Ma Tei Management Committee Fund with Certificate of the Director of Audit for the year ended 31 March 1980 (published on 23.7.80).
- No. 59—Statement of Accounts of Customs and Excise Service Welfare Fund with Certificate of the Director of Audit for the year ended 31 March 1980 (published on 23.7.80).
- No. 60—Police Welfare Fund—Income and Expenditure Account with Balance Sheet and Certificate of the Director of Audit for the year ended 31 March 1979 (published on 23.7.80).

Oral answers to questions

Undesirable advertisements of charlatans

1. DR. FANG asked:—*What effective measures can the Government take to control the undesirable advertisements of charlatans who pose as authentic herbal medicine specialists, in order to protect the public from being misled?*

THE ATTORNEY GENERAL:—Sir, under the existing law, section 31 of the Medical Registration Ordinance acknowledges the right of a person of Chinese race to practise medicine or surgery according to purely Chinese methods. I shall refer hereafter to such people as ‘herbalists’. There is no provision for licensing, registration, examination or other control, (except that the Chinese characters that they use in their description have to be within those laid down in the Ordinance). There is however one important restriction on the activities of herbalists and that is in relation to treatment of diseases of the eye. Section 32 of the Medical Registration Ordinance in effect provides that no herbalist shall hold himself out as being qualified, competent or willing to treat the diseases of the human eye. Offenders are liable to a fine and to imprisonment. Thus with the exception of treatment of eye diseases, herbalists have the right to practice, and the Government has no power of control over them nor indeed the means of knowing who is a ‘charlatan’ as Dr. FANG calls them and who is not.

On the question of advertising by herbalists generally, the Undesirable Medical Advertisements Ordinance prohibits publication of advertisements for treatment of certain scheduled diseases and ailments. However, it is relevant to note that it is a defence to a charge to show that the advertisement was a technical publication for circulation, amongst other people, to persons practising as herbalists under section 31 of the Medical Registrations Ordinance.

It follows therefore that, herbalists are prohibited from advertising to the general public the treatment and cure of the diseases and ailments specified in the Schedule and they are also prohibited from advertising themselves as being qualified, competent or willing to undertake the treatment of eye diseases. That is the only extent to which Government can control the advertising of herbalists, be they charlatans or otherwise.

DR. FANG:—*Sir, may I ask the Attorney General whether claiming as specialists in certain specialties of medicine or surgery in the signboards or in the newspaper advertisements constitutes as breaking the present law?*

THE ATTORNEY GENERAL:—In my previous incarnation I used to charge a large fee for answering questions like that (*laughter*). Sir, I would like, if I may, to take notice of the question and answer it in writing.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

Section 28 of the Medical Registration Ordinance makes it an offence for any person falsely to pretend to be qualified, or to take or use any name or title implying that he is qualified, to practise medicine or surgery. ‘Qualified’ in this context means in effect registered as a medical practitioner under the Medical Registration Ordinance. In practical terms therefore, section 28 prohibits any person from misleading the public by falsely pretending to be

qualified to practise medicine or surgery according to modern scientific methods.

Persons practising medicine or surgery according to purely traditional Chinese methods are equally within the prohibition imposed by section 28 as regards the practice of western medicine, but, as I said in my answer to your first question on 23 July, Hong Kong legislation acknowledges the right of a person of Chinese race to practise medicine or surgery according to purely Chinese traditional methods. There are detailed provisions in the Medical Registration Ordinance to ensure that a Chinese 'herbalist' does not mislead the public into thinking that he has any legal qualifications or expertise to practise medicine or surgery according to modern scientific methods. For example if a herbalist takes or uses Chinese characters in his title (or on signboards or in newspaper advertisements etc.) such as 西醫 (Practitioner of Western Medicine) 醫生 (Doctor) 醫師 (Medical Practitioner) 醫士 (Doctor) 醫學士 (Bachelor of Medicine) 醫學博士 (Doctor of Medicine) 男醫 (Male Doctor) 女醫 (Lady Doctor) he is deemed by section 31(b) of the Ordinance to be inducing the public to believe that he is qualified to practise medicine or surgery according to modern scientific methods and will be in breach of section 28, the maximum penalty for which is a fine of \$2,000 and six months imprisonment. Furthermore if in his title etc. a herbalist takes or uses words or characters implying specialization he must precede those words or characters by one of the following sets of characters namely 中醫, 中醫生, 中醫師, 唐醫, 國醫. If one of the five terms is not included and the person uses words or characters implying that he is a specialist in any field of medicine or surgery he will be deemed to be inducing the public to believe that he is qualified to practise medicine or surgery according to modern scientific methods and will be in breach of section 28. As many honourable Members will know, these terms are variations for 'Medical Practitioner of Chinese Medicine' or 'Practitioners of Chinese Medicine'.

One final protection for the public should be noted. If a person advertises himself (whether by title or on signboards or in newspaper advertisements etc.) as practising medicine or surgery according to purely Chinese methods the word 'Herbalist' must be included in any English translation of his title etc.

Incidents involving objects falling from buildings

2. MR. WONG LAM asked in Cantonese:—

鑒於近日有市民因被高空擲下之物體所擊中，引致傷亡，政府可否說明：

- (甲) 過去一年來，此類事件共有多少宗；
- (乙) 有何措施，以緝拿擲物者歸案；以及
- (丙) 如何教導市民戒除此種惡習？

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

In view of the recent death and injury arising from people hit by falling objects, will Government state:—

- (a) the number of such incidents during the last twelve months;*
- (b) measures being taken to apprehend the culprits; and*
- (c) measures being taken to educate the public from indulging in such practices?*

SECRETARY FOR SECURITY:—Sir, in the twelve months ended 30 June 1980, 540 incidents involving objects falling or being thrown from high-rise buildings were reported to the Police. These resulted in five people being killed and 288 others being injured.

These incidents are investigated by the Police and those found responsible for dropping the objects or allowing them to fall are prosecuted; 198 prosecutions were initiated during the last twelve months. Where such incidents occur at buildings under construction, repair or decoration, the investigations are usually quite straightforward since responsibility rests with the contractor concerned who is easily identifiable.

The investigation of incidents involving objects falling from high-rise residential buildings is, unfortunately, much more difficult. The Police attempt to identify the culprits by inviting witnesses to come forward with information, by examining the objects for fingerprints and other clues, by conducting door to door enquiries and by maintaining surveillance on particular buildings where repeated incidents have occurred. Because of the large number of flats and people that may be involved, such investigations are extremely timeconsuming and, regrettably, not always successful.

Under the Summary Offences Ordinance, any person who drops a thing or allows it to fall from a building, to the danger or injury of any person in or near a public place, commits an offence which is punishable by a fine of \$10,000 and imprisonment for six months; where such an act results in a person being killed, a charge of manslaughter, punishable by imprisonment for life, may be brought. Extensive publicity of these penalties is being given through television, the radio and the press, together with admonitions to members of the public not to throw things from upper floors. At the same time, City District Officers and Police Community Relations Officers are seeking the co-operation of district and area committees, mutual aid committees and similar responsible district organizations in educating the public against the dangerous and highly irresponsible practice of throwing things from a height. Police officers, particularly those attached to neighbour-hood policing units, have also been visiting residents of housing estates to promote consciousness of the dangers of throwing things out of windows or leaving things on window sills and similar places.

