

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 3 December 1980****The Council met at half past two o'clock****PRESENT**

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

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

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

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

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS MR. DENIS CAMPBELL BRAY,
C.M.G., C.V.O., J.P.

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

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

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

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, C.M.G., J.P.
CHAIRMAN, COMMITTEE TO REVIEW POST-SECONDARY AND TECHNICAL EDUCATION

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

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

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 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 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 GRAHAM BARNES, J.P.
DIRECTOR OF HOME AFFAIRS

THE HONOURABLE SELWYN EUGENE ALLEYNE, J.P.
DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE COLVYN HUGH HAYE, J.P.
DIRECTOR OF EDUCATION

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

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

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

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

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

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

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

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

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

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

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

THE 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, J.P.

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

THE HONOURABLE DAVID KENNEDY NEWBIGGING, J.P.

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

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

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, J.P.

THE HONOURABLE CHAN KAM-CHUEN, J.P.

THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN

ABSENT

THE HONOURABLE HU FA-KUANG, J.P.

IN ATTENDANCE

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

Oath

Mr. Stephen CHEONG Kam-chuen took the Oath of Allegiance and assumed his seat as a Member of the Council.

HIS EXCELLENCY THE PRESIDENT:—I should like to welcome Mr. CHEONG to this Council.

Papers

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

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Immigration Ordinance.	
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British Nationality (Miscellaneous Provisions) Ordinance.	
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Small Claims Tribunal (Fees) (Amendment) Rules 1980.....	329
Tax Reserve Certificates (Fourth Series) Rules.	
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Public Health and Urban Services Ordinance. Hawker (Amendment) By-laws 1980.....	338
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Sessional Papers 1980-81:	
No. 19— Hong Kong Trade Development Council—Annual Report and Accounts 1979-80	
No. 20— Hong Kong Export Credit Insurance Corporation—Annual Report 1979-80	

Oral answers to questions

Commission of Enquiry into the death of Inspector MacLennan

1. MR. F. W. LI asked:—*Will the Government say how much per day the MacLennan enquiry is costing and how much longer it is likely to continue?*

THE CHIEF SECRETARY:—Sir, if I may deal with the second part of the question first; it is extremely difficult to predict with any certainty how much longer the hearings will continue but the Commissioner's most recent advice is that, bearing in mind the large number of witnesses still to be called, the enquiry could continue until the end of March 1981, that is next March. The Commissioner points out, however, that this could be a shorter or longer period depending on the witnesses and cross-examinations and whether new issues arise which need following-up.

The cost of the enquiry since the Commission's appointment has been calculated up to the end of January and averages approximately \$36,600

per day. But this figure could be misleading as it includes quite a large number of days on which the Commission was not sitting. The cost per day on which the Commission was sitting or is expected to sit up to the end of January has been calculated as being of the order of \$100,000. Apart from expenses directly incurred and controlled by the Commission, this figure also includes the cost of legal representation for the Special Investigation Unit and certain members of the Royal Hong Kong Police Force as well as the cost of the staff of the Commission who are seconded from the Judiciary and the civil service. It is not possible to estimate with any accuracy the daily cost which may be incurred should the enquiry continue beyond the end of January.

MR. F. W. LI:—*In view of the long time it is expected to take before the enquiry is finished, what will happen if the Commissioner suddenly takes ill during the enquiry? Would the proceeding stop and the enquiry start afresh?*

THE CHIEF SECRETARY:—Sir, I am sure that you, like me, would recognize that as being a hypothetical question. But, with your permission, Sir, I would simply answer that if the illness were other than one of a short duration, it would be a matter for you, Sir, as the authority in such matters, to decide what to do in the light of all the circumstances pertaining. Having said that, I am sure that all present here today would like to join me in wishing Justice YANG continuing excellent health (*laughter*).

MR. LO:—*Sir, up to the end of January what would be the cost in total?*

THE CHIEF SECRETARY:—Sir, the total to the end of January adds up to something like, I think, it is eight million dollars. If I may have two seconds, I shall be able to give the exact figure—it is \$8,669,000.

MR. LO:—*Sir, is it excluded from this computation or calculation hidden costs?*

THE CHIEF SECRETARY:—There are some hidden costs, Sir, as it were—the rent of this room (the Chamber of this Council), and perhaps some back-up staff. But where practicable, the costs have been taken into account.

MISS DUNN:—*Sir, in this figure of eight million odd dollars, is there an allowance made for the cost to the public interest involved in taking the Commissioner away from his normal duties as a High Court Judge?*

THE CHIEF SECRETARY:—Yes, Sir. The actual cost of Justice YANG in terms of salary etc. has been accounted for, but of course nobody can judge or assess exactly the cost of the man himself. He is a very valuable member of the Judiciary.

Takeovers Code

2. MISS DUNN asked:—*Has the Government received any recommendations from the Securities Commission to alter the status of, or the guidelines laid down in the Takeovers Code?*

THE FINANCIAL SECRETARY:—No, Sir, the Government has not yet received any recommendations from the Securities Commission regarding the status or contents of the Takeovers Code. However, the Takeovers Committee is to meet shortly to discuss whether any changes in the Code are desirable and acceptable in the light of recent events.

Before Miss DUNN jumps in and asks me the obvious supplementary question, let me say this: it must be recognized, in all fairness to the Securities Commission and the Takeovers Committee, that what is desirable and what is acceptable are two quite difficult questions to resolve.

In the first paragraph of the introduction to the Takeovers Code it is stated that: ‘The Code does not have, nor does it seek to have, the force of law; rather it represents the collective opinion on business standards of those concerned professionally in the field of takeovers and mergers and of the Securities Commission’.

Originally, the Government intended to regulate takeovers by legislation but, after due consideration, it was decided to adopt a voluntary code. Codes have significant advantages over legislation. Particular provisions can be modified easily both in their content and in the manner in which they are applied. And it will often happen that persons and companies being regulated are able to put up valid reasons why a particular provision of a code should not apply to them in a particular instance. Again, codes of practice can be drafted and enforced voluntarily by those whom they are designed to regulate, rather than imposed under statutory authority. However, a voluntary code will break down if it does not represent ‘the collective opinion on business standards of those concerned professionally’ in the field it attempts to regulate. In this sense legislation can lead, but a code has to follow.