Sir, the recent deplorable incidents which occurred in Shau Kei Wan have, very rightly, generated a great deal of public concern and indignation. Of course, not many falling objects are as grotesque as L.P.G. cylinders or used

television sets, but even a pebble is potentially lethal when dropped from several hundred feet. I hope the recent incidents have brought home to the community the need for much greater care and consideration for others in this regard.

MR. WONG LAM asked in Cantonese:—

閣下，請問保安司在一百九十八宗起訴案之中，有多少宗被定罪呢？有沒有被判罰款或入獄呢？

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

Sir, within the 198 prosecutions taken out last year, how many of them have been convicted? Was any case resulting in imprisonment?

SECRETARY FOR SECURITY:—I haven't got the figures, though of course the press give publicity to those cases in which convictions and imprisonment or sentences of imprisonment occur. We shall, Sir, be undertaking a more detailed analysis than the time since this question was put down has allowed us to make of the statistics. It is interesting that of the 540 cases, 126 cases resulted in prosecutions in Hong Kong Island, 63 in Kowloon and 9 in the New Territories; and I also see with some interest that half of those cases reported in Hong Kong Island seem to have resulted in prosecutions, whereas only one quarter in Kowloon and only 20% in the New Territories. But we will be looking at the statistics, in view of the public concern about this anti-social behaviour.

MR. WONG LAM asked in Cantonese:—

閣下，請問在一百九十八宗起訴案當中，有沒有分類為從建築地盤或住宅樓宇所拋擲？

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

Sir, in 198 prosecutions made have you made any difference between those of falling objects in respect of building sites and other cases in respect of residential buildings?

SECRETARY FOR SECURITY:—No, Sir, not yet.

Resettlement of needy elderly single tenants

3. DR. HO asked:—*What is Government doing to resettle needy elderly single tenants displaced from private premises repossessed by landlords?*

DIRECTOR OF SOCIAL WELFARE:—Sir, elderly single tenants who meet the criteria for compassionate rehousing are offered permanent housing. Those ineligible but who nevertheless require help are offered accommodation in temporary housing areas, with financial assistance in completing the part-built structures if necessary. The Housing Department has also made available two temporary housing sites for a voluntary organization to provide

accommodation for single people, predominantly elderly tenants of repossessed private premises.

DR. HO:—*Sir, how does the Department of Social Welfare identify the elderly single people living in overcrowded private tenements who are not displaced but who are badly in need of Government's assistance?*

DIRECTOR OF SOCIAL WELFARE:—*Sir, the Department gets to know about the demolition of some such buildings through the C.D.O.s or P.W.D. or the Police. Once we receive information our social workers will go and visit the premises and send tenants for interviews in the office. Of course those who are on public assistance are already known to us. For those who are not, their cases will be investigated. Once it is established that there is a social need as well as other needs, then arrangements will be made for them to be accommodated. If they are on public assistance, the public assistance will pay for removal and fitting out expenses, and for completion of part-built structures if they are going into temporary housing areas. Those who are not on public assistance but there is a need for financial assistance, grants from charitable funds will be provided to help them in a similar way.*

Free choice of airlines on Hong Kong/London route for civil servants

4. MR. LOBO asked:—*Have Government servants now been advised they are free to travel to and from London by any carrier operating the route?*

SECRETARY FOR THE CIVIL SERVICE:—*Sir, the answer to Mr. LOBO's question is 'yes'. I am glad to say that negotiations between the parties concerned were finally concluded on Monday of this week, 21 July. A Civil Service Branch Circular has now been issued advising Government servants that with effect from today they may choose to travel to and from London by any of the three British airlines licensed to operate on this route.*

MR. PETER C. WONG:—*Sir, will that mean a saving of Government expenditure?*

SECRETARY FOR THE CIVIL SERVICE:—*Sir, as Mr. Peter WONG knows, in fact the answer to that question is that it will cost rather more in the short term, to be precise an estimated \$3 million a year. But I believe that in the longer term we shall benefit from the competition on the route, that in the longer term the Government will be paying less, and that certainly the quality of service will go up. There has in fact already been a very minor economy during the past few days as a result of the first class fares to and from London coming down.*

Tso Kung Tam Recreation Park

5. MR. LEUNG:—*Will Government state what progress has been made on the proposed Tso Kung Tam Recreation Park at Tsuen Wan?*

SECRETARY FOR THE NEW TERRITORIES:—Sir, the proposed Tso Kung Tam Recreation Park in Tsuen Wan has two main components. The first is an outdoor recreation centre and the other is the Park itself. Consultants have been employed under the Public Works Programme to carry out investigations and to draw up a detailed design.

Investigations for the outdoor recreation centre did not go smoothly and the original site had to be abandoned because of serious site stability problems. Recently, the consultants have put forward a modified scheme on an alternative site at an estimated cost of \$40 million, and this alternative will now be examined as to its acceptability from all points of view.

With regard to the Park, the consultants have just submitted an interim report proposing such facilities as an amphitheatre, a riverside restaurant, botanic gardens, an aviary, lakes and a miniature railway. The estimated cost of this phase has yet to be worked out. When all the facts are available, the District Advisory Board will be consulted and it will be possible to make a decision as to its relative priority for an allocation of public funds for construction.

MR. LEUNG:—*Sir, can the Honourable Secretary for the New Territories give an approximate date when the public can expect to enjoy its facilities of the Park itself?*

SECRETARY FOR THE NEW TERRITORIES:—No, Sir, I couldn't give a date at this time. It would depend entirely upon the relative priority that can be accorded this project in the allocation of public funds and as to whether we are getting value for the money we will spend.

Disbursement of financial assistance to voluntary agencies

6. MISS DUNN asked:—*Is the Government satisfied that once subventions have been approved for voluntary agencies from general revenue or the Lotteries Fund, the arrangements for their disbursement are satisfactory?*

DIRECTOR OF SOCIAL WELFARE:—Sir, the short answer to Miss DUNN's question is 'yes'.

Financial assistance is given to voluntary agencies to meet both recurrent and capital expenditure of approved projects. Recurrent grants from social welfare subventions are normally allocated before the beginning of each financial year. Under present arrangements, one-fourth of the approved

allocation for existing services is automatically paid to voluntary agencies at the beginning of each quarter. As conditions are normally attached to new projects or new posts, the release of the approved subvention is subject to confirmation by the agencies concerned that the conditions of the grant have been fulfilled. With effect from the beginning of this financial year, standardized proformas have been given to voluntary agencies to assist them in reporting on the extent that conditions have been met.

Recurrent grants from the Lotteries Fund may be approved for experimental projects. The grant for the first quarter's operation is also released automatically. However, in the past, the release of the grant for the subsequent quarters was withheld until the agency had provided a statement of accounts for the immediate preceding quarter. This was necessary to ensure that any overpayment in the previous quarter might be adjusted as quickly as possible. This arrangement was not entirely satisfactory as it resulted in delays in the release of funds, because the preparation of the statement of accounts by the agency, the examination of the statement by the Social Welfare Department and the processing of payment through the Treasury all took some time. Under this arrangement, a small agency which depends heavily on the Lotteries Fund for recurrent expenses would have difficulties in meeting its bills. To overcome this problem the procedures were recently revised. The grant for each quarter is now paid to an agency at the beginning of that quarter without waiting for the agency's statement of account and any overpayment will be adjusted against the statement of account in the next but one quarter. It is hoped that this new arrangement will enable voluntary agencies to have sufficient funds in hand to defray recognized expenditure in respect of their experimental projects.

The Lotteries Fund is the main financial source of assistance for capital projects of a social welfare nature. When a capital grant is approved, the voluntary agency is notified and at the same time asked to call for tenders. For building works, it is advisable for the agency to forward the specifications and tender documents for clearance with the Principal Government Architect before tenders are invited. For furniture and equipment, the voluntary agency should forward a list of requirements for approval before calling for tenders. After the agency has been advised which tenders may be accepted, it can enter into agreement with the approved contractors or place orders with the suppliers. Releases from the approved grant while building work is in progress or for furniture and equipment supplied will be in the form of reimbursements, i.e. against receipted bills, or advance payments against architect's certificates or suppliers' invoices.

Interim payments for building works are normally paid within three weeks and final payments can be made in six weeks if all the necessary information and documents are available in the final account. As regards furniture and equipment, this normally takes three to four weeks.

MISS DUNN:—*Sir, does the Director of Social Welfare have any comments to make on the complaints made by the Society of Homes for the Handicapped that they are in serious financial difficulties and are operating below capacity because of bureaucratic delays in paying the grants approved for the Society?*

DIRECTOR OF SOCIAL WELFARE:—There were specific difficulties involved in this particular case. The argument was centered mainly on the question of whether the premises ought to be air-conditioned in full or in part, and there was some technical advice involved in this. And in the event the spokesman of the Society said that he was misquoted, the Chairman subsequently wrote to the press to explain that that was not a problem and they were not in serious financial difficulties.

MISS DUNN:—*Sir, is the Director then satisfied that the Society's current cash flow position enables them to operate efficiently?*

DIRECTOR OF SOCIAL WELFARE:—Yes, the problem has now been resolved.

Government business

Motion

TELEPHONE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—That the Schedule to the principal Ordinance be amended in Part IV by inserting after item 8 the following—

- ‘9. For a Computerized Business Telephone System (40+144)—
- | | | |
|------------|---|---------------------|
| (a) rental | | |
| (i) | 40+144 equipment cabinet with operator console | \$25,656 per annum. |
| (ii) | 4 channel exchange line card | \$612 per annum. |
| (iii) | 8 channel extension card | \$408 per annum. |
| (iv) | 16 channel coder/decoder card (connecting circuits) | \$768 per annum. |
| (v) | additional 48K memory card | \$2,100 per annum. |
| (vi) | 8 channel DDI cards (per set) | \$1,680 per annum. |
| (vii) | 8 channel tie trunk cards (per set) | \$1,680 per annum. |
| (viii) | electronic telephone set (ETS) | \$864 per annum. |
| (ix) | 16 channel ETS interface cards (per set) | \$1,176 per annum. |
| (x) | automatic call distribution (software) | \$4,260 per annum. |
| (xi) | automatic network dialling (software) | \$3,480 per annum. |

(xii)	call queuing (software)	\$2,460 per annum.
(xiii)	call detail recording (software)	\$2,460 annum.
(xiv)	teletype for call detail recording	\$2,640 per annum.
(b)	installation	A charge calculated in accordance with a costing formula agreed from time to time by the Postmaster General.’.

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

The Hong Kong Telephone Company at present offers Private *Manual* Branch Exchanges (P.M.B.X.) to subscribers in competition with other suppliers. Up until now, it has not provided Private *Automatic* Branch Exchanges (P.A.B.X.). Subscribers have had to obtain these from other suppliers, and the Telephone Company has then installed and maintained the equipment.

The Company now plans to enter the P.A.B.X. market by offering subscribers, on rental terms, a modern digital exchange which will be known as the ‘Computerized Business Telephone System (40+144)’. The system may comprise as many as 40 exchange lines and 144 extensions and will offer such modern facilities as automatic call distribution, conference calls and direct dialling into extensions. The rental of the P.A.B.X. will be based on a minimum renting term of one year and discounts will be given to subscribers who opt to sign longer term contracts.

The Postmaster General considers the charges the Telephone Company proposes for the ‘Computerized Business Telephone System (40+144)’ reasonable. The purpose of this motion is to add to Part IV of the Schedule to the Telephone Ordinance the charges proposed for the new service as detailed in the resolution.

Sir, I beg to move.

Question put and agreed to.

DUTIABLE COMMODITIES ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—That with effect from 24 July 1980 the resolution made and passed by the Legislative Council on 24 March 1976 and published in the *Gazette* of 26 March 1976 as Legal Notice No. 89 of 1976 be amended in paragraph (3)—

(a) by deleting ‘duty shall be payable on liquors at the following rates per gallon’ and substituting the following—

‘except as otherwise expressly provided in Part IA of this paragraph, duty shall be payable on liquors at the following rates per gallon’;

(b) by—

(i) deleting the following—

<i>Type of liquor</i>	<i>Hong Kong Origin \$</i>	<i>Other Origin \$</i>
Beer, except Cider and Perry, not exceeding 1055° original gravity	2.70	3.40
and in addition for every degree by which the original gravity exceeds 1055°	0.07	0.08'; and

(ii) substituting the following—

‘PART IA—(EUROPEAN-TYPE LIQUORS)

<i>Type of Liquor</i>	<i>Hong Kong Origin \$ (per 24 gallons)</i>	<i>Other Origin \$ (per 24 gallons)</i>
Beer, except Cider and Perry, not exceeding 1030° original gravity	40.50	57.30
and in addition for every degree by which the original gravity exceeds 1030°	1.35	1.35’.

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

Under the present law, duty is payable on beer at a fixed rate per gallon provided the gravity does not exceed 1055° , above which there is a graduated scale. The duty is assessed on the worts before fermentation takes place.

In consequence of the recent enactment of the Dutiable Commodities (Amendment) Ordinance 1980, certain new brewing practices can now be used in Hong Kong. One of these is the dilution process. If this process is used, in certain circumstances the Government loses revenue.