A topical example of the validity of this maxim is our recent experience with the provision of the Takeovers Code for a mandatory bid for minority shareholdings when control of a company passes.

The original Takeovers Code published in 1975 contained no such provision but, in the revised Code published in 1978, it is stated that: ‘When control of a company is acquired, it is highly desirable that, as soon as practicable thereafter, the controlling shareholder(s) should extend to other shareholders (A14B) an offer on terms no less attractive than the highest price paid for shares purchased by the controlling shareholder(s) within the six months prior to acquiring control.’

The problem that faced the authors of the Takeovers Code—just as it faced the authors of similar codes in other financial centres—was how best to define ‘control’. Following a well-worn path, and bearing in mind the realities of Hong Kong commercial life, control was considered to reside with ‘a company or group of companies or individuals acting together(A14B) if their holding or aggregate holdings of shares carried 50 per cent or more of the voting rights of the company.’

While *legal* control passes at 50 per cent, it is, I think, fairly obvious to most people that *de facto* control passes at a somewhat lower level, the exact point being impossible to define, varying as it does with individual circumstances. So, in a press release on 25 April last, the Takeovers Committee said it wished ‘to make it clear that, although 50 per cent of the voting rights is *conclusive* evidence of control, it is not an *exclusive* definition and other factors will be taken into account by the Committee in considering whether control of a company exists or has passed.’

The Hong Kong Takeovers Committee now finds itself in the same position as the London Takeovers Panel in its early years, that is to say, having to review each potential change in control according to circumstances. The London Panel eventually found this an impossible task and abandoned the judgmental approach in favour of a ‘trigger-point’ approach. The actual trigger-point chosen was initially 40 per cent of voting rights, but it was subsequently revised downwards to 30 per cent.

Surprisingly, the market here had some difficulty in interpreting the exact meaning of the commendably clear press release of 25 April and so the Takeovers Committee was forced to consider introducing a trigger-point mechanism, rather than relying on a case-by-case assessment of whether control had, in fact, passed. However, this retreat from a judgmental approach to a mechanistic approach also generated controversy within our financial community. In addition, stockbrokers expressed opposition because they feared that such a change would inhibit market activity. Consequently, the Takeovers Committee felt obliged to defer proposing to the Securities Commission mission an amendment to the Code providing for a trigger-point mechanism. However, in the second half of this year, certain events involving leading Hong Kong companies demonstrated that the Takeovers Code as at present drafted is indeed unworkable as regards mandatory bids and the protection of minority shareholders.

These events have highlighted the difficulty major shareholders and their advisers have in complying, for one reason or another, with the code on a voluntary basis. This is why the Takeovers Committee is now having to make yet another attempt to determine an acceptable approach. I hope what is acceptable to the financial community can be deemed to be adequate in terms of the public interest for it would be regrettable if the Code—or parts of it—had to be converted into statute law.

MISS DUNN:—*Sir, whilst I am very grateful to the Financial Secretary for his full reply, I must ask him the obvious question. How long will it be before the appropriate recommendations can be expected to be received from the Securities Commission and acted upon by Government?*

THE FINANCIAL SECRETARY:—*Sir, as a student of the Government of Hong Kong, Miss DUNN should realize that the consultative system means that the decision making process can take some time. If these matters were left to civil servants then the process would be crisper (laughter). Unfortunately, if they were left to us alone we would probably get it wrong (laughter).*

MISS DUNN:—*Sir, that is very well. Will the Financial Secretary now answer the question?*

THE FINANCIAL SECRETARY:—*No, Sir, I am afraid I must decline to answer Miss DUNN's question directly but I will convey to the Securities Commission her concern, and I am sure the concern of all Members of this Council, that this question should be resolved as soon as possible.*

MR. LO:—*Does Government consider that what is acceptable to the financial community can necessarily be acceptable to, or equitable to, those small minority shareholders who don't think of themselves as being members of the financial community?*

THE FINANCIAL SECRETARY:—*I think, Sir, I agree. We must somehow reconcile the acceptable with the desirable.*

Preservation of historical relics and collections

3. REVD. JOYCE M. BENNETT asked:—*Will the Government make a statement on what it is doing to preserve historical relics and collections relating to Hong Kong's history such as those in the museum of the Royal Hong Kong Police Force?*

SECRETARY FOR HOME AFFAIRS:—*Sir, it is Government's policy to ensure that items of historical interest are preserved and kept accessible to the community. The principal instrument of this policy is the Urban Council's Museum of History.*

The Government Archivist also preserves printed and written material relating to Hong Kong's history.

Revd. Joyce BENNETT's question relates specifically to the preservation of the museum of the Royal Hong Kong Police Force. This is a rather specialized collection which would not form part of the Urban Council's museum of history. Its present home in Police Headquarters is badly needed for an office

and the Commissioner of Police has made proposals for a new place of display. He has also received the offer of a donation from a private source to fit out the new museum when the space has been allocated. In the meantime the exhibits will be kept intact at Police Headquarters.

REVD. JOYCE M. BENNETT:—*Sir, has the Authority considered sending such exhibits on tour to the secondary schools throughout the territory?*

SECRETARY FOR HOME AFFAIRS—I am sure they haven't, Sir (*laughter*).

REVD. JOYCE M. BENNETT:—*Will they consider it?*

SECRETARY FOR HOME AFFAIRS:—This Police collection, rather like the one in the Customs and Excise and the Immigration Department, is only partly of historical interest. For the rest of it is used for training. There hasn't been much public demand to look at it. If there is such a public demand to look at it this can certainly be arranged. It has been arranged for individuals.

Rape report statistics

4. REVD. MCGOVERN asked:—*On an annual basis over a number of years would Government inform the Council:*

- (a) *how many cases of rape were reported;*
- (b) *of these, how many were proved to be true reports, that is proved by a court conviction or other means; and*
- (c) *of cases reported how many were proved to have resulted in a pregnancy?*

SECRETARY FOR SECURITY:—Sir,

(a) From the 1 January 1974 to 31 December 1979 cases reported to the Police and classified as rape were 101, 83, 62, 55, 62 and 104, giving an average of 78 cases a year. To the end of October this year there have been 65 reports.

(b) In all cases so classified the Police were satisfied on questioning the victim and after medical examination that there were grounds for concluding that a rape had occurred.

An analysis of the 104 reported cases in 1979 shows that 39 cases are still under investigation and 65 have resulted in prosecutions. Of these 43 have resulted in convictions, 17 in acquittals, four are pending results and in one case the accused died before trial.

(c) There are no statistics to show how many of the reported cases led to pregnancy.

REVD. MCGOVERN:—*Sir, is Government conscious of the fact that no available statistics on pregnancy is rather weak ground by which to justify even partially clause 4(2A)(b) of Offences Against the Persons (Amendment)*

Bill, by which reported rape, whether true or false, is ground permitting abortion?

SECRETARY FOR SECURITY:—Sir, I have answered the question which the Member put down to the best of my ability. I have nothing further to add to it.

REVD. JOYCE M. BENNETT:—*Sir, were these reports made immediately after the event or within three months?*

SECRETARY FOR SECURITY:—Sir, there was no record kept of the time between an event occurring and the case being reported to the Police, in the ordinary Police criminal statistics.

Traffic improvements at the Ping Shek/Choi Hung junction

5. REVD. JOYCE M. BENNETT asked:—*Will the Government make a statement on when commuters using the Ping Shek/Choi Hung roundabout at the bottom of Clear Water Bay Road can expect relief from long delays?*

DIRECTOR OF PUBLIC WORKS:—Sir, works currently in hand, which will relieve the congestion at the Ping Shek/Choi Hung Junction, are expected to be completed within the next three weeks.

These works include minor widening of the west-bound carriageway of Lung Cheung Road fronting Choi Hung Estate and adjustment of the traffic light signal timings to increase the throughput capacity for Kowloon-bound traffic from Clear Water Bay Road by about 20%.

In addition the newly constructed section of Clear Water Bay Road opposite Fei Ngo Shan will be opened to traffic within the next few days which will enable Kwun Tong bound traffic to be diverted from the Ping Shek/Choi Hung junction.

Sir, the introduction of these changes should significantly improve traffic conditions at the junction.

REVD. JOYCE M. BENNETT:—*Sir, has the extra traffic in the Choi Wan and other nearby estates been taken into account?*

DIRECTOR OF PUBLIC WORKS:—Yes, Sir.

REVD. JOYCE M. BENNETT:—*Sir, will the improved timing of the traffic lights also improve the upward flow of the Clearwater Bay traffic on Saturday afternoons?*

DIRECTOR OF PUBLIC WORKS:—Yes, Sir, the way the traffic lights are arranged they will adjust at different times of the day to suit the major traffic flow.

Anti-smoking campaign

6. REVD. JOYCE M. BENNETT asked:—*Has the Government considered a vigorous media campaign to encourage people to understand the dangers of smoking?*

SECRETARY FOR SOCIAL SERVICES:—Sir, the Government's priority target group in its efforts to educate the public about the dangers of smoking is the young.

Accordingly, our publicity efforts are designed to achieve the maximum impact without stimulating a curiosity in smoking. This requires a balanced presentation of medical facts and long-term education to change public attitudes rather than a one-off vigorous media campaign.

As part of our efforts to educate the young, the subject of 'smoking and health' has been included in the Health, Social Studies and Biology curricula for Primary VI students and in secondary schools. Teaching kits complete with slides and cassettes are also being provided. An educational T.V. film is also available. Extra-curricula activities on the theme 'smoking and health' are being organized through the Community Youth Clubs. An inter-school drama competition against smoking will be held in January 1981.

An exhibition on health hazards of smoking jointly organized by the Central Health Education Unit of the Medical and Health Department and the Hong Kong Anti-Cancer Society was held in the City Hall in August this year and attracted over 100,000 attendances. The exhibition was repeated last week in the Tsuen Wan Town Hall and it is intended that this will be shown in other regional centres and schools as and when opportunity arises.

Other publicity includes distribution of posters and stickers designed by the Government Information Services. An Announcement of Public Interest (A.P.I.) is also periodically shown on the two television stations in the time allocated to Government.

REVD. JOYCE M. BENNETT:—*Sir, is there any follow-up done to ensure that these topics are in fact taught effectively in the schools, so that school children do not take up smoking?*

SECRETARY FOR SOCIAL SERVICES:—Sir, I am sure that this is a point that the Inspectorate of the Education Department do follow-up when they visit schools.

MR. LO:—*Has any analysis been made of the possible harm that might be caused by statements that smoking is dangerous to health (laughter)?*

SECRETARY FOR SOCIAL SERVICES:—Sir, the harm which smoking causes to health has been well established by medical authorities all over the world, and I would commend those reports to Mr. Lo for his consideration (*laughter*).

MR. CHEUNG:—*Sir, in this campaign against the dangers of smoking will the Government take great care not to draw attention to the longevity of some prominent figures in public life who are chain-smokers (laughter)?*

SECRETARY FOR SOCIAL SERVICES:—Sir, if they were to give up smoking I am sure they might even live longer (*laughter*).

Traffic Accident Victims Assistance Scheme

7. MR. WONG LAM asked in Cantonese:—

政府可否考慮將「交通意外傷亡者援助計劃」擴展，以包括在私家路發生之交通意外？

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

Will Government consider extending the Traffic Accident Victims Assistance Scheme to cover traffic accidents on private roads?

SECRETARY FOR THE ENVIRONMENT:—Sir, it was always the intention that the Traffic Accident Victims Assistance Scheme should apply to all victims of traffic accidents regardless of which party was at fault or of where the accident took place. Unfortunately, however, the definition of 'road' in the legislation appears to bar certain victims of accidents on private roads from claiming assistance. As I have said, this was not the original policy intention and I agree that the situation should be reviewed as Mr. WONG Lam suggests.