The circumstances are as follows. A brewer in the early stages of brewing uses worts with a gravity higher than he intends for the beer he is brewing, but still not in excess of 1055° . After declaring for duty at that point in the process, he injects water during the subsequent fermenting process, thus reducing the original gravity and producing a larger volume of beer than that of the worts on which the duty was charged. As a consequence of the increase in volume, he has in fact paid less duty in terms of the beer produced than he would have, had he used worts with a lower original gravity without any subsequent dilution (*laughter*).

It is true that, as a result of an amendment to section 63 of the Dutiable Commodities Ordinance passed by this Council on 9 July 1980, the Director of Trade, Industry and Customs has the authority to reassess the duty payable under such circumstances. But for him to carry out a reassessment would involve bonding the entire brewery, or placing guards on it, at great inconvenience to the brewer. So the easiest and most convenient solution is to introduce a new scale of duty for beer that protects the revenue from the potential loss I have just described.

The new scale in the resolution before Council prescribes that the fixed rate will apply to beer up to an original gravity of 1030° rather than the present 1055° ; and above this reduced level a variable scale will apply. The dilution process normally begins with an original gravity above 1030° , and the variable scale has been designed to ensure that the Government does not lose about \$3 million in revenue.

I would like to stress, Sir, that the new scale of duty has been designed so as to be as neutral as possible as far as those *not* using the dilution process are concerned. But beer with an original gravity above 1048° , which is the norm in Hong Kong, will attract very slightly more than at present; and beer with a lower original gravity than this will attract slightly less. As well, so as to make it possible to avoid charging in fractions of a cent in the pursuit of neutrality, the new duty is for quantities of 24 gallons rather than one gallon as under the present legislation. Why ‘gallons’ and ‘24’ in this age of metrication? Quaint, I agree; but for metrication we can only tackle the Dutiable Commodities Ordinance as a whole and this we shall be doing shortly.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

COMMODITIES TRADING (AMENDMENT) BILL 1980

STOCK EXCHANGES UNIFICATION BILL 1980

PUBLIC ORDER (AMENDMENT) BILL 1980

LAND REGISTRATION (AMENDMENT) BILL 1980

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) (NO. 2) BILL 1980

MAGISTRATES (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

COMMODITIES TRADING (AMENDMENT) BILL 1980

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

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

In the past year, we have witnessed many dramatic movements in the prices of gold. The volatility of the international gold market and the general underlying trend of a steep increase in prices particularly in 1979, gratifying though this may be to owners of gold and to speculators and dealers in it—among whose number, alas, I cannot count myself—has led to the emergence of so-called ‘fringe’ gold operators whose methods of dealing represent the sort of danger to the investing public and even to Hong Kong’s international reputation as a financial centre, that the Government cannot ignore.

Within the past six months, the office of the Commissioner for Commodities Trading has received many complaints from members of the public who have been customers of these ‘fringe’ operators. A sample of the trading practices the operators usually use includes:

- (a) employing untrained, but aggressive, door-to-door sales staff using high pressure sales techniques to induce members of the public to speculate in gold futures;
- (b) ‘churning’ orders; (that is manifestly over-trading their customers’ accounts in order to maximize their commissions);
- (c) ignoring customers’ direct oral instructions and relying instead on agreements in which customers sign away their rights, having probably had the contents misrepresented to them in the first place; and
- (d) ‘bucketing’ orders (that is off-setting their customers’ orders to buy and sell in-house, without actually placing them with a proper exchange).

The potential sufferers in all this are the customers. One can argue that those who are taken in by fast talking in the context of gold, which they are never ever going to see, deserve all they get. Personally I have some sympathy with this argument. But I have been persuaded that what has been happening falls within the Government’s policy of legislating to help investors in circumstances where they cannot be expected to help themselves. I am also persuaded that this sort of activity is inconsistent with the Government’s policies on trading in commodity futures generally.

Because of defects in the Commodities Trading Ordinance and in particular its section 26, these ‘fringe’ gold dealers do not have to register as dealers in commodities futures and so they are subject to no regulation.

In order to bring them under proper and effective control, we must first tighten the provisions in the Commodities Trading Ordinance so that they have to be registered. In the Bill now before honourable Members, it is proposed to achieve this by amendments to section 26. These amendments (clause 2) are inevitably of a technical nature. If honourable Members wish to refer to them specifically, they are clearly summarized in paragraph 2 of the Explanatory Memorandum. I should add that they have been so designed that members of the Chinese Gold and Silver Exchange Society who trade on the Society as members of it, will continue to be exempt from the need to register.

Registration will not be automatic. The Commodities Trading Ordinance (section 31) provides that the Commissioner shall refuse to register an applicant as a dealer unless the applicant fulfils a number of conditions including:

- (a) that he is a shareholder of the Exchange Company (that is the Hong Kong Commodity Exchange or any of the recognized overseas exchanges specified in the Second Schedule of the Ordinance); and
- (b) that he has paid a deposit of \$100,000 in cash.

Those who continue trading unregistered will face prosecution as unregistered dealers, the maximum penalty for which is a fine of \$50,000.

Having strengthened the registration requirements, it is necessary to control trading practices in two respects.

First, dealers must make available to customers proper contract notes and particulars of every transaction (clause 3). The provisions proposed are similar to those in the Securities Ordinance (sections 75 and 77). Persons found guilty of breaching these requirements would be liable to a fine of \$10,000 and six months' imprisonment.

Second, the hawking of futures contracts generally must be prohibited (clause 4), by means again of a provision similar to those in the Securities Ordinance (section 74). Clearly, the arguments that caused this Council to prohibit the hawking of securities apply equally to the hawking of commodity futures. A contravention of this provision would make a person liable to a fine of \$10,000 or to imprisonment for six months.

Sir, the measures I have outlined have the general support of the Commodities Trading Commission, the Chairman of the Chinese Gold and Silver Exchange Society and the Chairman of the Hong Kong Commodities Exchange.

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

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

Question put and agreed to.

STOCK EXCHANGES UNIFICATION BILL 1980

THE FINANCIAL SECRETARY moved the second reading of :—‘A bill to provide for the establishment of a single, unified stock exchange in Hong Kong; to provide for an Exchange Company to operate the Unified Exchange; to provide for the winding up of existing exchanges; to make consequential and incidental amendments to the Securities Ordinance; and to provide for related matters’.

He said:—Sir, I move that the Stock Exchanges Unification Bill 1980 be read the second time.

There are two main functions of stock exchanges: *first* to provide a means of raising capital for industry and commerce and *second* to provide a market in which investors can deal in the securities they acquire as a consequence of the first function. These functions involve exchanges in a public responsibility to those who have committed funds to the market by way of investment and to those who may wish to invest and provide new funds to finance future corporate development. In particular, investors need to be satisfied that:

- (a) adequate information about listed companies is available, and that the conduct of listed companies and those connected with them is subject to effective regulation;
- (b) the conduct of members of the stock exchanges is subject to effective regulation; and
- (c) the stock market is conducted with maximum efficiency.

Hong Kong is unusual in having as many as four exchanges.

To a large extent, the four exchanges have been regulating their affairs in an efficient manner. But in respect of the three aspects on which I have said investors particularly need to be satisfied, the quartet has particularly unsatisfactory features:

- (a) the fact that they compete to attract additional companies, tends to lead them to adopt a flexible interpretation of their own listing rules;
- (b) the Government has greater difficulty in regulating the conduct of the members of the four exchanges than it would if there was only one exchange; and
- (c) one exchange could be run more efficiently and economically than four exchanges.

In such circumstances, the growth of local and international confidence in Hong Kong as a securities and financial market has been hampered by the presence of four exchanges. Obviously, the answer lies in unification. As well as rectifying the three unsatisfactory features to which I have just drawn attention, one market would be less erratic than four, in that brokers would not be able to indulge in arbitrage between exchanges. It would also provide a better service in that it would have greater liquidity. And we think overseas investors in particular will find one exchange a greater attraction than four.

So the Stock Exchanges Unification Bill 1980 provides for a single unified exchange. It is the result of detailed investigation and discussion by the Working Party on Unification established in May 1977 under the chairmanship of the Commissioner for Securities. The Bill also reflects the advice of the Securities Commission and the views expressed in response to two questionnaires which were sent to all members of the existing exchanges. I would like to comment on five aspects of particular importance: the Exchange Company which will set up the unified exchange, the Transitional Committee, membership of the Exchange Company, the eventual establishing of the unified exchange and the liquidation of the existing exchanges, and the Compensation Fund.

First, the Exchange Company itself. The Bill (clause 3) empowers the Securities Commission to recognize a company formed and registered under the Companies Ordinance as the Exchange Company, the principal object of which will be to establish and operate a stock exchange in Hong Kong. As a prerequisite to such recognition, the Company must satisfy the Securities Commission that it has, in its Memorandum and Articles of Association, adequately provided for matters relating to membership, Listing Rules and the Compensation Fund. Subsequent amendments to the Memorandum and Articles of Association can be made only with the Commission's approval in writing.

The Exchange Company will be empowered (clauses 34 and 35) to draft the Board Trading Rules and By-laws, its Rules and Regulations and its Listing Rules, all of which will be subject to the final approval of the Securities Commission. If the Company fails to do this the Commission can direct it to make the necessary rules.

The management of the Exchange Company will be vested in a committee to be elected by its members (clause 10). Only members of the Exchange Company are eligible for election. The Chairman of the committee will be elected from amongst the members each year by secret ballot. He may be re-elected, but cannot serve for more than two terms consecutively.

Second, the Transitional Committee. Until the Exchange Company has elected its first committee, a Transitional Committee, comprising two representatives from each of the existing exchanges, will be responsible for the management and operation of the company (clause 5). A primary task for the Transitional Committee will be to send out and process applications for membership from members of existing exchanges. The Transitional Committee is obliged (clause 19) within one month from the commencement of the Bill to invite to all members of the four stock exchanges to subscribe for a share in the Exchange Company. Those who are interested must apply within three months and the Transitional Committee will then have three months to accept or reject the applications. A person aggrieved by the decision of the Transitional Committee may appeal to the Securities Commission.

Within a given period after the closing date for applications for membership, the Transitional Committee will be obliged to hold elections for the committee of the Exchange Company (clause 9). If no elections take place, the Commissioner for Securities may cause them to be held.

If either the Transitional Committee or the committee of the Exchange Company fails to discharge its functions the Financial Secretary may appoint a person to act in its place (clauses 8 and 11). He may exercise this power only on the advice of the Securities Commission and if the public interest so demands.

Third, membership. Initially, only existing members and overseas members of the present exchanges will be eligible to apply for admission to membership of the Exchange Company (clause 17). Existing full members can opt for membership or associate membership, but existing overseas members are eligible for admission as associate members only. The admission of existing overseas members as associate members will mean little change in their present position—they will continue to have no substantive voting rights and will still have to deal through a member.

Each applicant for membership must demonstrate that he is of sound financial standing (clause 15) and specifically that he will be able, when the Unified Exchange starts operation, to meet the requirement (clause 25) that each member and associate member must maintain in his stock-broking business a net capital of at least \$1 million.

The current restrictions contained in the Securities Ordinance debarring directors and employees of licensed banks and solicitors and professional accountants holding practising certificates from admission to the exchanges will continue to apply (clause 13). But it is proposed also to continue to permit practising solicitors and accountants who were members of existing exchanges at the time the relevant section of the Securities Ordinance was brought into effect *and* who still are members, to apply for admission. This, I believe, is known among the exchanges as the grandfather clause (*laughter*).

The restrictions on membership have been amended in three aspects. *First*, on the advice of the Deposit-taking Companies Advisory Committee, deposit-taking companies are placed on a footing similar to licensed banks (that is to say, directors and employees of deposit-taking companies are excluded from the Exchange Company) (clause 13). In addition, directors and employees of companies *associated with* licensed banks and deposit-taking companies have been declared ineligible. *Second*, except in the case of existing associate members that are firms or corporations, firms and corporations will be inadmissible for admission (clause 14). *Third*, while members or associate members can trade in partnership, the Articles of Association of the Exchange Company will provide that all partners must be shareholders of the same class.

Once the processing of applications for membership has been completed, to avoid possible speculation, shares in the Exchange Company will not be

transferable for a period of three years (clause 18). This prohibition will only be relaxed in such circumstances as death, bankruptcy, expulsion or insanity. Even in these cases, any proceeds of sale in excess of the sum the vendor paid for his share will be payable to the company. After the three-year period, shares will be freely transferable, with the vendor receiving the full proceeds of sale.

Fourth, the establishing of the unified exchange and the liquidation of the existing exchanges. Clearly the Exchange Company will not be able to establish the unified exchange overnight. But when it is ready, on a day to be appointed by the Financial Secretary, it will have the exclusive right to operate a stock exchange in Hong Kong (clause 27). The preliminaries cannot be allowed to drag on too long and the Bill prescribes that the Financial Secretary must appoint his day not later than three years after the date of commencement of the Bill. Personally, I consider three years to be generous. I trust the Transitional Committee and the Exchange Committee will tackle the job diligently, and so be ready well within this time.

Then, within one year of the commencement of the Unified Exchange, the existing exchange companies will have to start voluntary liquidation (clause 30). The Financial Secretary is empowered to petition the court for the winding-up of an exchange company which fails to comply with this requirement (clause 31).

Fifth, the Compensation Fund. When the Unified Exchange starts operation, the Exchange Company will be required (by virtue of an amendment to section 104 of the Securities Ordinance included in the First Schedule of the Bill) to contribute to a new Compensation Fund which will replace the existing Stock Exchanges Compensation Fund. The amount that the Exchange Company will have to contribute on behalf of each membership held by its members and associate members will be \$50,000 in cash. All claims relating to defaults occurring before the opening of the Unified Exchange will be allowed only if lodged with the Stock Exchange Compensation Fund within about six months. As soon as the old fund has disposed of all claims, the remaining assets will be distributed among the existing four exchanges.