MR. WONG LAM asked in Cantonese:—

閣下，請問何時可以向本局報告檢討的結果呢？

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

Sir, when could the result of the review be made known to this Council?

SECRETARY FOR THE ENVIRONMENT:—Sir, I will have to conduct the review in consultation with my friend the Secretary for Social Services, who has policy responsibility for actually paying out under this scheme, but I would hope that it would be very soon. He is considering other aspects as well at the present time.

MR. WONG LAM asked in Cantonese:—

閣下，所謂很快，「很快」究竟指多久呢？

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

Sir, very soon. Can I have a definition of 'very soon'?

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, a matter of three or four months I should think (*laughter*).

Roof insulation in public housing estates

8. Mr. So asked in Cantonese:—

請政府告知本局，現正如何設法減低公共屋邨屋頂的燠熱？

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

Will Government inform this Council of what efforts are being made to insulate the roofs of public housing estates?

SECRETARY FOR HOUSING:—Sir, considerable efforts have been, and are continuing to be made to improve the insulation of roofs of public housing estates.

Prevention is better than cure and all new Housing Authority estates are now designed with this requirement in mind. Improvements have been achieved by better ventilation, provided by increasing ceiling heights of the top floors and by the use of more open block designs; and by improved thermal insulation within the roofs.

About 600 blocks, or some 60% of all blocks in public housing estates, have been provided with some form of roof insulation. The remaining 40% are mainly in the older estates which, while meeting the standards of the time when they were built, now built, now require improvement.

This is being effected by an intensive programme whereby thermal insulation is being added during routine re-roofing. In cases where re-roofing is not scheduled for some time, insulation is being placed on top of the roofs. During the past two years alone, improvements have been made to over 200 blocks at a cost of eight and a half million dollars. This is a continuing programme and improvements to a further 80 buildings will be carried out during the coming winter months.

MR. SO asked in Cantonese:—

閣下，政府有沒有考慮使用屋頂蔭棚來應付這問題呢？

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

Sir, has the Government considered building shades over the roofs?

SECRETARY FOR HOUSING:—Sir, various approaches have been tried, including the construction of roof-top canopies using steel frame and asbestos sheets. Whilst this method is effective, the canopies are subject to damage, particularly in typhoon conditions and they require considerable maintenance. The most practical approach has been found to be the use of insulating materials such as lightweight roof screens, urethane foam and insulated tiles. This has not only proved effective but the work can also be carried out without prolonged or undue inconvenience to tenants and no maintenance is required. Having taken into account all the factors involved I am satisfied that this approach provides the best solution to the problem.

MR. SO asked in Cantonese:—

在尚未安排重鋪屋宇的屋頂前，可否考使用反光漆？

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

Sir, for buildings where no re-roofing is scheduled, can we consider using paints?

SECRETARY FOR HOUSING:—Sir, as an interim measure, reflective paint can be used. This provides a satisfactory short-term solution and has proved to be effective both in Hong Kong and in other parts of the world.

MR. YEUNG:—*Sir, in the use of insulating material such as reflective painting on the roof, has the Housing Authority considered the ill effect of such reflective paint on the tenants of high blocks?*

SECRETARY FOR HOUSING:—Sir, reflective paint, white paint is quite commonly used in countries surrounding the Mediterranean. As I said, this is really meant to be a short-term solution and it does provide certain relief while a more permanent solution is being implemented.

MR. PETER C. WONG:—*May I ask the Secretary when the entire programme of improvement will be completed?*

SECRETARY FOR HOUSING:—Sir, as I said, this is a continuing programme. And this year we will be completing 80 blocks during the winter months. Some older blocks which are affected will of course be subject to redevelopment, but it will be a few years before we can complete the whole programme.

Use of Chinese in official business

9. MR. SO asked in Cantonese:—

關於實施中文為法定語文一事，自從政府於一九七八年六月在本局就一項詢問給予答覆之後，何進展？

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

What progress has been made on implementing the use of Chinese as an official language, since the report given in reply to a question in this Council in June 1978?

DIRECTOR OF HOME AFFAIRS:—Sir, the use of Chinese in official business has continued to expand steadily since both English and Chinese were declared by this Council to be the official languages of Hong Kong in 1974.

All important documents, reports, speeches and publicity materials have for some time now been produced in both English and Chinese. Correspondence by Government departments with people who are not expected to understand English is either accompanied by a Chinese translation, or, in many cases, conducted in Chinese alone. Much greater use of Chinese is now made in consultative meetings and communications with Government staff.

Simultaneous interpretation services have been extended to a number of advisory boards and committees such as District Advisory Boards in the New Territories making for much more meaningful discussions in these fora. It is planned to provide the same service to future District Boards in the Urban Area.

To ensure that departments adhere to Government policy regarding the use of Chinese in official business a full-time enforcement section was established in the Home Affairs Department in October 1978. Teams of Senior Chinese Language Officers pay regular visits to all Government departments to evaluate the services provided and to discuss problems with the departmental staff.

The expansion of the use of Chinese has required an increase in the establishment of Chinese Language Officers. There are now 266 Chinese Language Officers serving in various Government departments as compared with 228 in June 1978. The entry qualification for the grade has been raised to degree level.

In February 1979 an Advisory Panel on Chinese Language Policy was established in U.M.E.L.C.O. to watch over the progress in increasing the use of the Chinese language within Government and to advise on how the standard of the Government translation and interpretation services could be further improved. My staff and I meet regularly with this panel and our

discussions have been most useful in assisting the Government to further the use of Chinese in official business. I understand that the panel is reasonably satisfied with the Government's progress.