Finally, I would like to record my appreciation for the support and cooperation of the members of the four existing exchanges. It has not been easy for them to participate in the demise of the institutions they have carefully and painstakingly built up over the years. But they have themselves taken one major and significant step towards unification by voluntarily achieving the incorporation of the Exchange Company already. And a word of praise for the Securities Commission and its Chairman, and the Commissioner and his staff, all of whom have patiently helped to get us thus far down a difficult road of some significance for Hong Kong, would not be amiss either.

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

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

Question put and agreed to.

PUBLIC ORDER (AMENDMENT) BILL 1980

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

He said:—Sir, honourable Members will recollect that last year in a statement made in this Council in answer to a question from my honourable and learned Friend, Mr. Peter WONG, my predecessor, Mr. John HOBLEY, indicated that the Government intended to review the Public Order Ordinance and consider whether it should be reviewed and changed in the light of current circumstances. On 15 November 1979 I was able to report to this Council, Sir, that a Working Party had been appointed and was by then well advanced in considering the problems raised by this review. On 13 June this year, after a rather longer gestation period than one might either have anticipated or desired, the travails of the Working Party gave birth to the Public Order (Amendment) Bill 1980, which I now move be read the second time.

At first sight, the amendment to the existing legislation probably appeared to be a comparatively simple task. It goes without saying that in Hong Kong, as in every other free community where the rule of law applies, citizens must be allowed to exercise the right to express publicly their views on matters of public interest, and indeed of public controversy. They must be able also to associate together freely to discuss those views. But at the same time, in a free society, that right to meet and discuss their views carries with it the corresponding responsibility to do so without trespassing on the rights of your neighbour—on the equal right of your neighbour not to be inconvenienced (still less to have his life disrupted) by the unruly expression of those views and the whole concept of the rule of law envisages the orderly resolution of competing rights between citizens and groups of citizens.

This is achieved, as I see it, by having a framework of law designed to hold a fair balance between those competing rights. So in the context of this Bill opinions may be freely expressed and public pressure brought on governments and others, but only in an orderly manner and at the same time without inconvenience to or disrupting one's neighbour's life.

Hong Kong, as many here know far better than I, is a crowded, bustling place with many, many of its citizens more concerned with being able to go about their own business in peace and quiet, than they are with having the troubles and the problems of others drawn, perhaps forcibly, to their attention. Government, in considering the question of public order, has obviously to bear that in mind. Also to bear in mind that although Hong Kong today is stable, and its population, with very few exceptions, responsible,

it was not always so; and—who knows—in the future issues unforeseen by any of us today may arise which could lead to the expression of strongly opposing views supported perhaps by different groups or different factions in society. And it has to be remembered too that in all societies and in all places, it happens sometimes that those who hold strong and controversial views may, through misguided enthusiasm or indeed sometimes perhaps through malice, attempt to insist upon the expression of their views in places and at times when to do so may risk or even be actually designed to cause unrest.

Obviously a government, when considering the amendment of an ordinance to regulate public order has to bear all these considerations in mind, as well as many others. If the rule of law is to be upheld, as upheld it must and will be, then someone has to act as referee between the competing interests of one group of citizens and another. And let it not be forgotten as we look around the world today that in many places what appeared at first sight to be liberty has degenerated into licence and into disorder. It was because of the importance of this subject, and the difficulty of knowing exactly where it was wisest to draw the line between these competing matters that the Working Group, though working diligently and meeting frequently, took many months to give birth to the Bill. Their work represents, in my opinion, a fair balance between the competing interests to which I have just referred. And it has been decided, because the Bill deals with the matters of public liberty that there should be a lengthy period of public consultation on its proposals. This started with the publication of the Bill on 13 June and, in that connection, may I now say thank you to all those who have responded and already given their views upon it. Public consultation will continue throughout the summer. It is the Government's intention to move to adjourn this debate today so that Unofficial Members of this Council and other members of the public, between now and October, may have ample time to study the Bill in detail. And I look forward to hearing their views and to receiving their opinions upon it and their suggestions for improvement if such suggestions there be.

Having said that, I would like to turn now to the detailed provisions of the Bill if I may. The main change which the Bill proposes relates to public meetings. Under the present Public Order Ordinance almost every public meeting, whatever its purpose, requires to be licensed by the Police. The Government feels that Hong Kong today is sufficiently stable (and its population sufficiently responsible) to accommodate a less sweeping form of monitoring control over public meetings. Accordingly, under the Bill the licensing system for public meetings is replaced by a simpler requirement that the Police must be notified of the intention to hold a public meeting if, but only if, matters of public interest are to be discussed. Meetings exclusively for social, recreational, cultural, educational, religious or charitable purposes will not require any notification; nor will meetings, even though to discuss matters of public interest, where the attendance is less than 20 persons in

a public place, nor meetings in private premises where less than 200 people are able or expected to attend. And to achieve these changes the existing Part III of the principal Ordinance is repealed and substituted by the new sections from section 6 to section 17 in the Bill.

However, it should be borne in mind that the Bill does not affect the existing powers of the Police to take preventive action 'on the spot' if any public meeting becomes or looks as if it is about to become unruly. Furthermore, in the context of public safety, the duty on owners and occupiers of private premises where public meetings are to be held to ensure that all safety and fire regulations are complied with are stressed in the Bill. And this duty is also imposed on the organizers of meetings as well as the owner and occupier of the building in which it is held.

A necessary measure of prior control over potentially unruly public meetings is retained in the new section 9 which empowers the Commissioner of Police to prohibit the holding of a notified public meeting but on certain specified grounds only, notably that the meeting is likely in his opinion, to prejudice the maintenance of public order or to be used for any unlawful purpose. And those aggrieved by a refusal are given a right of appeal or a method of appeal to the Governor who may review and accept or alter the Commissioner's decision.

I like now to mention one matter that has been raised in the public consultation. Comments have been made already upon the definition of meeting, and it has been suggested that it is difficult to know what is or is not a 'matter of public interest'. May I say that as at present advised I intend in committee to move an amendment to change that definition slightly so that section 2(b) of the Bill will commence—

'Meeting means any gathering or assembly of persons convened or organized for the purpose of the discussion of issues or matters of interest or concern to the general public or a section thereof, or for the expression of views on such issues or matters, and'

then it continues as in the Bill at the moment.

The definition of a 'matter of public interest' raises quite clearly a difficulty. For my own part I don't see how it is possible to define with exactitude what may at any moment in the future become a matter of public interest. But I think rather as the child said of the elephant: 'I can't describe it, but I know it when I see it.' So I think with matters of public interest when it is put to you, 'Is that a matter of public interest?' you know whether it is or it isn't, although it may be very difficult to provide an omnibus definition of what is a 'matter of public interest'.