REVD. JOYCE M. BENNETT:—*Sir, how do you define people who are not expected to understand English?*

DIRECTOR OF HOME AFFAIRS:—*Sir, in general correspondence with professionals and with people who write to us in English, the English language may be used alone. Otherwise we would tend to send a translation in addition to an English version, particularly if the original correspondence is in Chinese.*

MR. WONG LAM asked in Cantonese:—

閣下，請問現有二六六個中文主任，將來會不會足夠呢？

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

Sir, right now there are 266 Chinese Language Officers. Would this suffice in future?

DIRECTOR OF HOME AFFAIRS:—*Sir, I think that the needs for Chinese translation will continue to increase, but we have been successful in getting most of the resources we require for this programme.*

Passenger safety on K.C.R. trains

10. DR. HO asked:—*Will Government make a statement on:*

- (a) the number of passengers who have fallen from K.C.R. trains in the last 12 months and on the circumstances leading to these accidents; and*
- (b) the adequacy of passenger safety controls on K.C.R. trains?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, 20 passengers have fallen from K.C.R. trains over the last 12 months, 14 of them between stations and six as trains were drawing into or pulling out of stations. Most of these accidents were caused by the passengers concerned standing or sitting on the steps leading into the coaches and virtually all of them were due to carelessness on the part of the victims.*

As regards the second part of the question, measures have been and are being taken, through advertisements in the media, frequent announcements at stations and through the deployment of staff on trains and notices on carriage doors, to inform the public of the dangers of riding on the steps or otherwise improperly. The design of the existing railway coaches, however, does not permit direct control of passengers at all times. Doors are operated

manually and each 12-car train has 48 exits. So reliance must ultimately be placed on the public behaving sensibly. By contrast, the new modernized and electrified service, which will come into operation in 1982, will eliminate virtually all these problems. In particular, all doors on carriages will be centrally controlled in a similar way to the M.T.R. and passengers will not be able to open the doors in transit.

DR. HO:—*Sir, between now and 1982 when the trains will be electrified, what positive measures will K.C.R. take to restrict overloading of passengers in carriages, which causes passengers to sit or stand on the steps?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, the railway deploys staff on the stations and it also has a guard and three other conductors normally on each train, and these officers do their best to prevent overloading of the trains.*

MR. LO:—*Sir, is it not a fact that the K.C.R. accident statistics can be compared very favourably with similar statistics of British Rail, the operation of which is not hindered or rendered difficult by having to have another railway system built at the same time as normal operations?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, I have no information on the accident rate of British Rail, but I can say that in regard to the K.C.R., accidents account for about one accident per 11 million passenger kilometres travelled, and this, I am informed, is a very good record indeed.*

Central register of lost identity cards

11. MR. CHAN KAM-CHUEN asked:—*To prevent the illicit use of lost identity cards, will Government consider compiling a central register of such cards so that Police officers on I.D. checking duties can check suspect cards by means of their beat radios?*

SECRETARY FOR SECURITY:—*Sir, with the manual record system in use in the Registration of Persons Office an arrangement of the type proposed cannot be introduced.*

A record of reported losses of identity cards is maintained and an Information Section deals with Police enquiries concerning the registered particulars of identity card holders. These enquiries take time to handle and so the use of beat radios would be inappropriate.

The Administration is examining urgently various ways of expediting the supply of particulars in response to Police enquiries.

I should add that in the meantime Police checks of identity cards are made by means of examining the card and comparing the photograph with the person claiming to be the rightful holder. Other checks (which for operational reasons I do not propose to disclose) are also made. Where the beat officer has any reason to suspect that the card is not authentic more detailed Police enquiries are necessary and are conducted in Police stations.

Anti-forgery features in identity cards

12. MR. CHAN Kam-chuen asked:—*Will Government consider adding more anti-forgery features to I.D. cards by, for example, adding the holder's signature and printed serial numbers, etc.?*

SECRETARY FOR SECURITY:—Yes, Sir, though this can only be done as new or replacement cards are issued.

A number of additional security features are being considered but I do not propose to make the details public.

Licences for factory canteens

13. MR. ALLEN LEE asked:—*How many factory canteen licence applications have been opposed by the Government departments concerned with the licensing process in the past 12 months?*

SECRETARY FOR THE ENVIRONMENT:—Sir, licences for factory canteens are provided for under amendments to the Food Business By-laws and the Food Business (New Territories) Regulations, made under the Public Health and Urban Services Ordinance, which came into effect on 1 August 1980. Since that date a total of 185 applications for canteen licences have been received. Of these 48 have been rejected and the remaining 137 are still being processed.

MR. ALLEN LEE:—*Sir, what are the typical reasons for rejections and normally how long does it take for approval?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the normal rejections are because the application was for the canteen to be situated on the ground or the first floors. And the authorities in their wisdom decided that this could lead to the canteen being turned into a restaurant which would be open to the general public. As the canteens do not require the same standards as a restaurant in terms of fire appliances and so on, applications for those floors are generally rejected.

As regards the second part of the supplementary, Sir, there was a period of six months grace for these canteens to operate without licences. They had hitherto been tolerated even though they were in breach of the lease conditions. So this means that of the 137 applications which are still being processed they have a period of six months in which either to be accepted or rejected, and this is considered to be sufficient. As Mr. LEE may be aware these applications have to be looked at by a number of Government departments in relation to particular aspects.

MR. LO:—*Sir, in view of the fact that not one out of 185 applications has been accepted, will Government please consider revising its requirements?*

SECRETARY FOR THE ENVIRONMENT:—No, Sir, as I said in answering the question itself, these regulations only came into effect on the 1 August 1980, so most of the applications would have been received some time after that, and probably quite recently, so I don't think there has been undue delay. There certainly hasn't in regard to the 48 which have been rejected (*laughter*).

MR. WONG LAM asked in Cantonese:—

市政事務署有沒有劃一的表格給與申請人士填寫，或任由申請人自己寫信申請呢？

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

Has the Urban Services Department uniform forms for the applicants to fill in or do the applicants have to make their own applications on blank sheets of paper?

SECRETARY FOR THE ENVIRONMENT:—Sir, I am afraid I cannot answer that question. I will have to find out from the Urban Services and Public Works Departments exactly how these applications are made. I assume they have to be made in writing by just applying, but there may be a form, and I will find out and let Mr. WONG Lam know.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

I have been advised that, in order to simplify the application procedures, applicants are not required to fill in any standard forms in making their applications. A written application addressed to the licensing authority, together with three copies of the layout plan of the premises concerned, would be considered adequate. Details of the application procedures and requirements are advertised in a guidance leaflet entitled 'How to Apply for a Factory Canteen Licence' which is available in English and Chinese and which is distributed free of charge and can be obtained from all licensing offices of the Urban Services Department.

MR. WONG LAM asked in Cantonese:—

閣下、關於這點在公宣傳上，有沒有使經營工廠食堂人士知道、明白？

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

Sir, I think on the publicity side, have we informed these canteen operators about the procedures in publicity?

SECRETARY FOR THE ENVIRONMENT:—Sir, I don't think there has been anything put out in the media, but the canteen operators are certainly well aware of what they have to do.

REVD. JOYCE M. BENNETT:—*Sir, are the objects of these regulations healthy food, or safety?*

SECRETARY FOR THE ENVIRONMENT:—They are both, Sir.

DR. HENRY HU:—*Sir, may I say, is it against the terms of Crown lease to set up a factory canteen on the ground or first floor of any factory?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, it is strictly speaking against the terms of the lease. In most cases, there may be special cases, but in most cases it is against the terms of the lease to set up a factory canteen in any part of the building. The purpose of these licensing regulations has been to provide a procedure whereby canteens can be encouraged in factory buildings and be set up legally.

DR. HENRY HU:—*Sir, if the canteen to be set up on the ground floor is against the terms of the lease conditions, then is it also against these conditions if it is set up on the other floor, for example on the 7th or 8th floor? I understand that the Government has no objection for the canteen to set up on the 7th or 8th floor instead of on the ground floor. Is that correct?*

SECRETARY FOR THE ENVIRONMENT:—That is correct, Sir. The Government will encourage the setting up of the canteen on the 7th or 8th floor. It will discourage it on the ground floor or the first floor on the grounds that it might be changed into a restaurant and be open to the general public. Because, as Dr. Hu knows, restaurants nowadays are quite popular and they are profitable. Certainly they are profitable if they can be set up in places where the rent is very low, as it would be in the case of this sort of building.

DR. HENRY HU:—*Sir, I would ask the Government to consult the Urban Council about this set up of factory canteens, either on the ground floor or other floors.*

SECRETARY FOR THE ENVIRONMENT:—Sir, there is no question of consulting the Urban Council about the upper floors because it is now policy to encourage the setting up of canteens on the upper floors—properly set up. As regards the ground floor and the first floor I understand that the principal objections to this came from the Fire Services Department.

Statements

MONEY LENDERS ORDINANCE 1980

THE ATTORNEY GENERAL:—Sir, with your permission, I would like to make a statement about the Money Lenders Ordinance 1980. As honourable Members will recall this was enacted on 26 June 1980 and it is provided by section 1 that it should come into operation on a day to be appointed by the Governor by notice in the Gazette.

I am authorized to announce today that in the issue of the *Gazette* for this coming Friday there will appear a notice under that section appointing Friday 12 December 1980 as the date when the Ordinance comes into effect.

May I, Sir, take this opportunity of emphasizing one or two of the points which were made when this measure was debated in this Council in May and June of this year? I don't need to repeat the dangers to individuals and to society of 'loan-sharking' and to repeat that the object of this Ordinance is to provide a framework within which this evil can be beaten.

But one of the most important features of the legislation, which I would respectfully remind honourable Members of, is that after 12 December 1980 it will become a criminal offence for a lender to make a loan agreement in which the annual rate of interest exceeds 60% per annum. Secondly, so far as existing loans are concerned, after that date the borrower will not be liable to pay interest at an annual rate exceeding 60%. This means, Sir, that after 12 December 1980 so far as the law is concerned no one at all will be liable to pay interest in excess of 60% per annum on any loan at all to which the Ordinance applies. No lender will be entitled to demand interest in excess of that 60%, even though the loan agreement predating the 12 of December fixes a higher rate of interest. It will not be lawful to demand it even if the agreement provides for it. So far as individual members of the public are concerned, if they are in any doubt whether or not these provisions are being breached they should seek advice. And for those eligible, the Legal Aid Department and the services it provides are available.

Sir, the detailed provisions which come into force on that date will be vigorously administered by the Registrar of Money Lenders and by the Commissioner of Police. In this connection, I am authorized to announce

that the Registrar General will be appointed Registrar of Money Lenders. It is his intention and that of the Commissioner of Police that applications for money lenders licences will be very closely scrutinized, and when necessary applications that are felt to be doubtful will be opposed before the Licensing Courts which have been set up for adjudicating on licences where there are objections either by the Police or by any members of the public to their issue.

It may be asked—What of those unscrupulous money lenders who choose to ignore the new law and carry on money lending unlicensed or lend money at rates exceeding 60% per annum? Honourable Members may rest assured that the Commissioner of Police has already made arrangements to deploy a considerable number of personnel for the specific purpose of enforcing these new provisions. I would invite members of the public who are aware after 12 December of breaches of the Ordinance, in particular lending without a licence or lending in excess of 60%, to co-operate with the law by informing the Police of what they know. Whilst, for obvious reasons, the details of the operational planning to enforce the Ordinance cannot be publicly revealed, I am at least able to say that the Commissioner of Police already has a long list of money lenders presently practising their trade whose actions will be closely and critically monitored to ensure compliance with the new provisions.

Honourable Members will also wish to know, Sir, that extensive publicity within the community has been timed to coincide with the operational date. A leaflet, in both English and Chinese, will be distributed explaining in clear and simple terms the main features of the new law and this will be distributed to the public through City District Offices, public libraries, mutual aid committees, and the like. It is hoped in this way that the provisions of the new law which are intended to protect borrowers will become widely known throughout the community.