And I add one further matter to that. The object of this Bill is not to frustrate public discussion, but rather to make it easier but at the same time to ensure the public expression can take place conveniently and without disrupting the lives of others. Accordingly, I would suggest that anyone who

is thinking of holding a public meeting and who is in doubt as to whether or not it concerns a matter of public interest, or is wholly and exclusively for social, educational, or whatever, ought to notify in regard to that meeting. I can see no harm in doing that, and I am confident that meeting so notified will be allowed to continue and will not be banned under section 9. Indeed, I am informed that under the present Ordinance, in 1978 of 59 applications for meetings only two were refused, and in 1979, out of 30 only one was refused.

The procedure for notification. This is set out in the new section 8 and is, briefly, as follows:—the meeting must be notified, with particulars, seven working days in advance to the Commissioner of Police; shorter notice may be accepted in exceptional circumstances, for instance, if a matter has urgently arisen which requires discussion and where the need to discuss it has not been foreseen in advance unless the Commissioner prohibits the holding of the meeting within four days (or at least 24 hours before, if in exceptional circumstances the shorter notice is accepted) then the meeting may go ahead as notified.

I would like now to turn to public processions. The Bill doesn't greatly affect the present licensing provisions. There is no doubt that groups of people moving through Hong Kong's congested streets in organized processions are likely to cause disruption and inconvenience to the general public unless the authorities are not only forewarned of the procession but are also empowered to put down a route which it should follow. All of us know streets and roads in Hong Kong where it would be ludicrous to allow procession at, say, half past five or six in the evening. And experience has shown that it is not only those in the procession itself who have to be borne in mind, but the interested spectators, on a few occasions the cameramen who join them for the picnic, and who exacerbate the inconvenience and delays to the public going about their own lawful affairs.

It is for that reason that it is felt that it is a fair balance if processions of under 20 persons are allowed without notice, but that where the number is in excess of that, then the Commissioner of Police should be notified so that proper agreed arrangements can be made as to routing, timing and so on. Similarly, it is only processions on the public highway or public thoroughfares or on public parks that require to be notified.

These then are the main provisions of the Bill. There are other detailed provisions with which I won't weary honourable Members because I know how thoroughly they intend to read every dot and comma in the entire Bill (*laughter*). I look forward to the public discussion that I hope will now ensue, and to receiving the representations of the public, and in due course to hearing the views of honourable Members of this Council when they speak upon it if they do.

The Bill, I believe, ensure a sensible relaxation of the existing law. But it is at the same time one which I think retains those controls that are

necessary if the interests are to be protected of the vast majority of lawabiding citizens whose only wish is to go about their own affairs without disturbance and inconvenience.

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 ATTORNEY GENERAL.

Question put and agreed to.

LAND REGISTRATION (AMENDMENT) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Land Registration Ordinance’.

He said:—Sir, I rise to move the second reading of the Land Registration (Amendment) Bill 1980.

The main purpose of this Bill is to repeal those provisions of the Land Registration Ordinance which deal with the procedures governing the registration of documents affecting land and to provide powers enabling the Governor in Council to make regulations which would replace those provisions in terms which reflect the present day practice and procedures of the Land Office. This is considered necessary, first, to facilitate the microfilming of Land Office records—and the Bill contains further provisions relating to this—and, secondly, to provide statutory authority for, and control over, present day land registration procedures in the Land Office.

The opportunity is also taken to introduce into the Ordinance certain provisions relating to the obligations and liabilities of the Land Officer in relation to land registration and Land Office records, the regulation of the conduct of persons visiting the Land Office the destruction of or interference with Land Office records and the admissibility of Land Office records as evidence in court. These provisions give statutory effect to what is considered in general to be the present position.

The provisions of this Bill dealing with microfilming and land registration procedures will not at present apply to any of the District Land Registries in the New Territories. The Land Registries concerned are listed in the new Second Schedule to the principal Ordinance, as provided for in clause 30 of the Bill. This clause also provides that the repealed provisions of the Ordinance concerning land registration procedures, as contained in the new First Schedule, will continue to apply in these District Land Registries as long as they remain listed in the Second Schedule. The intention is for the Registrar General to assume direct responsibility for the New Territories District Land Registries and for the land registration procedures

of those Registries to be brought into conformity with those of the Land Office at Victoria. When this has been achieved it should be possible to extend all the provisions of this Bill, as well as the proposed new Land Registration Regulations, either to all the District Land Registries in the New Territories, or to individual such Registries, from time to time, as the case may be; and this would be done by the Governor in Council amending the list in the Second Schedule. In the meantime, however, the remaining provisions of the Bill will apply equally to the New Territories as to the Urban Area.

I should add, Sir, that the Law Society has been consulted on the Bill and that it supports its provisions.

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 THE ENVIRONMENT.

Question put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) (NO. 2) BILL 1980

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

He said:—Sir, I rise to move the second reading of the Factories and Industrial Undertakings (Amendment) (No. 2) Bill 1980.

As a part of the continuing campaign to promote industrial safety and prevent industrial accidents a review is being conducted of the penalties prescribed in the Factories and Industrial Undertakings Ordinance and the various sets of subsidiary regulations made under the Ordinance. In the light of progress made so far in this review it is considered that a number of these penalties should be increased in order to produce the desired deterrent effect.

The Bill now before honourable Members is the first step in the process of increasing penalties in safety legislation. The existing proviso to section 7(5) of the Factories and Industrial Undertakings Ordinance limits the maximum penalty that may be provided in any of the regulations made under the Ordinance to \$10,000. Clause 2 of the Bill therefore proposes to increase this limit to \$50,000, so that any fine prescribed in the regulations made under the Ordinance can be raised as high as this new maximum, if necessary. I should make it quite clear that this is an enabling amendment and does not of itself change the present maxima for the various regulations, nor does it mean that all penalties will be raised to this level but only those

for the most serious breaches. I shall be amending most of the penalties in these regulations in the next few months and this will enable the Factory Inspectorate analyse and grade the offences with appropriate maximum penalties depending on the seriousness of a breach of each particular regulation.

The existing maximum limit of \$10,000 was fixed in 1973. It is not only out-of-date due to inflation but, more importantly, is clearly insufficient as a deterrent. As a result, in a considerable number of recent court cases, magistrates have imposed the maximum possible penalty. When this amendment is enacted I will take the necessary action to increase the penalties prescribed in the various sets of subsidiary regulations to ensure that they are more realistic and provide a sufficient deterrent.

At present section 11(3) of the Ordinance prescribes a maximum fine of \$10,000 for contravention of a magistrate's order to prohibit the use of dangerous machinery and plant in an industrial undertaking. Clause 3 of the Bill proposes to increase the maximum penalty to \$50,000 and imprisonment for six months. Only as a last resort and under very special circumstances would a Factory Inspector need to apply for such an order and consequently it would be a very serious offence for anybody who wilfully disobeys such an order. Normally the required effect of withdrawing dangerous equipment from use when necessary is achieved by a request instruction or prosecution by the Inspectorate. It is therefore considered both necessary and justifiable to impose a custodial penalty in addition to the higher fine, as the offender in such cases is also deliberately exposing his employees and other persons to an imminent risk of serious bodily injury.

The Labour Advisory Board has been consulted on these proposals and has endorsed them.

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.

MAGISTRATES (AMENDMENT) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—‘A bill to amend the Magistrates Ordinance’.

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

In Hong Kong, offences which are tried upon indictment are heard in either the High Court or the District Court. Although there is frequently

a choice as to which of these courts to proceed in, in some cases there is no option but to seek the committal of the defendant to the High Court for trial there. This happens where, under section 88 of the Magistrates Ordinance and Part III of the Second Schedule to that Ordinance, the offence which is being prosecuted is expressed not to be subject to the jurisdiction of the District Court.

As a general rule, crimes which are punishable with imprisonment for life are amongst those offences which cannot be heard by the District Court. But there are several exceptions to that rule, and in the Second Schedule to the Magistrates Ordinance there is a list of offences which carry life imprisonment but which may nevertheless be heard in the District Court. This Bill seeks to supplement that list by adding to it a reference to offences under Parts VIIA and VIIB of the Immigration Ordinance.

In August of last year the Immigration Ordinance was amended in order to strengthen the law against trafficking in unlawful immigration. Two new parts, Parts VIIA and VIIB were added to it. The maximum penalties for offences under those Parts are a fine of \$5,000,000 and imprisonment for life.

There is now a steady flow of cases under that legislation coming before the courts. At the moment, where the prosecution proceeds upon indictment the trial has to take place in the High Court. This is because the new offences are punishable with life imprisonment and are not included in the list of such offences which may be heard in the District Court. This has been found to be unsatisfactory for two main reasons. First, where the appropriate sentence in a particular case is clearly not going to exceed that which it is within the competence of a District Judge to impose, the considerable burden on judicial time and resources which committal to the High Court involves serves no useful purpose. Secondly, as long as the number of cases involving the entry of unauthorized entrants into Hong Kong continues at recent levels, the Government has a responsibility to ensure that the High Court does not run the risk of becoming overburdened with a class of case which the District Court is competent to determine.

Parts VIIA and VIIB of the Immigration Ordinance have proved to be a useful weapon in the battle against those who traffic in illegal immigration. This Bill will, I believe, add to their value.

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 LAW DRAFTSMAN.

Question put and agreed to.

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1980**Resumption of debate on second reading (25 June 1980)**

Question proposed.

MR. SO delivered his speech in Cantonese:—

督憲閣下：本人只希望就這法案有關儲蓄互助社的條款，發表意見。但首先，作為香港儲蓄互助社運動的創辦人之一，本人謹此聲明這法案與本人有利害關係。

對於政府提出由一九八〇年四月一日起豁免儲蓄互助社繳納利息稅的議，本人甚表歡迎。政府既已承認儲蓄互助社應受法定准許免繳利息稅，本人認為對於過往應繳的利息稅，這個原則亦應運用，才合乎邏輯。

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

Your Excellency, I shall confine my comments on this Bill to the provisions in it relating to credit unions. Firstly however, as co-founder of the credit union movement in Hong Kong, I must declare my interest.

I welcome the Government's proposal to exempt credit unions from interest tax payments with effect from 1 April 1980. By recognizing the principle that credit unions should be statutorily exempt from interest tax payments, it is only logical that previous interest tax demands should also be covered.

THE FINANCIAL SECRETARY:—Sir, my honourable Friend has already been made aware of the reasons, mainly with those principles why previous interest tax demands cannot be covered, but we are not unsympathetic to his point and I suggest, for the record, that credit unions in difficulties individually speak to the Commissioner of Inland Revenue about payment arrangements.

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).

CORONERS (AMENDMENT) BILL 1980**Resumption of debate on second reading (9 July 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).

PHARMACY AND POISONS (AMENDMENT) BILL 1980

Resumption of debate on second reading (9 July 1980)

Question proposed.

DR. FANG:—Sir, I rise to speak in support of the Pharmacy and Poisons (Amendment) Bill 1980.

I welcome the fact that the Pharmacy and Poisons Board will now be empowered to delegate its routine licensing and registration functions to its executive sub-committees, bearing in mind the increasing scope and complexity of its work.

I am also glad to support the provision of an independent Pharmacy and Poisons Appeal Tribunal. This intermediate appeal body, providing the necessary legal, scientific and professional expertise, will be welcomed by the trade in that it will expedite the processing of applications for licences and, in the event of appeal, obviate the need to take the matter to the High Court which is both time-consuming and expensive.

The requirement for importers and exporters of all pharmaceutical products to register is laudable because this means more effective control over such products and better protection for the consumers.

Sir, I support the motion.

Question put and agreed to.

Bill read the second time.

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

PNEUMOCONIOSIS (COMPENSATION) BILL 1980

Resumption of debate on second reading (9 July 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).

LEGAL PRACTITIONERS (AMENDMENT) BILL 1980**Resumption of debate on second reading (9 July 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).

SUPREME COURT (AMENDMENT) BILL 1980**Resumption of debate on second reading (9 July 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.

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

Clauses 1 to 4 were agreed to.

CORONERS (AMENDMENT) BILL 1980

Clauses 1 to 8 were agreed to.

PHARMACY AND POISONS (AMENDMENT) BILL 1980

Clauses 1 to 10 were agreed to.

PNEUMOCONIOSIS (COMPENSATION) BILL 1980

Clauses 1 to 49 were agreed to.

First Schedule

COMMISSIONER FOR LABOUR:—Sir, I move that the First Schedule be amended as set out in the paper circulated to honourable Members. This simply revises the various figures in the Compensation Bill to those in the recently enacted Workmen's Compensation (Amendment) Ordinance.

*Proposed Amendment***First Schedule**

That the First Schedule be amended—

(a) in part I—

(i) by deleting '\$147,000' wherever it occurs and substituting in each place the following—

'\$168,000';

(ii) by deleting '\$49,000' and substituting the following—

'\$56,000'; and

(iii) by deleting '\$2,000' and substituting the following—

'\$3,000';

(b) in Part II—

(i) by deleting '\$168,000' wherever it occurs and substituting in each place the following—

'\$192,000'; and

(ii) by deleting '\$56,000' and substituting the following—

'\$64,000'; and

(c) in Part IV by deleting '\$67,000' and substituting the following—

'\$77,000'.

The amendment was agreed to.

First Schedule, as amended, was agreed to.

Second and Third Schedules were agreed to.

LEGAL PRACTITIONERS (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

Schedule was agreed to.

SUPREME COURT (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

INLAND REVENUE (AMENDMENT) (NO. 3) BILL

CORONERS (AMENDMENT) BILL

PHARMACY AND POISONS (AMENDMENT) BILL

LEGAL PRACTITIONERS (AMENDMENT) BILL

SUPREME COURT (AMENDMENT) BILL

had passed through Committee without amendment and that the

PNEUMOCONIOSIS (COMPENSATION) BILL

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

Question put on each Bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday, 6 August 1980.

Adjourned accordingly at thirteen minutes to five o'clock.