Lastly, having said all that, may I stress that the new provisions do recognize the fact that there are in Hong Kong a number of reputable institutions and people performing the task of lending money where this is required within the community.

Such reputable organizations should consider as a matter of priority whether the new licensing provisions apply to them and if they do, they should apply for a licence as soon after 12 December as they possibly can.

The transitional provisions in the Ordinance provide that registered money lenders under the present legislation can continue to operate until such time as their registration would have expired. So they may continue in operation provided they are already registered. But they would be wise nevertheless to apply under the new licensing procedures as soon as possible.

Once an application has been received, then the licensee of a registered money lender will continue to be allowed to practise his business until such time as his application is dealt with.

Hong Kong Export Credit Insurance Corporation—Annual Report 1979-80

SECTARY FOR ECONOMIC SERVICES:—Sir, among the papers tabled today is the Report of the Hong Kong Export Credit Insurance Corporation for 1979-80 and its Accounts, in accordance with section 28 of the Hong Kong Export Credit Insurance Corporation Ordinance.

As in previous years, and consistent with the characteristics of Hong Kong's domestic exports, clothing continued to be the most significant product the Corporation covered, in terms of value representing 37% of exports insured. Similarly, the United Kingdom continued to be the largest market covered, with 34% of the total. Exports to the E.E.C. as a whole accounted for 61% of exports insured by the Corporation. There were significant increases in business to a number of markets, for example Argentina, Chile and China.

In 1979-80, the business of the Corporation continued to grow. The value of exports insured at \$3,380 million and premium income at \$16.3 million, each increased by 36% over the previous year. The number of current policies stood at 1,103, compared with 1,041 last year. Insured exports formed about 5.7% of the value of total exports, close to the percentage for the previous financial year. With the increase in business, liability stands now at \$1,951 million. In May this year, this Council agreed to increase the Government's guarantee to \$2,500 million.

It is in the nature of the insurance business that an increase in business tends to be accompanied by an increase in claims. In 1979-80, actual claims and provisions for claims amounted to \$16.3 million, an increase of 75% over the previous year. The proportion of gross claims to premium income was 84%, compared with 58% in 1978-79. This significant increase led to a minor underwriting loss of \$57,035, although the Corporation still had an overall surplus of approximately \$4.5 million.

There are two main causes of claims: the commercial one when an overseas buyer becomes bankrupt, defaults on payment or repudiates his contract; and the political one involving a change in the environment in the buyer's country, resulting in, for example, shortage of foreign exchange, civil disturbances and import restrictions. In 1979-80, 59% of claims were of a commercial nature, mostly arising from the downturn in the economics of our established markets in developed countries. Of greater concern is the increasing proportion of political claims which took up 34% of actual claims paid and 56% of provisions for claims. The problem is particularly noticeable in African markets, where claims and provision for claims

increased 170% over last year—claims, for example, on Tanzania alone amounted to over \$6 million.

Sir, I am sure we can treat the high rate of claims to premium income last year as exceptional. The Commissioner and his staff are, of course, working to the Corporation's aim of increasing the volume of business but with a better quality of risk. They will continue to aim for a ratio of claims to income of about 50% for normal times, thus allowing an appropriate margin for times of economic and political difficulty. The Corporation, aided by its Advisory Board, regularly reviews its schedule of premium gradings and special conditions applicable to various countries. From the statistics available for the first half of the present financial year, it looks as though the Corporation may be able to report a reduction in claims next year and a substantial reduction in the ratio of claims to premium income.

Hong Kong Trade Development Council—Annual Report 1979-80

MR. NEWBIGGING:—Sir, the fourteenth Annual Report of the Hong Kong Trade Development Council for the year ending 31 March 1980 is laid on the table of this Council today.

Hong Kong's external trade in 1979 reached an all-time record of \$161,771 million, which represents an average annual growth of 19% (in value terms) in the last decade. This is a satisfactory performance, particularly since in 1974 we suffered the effects of the world's worst post-war economic recession.

The rapid growth in Hong Kong's total exports in 1979, which reached HK\$75,934 million (a 37% increase over 1978), reflected a strengthening in import demand in many of Hong Kong's major markets. Despite a weakening in demand from the U.S.A., their economy did not enter into as deep a recession during the year as many had earlier predicted, so Hong Kong continued to maintain a satisfactory growth in exports to this, our largest market.

Although the upsurge in Hong Kong exports cannot be attributed to any single factor, it is perhaps appropriate to mention the value of services provided by the T.D.C. in assuring a year round market place for Hong Kong-made products by its participation in numerous overseas trade fairs, in addition to the research projects undertaken by T.D.C. staff for market development and diversification.

In 1980 the T.D.C. continued its participation in the major international trade fairs in Western Europe and U.S.A. These important trade fairs provide extensive exposure for Hong Kong's products and opportunities for Hong Kong businessmen to meet international buyers. The T.D.C. is continuously adding to its trade fair promotions and during the past year introduced six

new international fairs to its programme. It also sponsored visits by Hong Kong businessmen to 54 cities world-wide. These business group visits have been successful and represent a vital link with buyers in some markets which might not otherwise be exposed to the 'Made in Hongkong' label.

One of the most significant changes in the financial year 1979-80 was the discontinuation of the annual Ready-to-Wear Festival as a direct result of the lack of appropriate exhibition facilities in Hong Kong. However, in recognition of the need to promote the garment industry, the T.D.C. mounted a major fashion presentation at I.G.E.D.O. in Dusseldorf, Germany, in which 79 Hong Kong garment companies participated. Although successful in terms of sales, the impact in international media coverage was considerably less than that achieved by the Ready-to-Wear Festivals here in Hong Kong.

On the other hand the Hong Kong fifth Toy and Gift Fair, requiring far less stage area, was switched to a new venue at the Miramar Hotel. Nearly 4,000 buyers registered for this event and press coverage world-wide was considerable, both for Hong Kong's toy and gift industries and Hong Kong in general.

In this context, therefore, we welcome the recent announcement that a possible site has been identified by government and a team of consultants will be appointed early next year to study the cost of building a permanent exhibition centre in Hong Kong. It is hoped that this stage two consultancy will be completed soon to enable an early Government decision to be made.

The T.D.C.'s work is of course not limited to pure product exposure and in order to ensure future success in developing and implementing its promotions overseas, it is vitally important to nurture and maintain high-level contacts with governments and the private sector abroad.

In this context, Sir, the T.D.C. would like to thank you for leading the successful Economic Mission to Panama in November 1979 when you also opened the T.D.C.'s 18th overseas office. These high level missions have initiated a succession of visits to Hong Kong by officials of foreign countries, who have seen at first hand the opportunities we offer.

Also on the subject of new offices I would like to mention that a new office has been opened in Marseille, and the T.D.C. plans to open two more offices shortly in Nairobi and Osaka respectively.

In response to the Hong Kong/Japan and Japan/Hong Kong Business Co-operation Committees' initiative, the T.D.C. expanded its programme of trade promotions in Japan during the year. Although these promotions have been still further expanded during 1980, the results have been disappointing and our trade balance with Japan continues to deteriorate. The T.D.C. is tackling this problem vigourously and, as a first step, will undertake a major research project to define the Japanese market in relation to the acceptance of Hong Kong-made garments.

Finally, Sir, we continue to face the threat of protectionism in many of our major markets, but the T.D.C. will continue its efforts to expand and diversify both the range of Hong Kong's products and the markets to which they are sold.

Government business

Motions

TELEPHONE ORDINANCE

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:—

That the schedule to the principal Ordinance be amended in Part II—

(a) in item 8 by—

- (i) deleting the full stop appearing after 'Contempra (all colours)'; and
 - (ii) adding the following—
- | | |
|----------------------------------|--------------------|
| '(f) Siemens Masterset— | |
| (i) Rotary dial | \$48 per annum. |
| (ii) Multi-frequency push button | \$144 per annum. |
| (iii) Decadic push button | \$204 per annum.'; |

and

(b) by adding after item 10 the following—

'II. For a Handsfree unit—

- | | |
|------------------|------------------|
| (a) rental | \$492 per annum. |
| (b) installation | \$75.'. |

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

The Hong Kong Telephone Company plans to make available to subscribers, in rental terms, two new types of telephone instrument, both designed to provide particular facilities for those who want them.

The Postmaster General considers the rental and installation charges proposed by the Telephone Company for these instruments to be reasonable.

The purpose of this motion is to add to Part II of the Schedule to the Telephone Ordinance the charges proposed for the new service as detailed in the resolution.

Sir, I beg to move.

(Mr. Newbigging declared an interest and abstained from voting.)

Question put and agreed to.

PNEUMOCONIOSIS (COMPENSATION) ORDINANCE 1980

THE COMMISSIONER FOR LABOUR moved the following motion:—Pursuant to section 36 of the Pneumoconiosis (Compensation) Ordinance 1980, that—

- (a) the rate of levy be 0.2 *per cent* of the value of any construction works;
- (b) any construction works the value of which does not exceed \$250,000 be not liable to the levy; and
- (c) the rate of levy be 0.2 *per cent* of the value of any quarry products.

He said:—Sir, I move the motion standing in my name on the Order Paper, and in so doing I am speaking in effect on behalf of the Pneumoconiosis Compensation Fund Board, which was established statutorily on 7 November 1980 under section 25 of the Pneumoconiosis (Compensation) Ordinance.

Section 26(1)(b) of the Ordinance empowers the Board to make recommendations to Government with respect to the rate of levy to be imposed on the value of construction works undertaken, and quarry products produced, on or after the effective date of the Ordinance, which is 1 January 1981. Section 36(1) of the Ordinance requires that the rate of levy must be prescribed by resolution of this Council, and section 36(4) provides that such a resolution may exempt construction works of a value below an amount specified in the resolution.

After careful consideration, the Board has recommended for the approval of this Council that the rate of levy on the value of construction works and quarry products subject to the levy should be 0.2%. It is the view of the Board that this rate will be sufficient to cover the total expenditure for 1981, estimated to be \$19.82 million. It is estimated that the income from a levy of 0.2% on the value of construction works and quarry products between January and December 1981 will approximate to \$20 million. The proposed rate of levy is the same as I referred to as being the probable rate when I introduced the legislation into this Council on 9 July 1980.

The Board also recommends that construction works of the value of \$250,000 and below should not be liable to the levy, mainly because it would be extremely difficult and costly to collect the levy in respect of such minor works. This recommendation is in line with one which was approved by this Council in 1975 in respect of a levy on construction works under the Industrial Training (Construction Industry) Ordinance for the purpose of establishing the Construction Industry Training Centre.

Under section 36(3) of the Ordinance, the levy will come into effect thirty days after the publication in the *Gazette* of the resolution, if approved.

The Board itself is currently in the process of recruiting staff and obtaining office accommodation and hopes to be in a position to commence its work fully at the beginning of 1981.

Sir, I beg to move that, pursuant to section 36 of the Pneumoconiosis (Compensation) Ordinance 1980, a levy of 0.2% be imposed on the value of construction works undertaken and quarry products produced in Hong Kong, and that any construction work the value of which does not exceed \$250,000 shall not be liable to the levy.

Question put and agreed to.

First reading of bills

HONG KONG ASSOCIATION OF BANKS BILL 1980

SUPPLEMENTARY APPROPRIATION (1979-80) BILL 1980

BUILDINGS (AMENDMENT) BILL 1980

TELEVISION (AMENDMENT) BILL 1980

PUBLIC OFFICERS (ASSIGNMENT OF EMOLUMENTS) BILL 1980

LEGAL PRACTITIONERS (AMENDMENT) (NO. 2) 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

HONG KONG ASSOCIATION OF BANKS BILL 1980

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to provide for the incorporation of The Hong Kong Association of Banks, for the corporation to assume the functions and to take over the assets and liabilities of the Exchange Banks’ Association, Hong Kong and for matters incidental thereto and connected therewith’.

He said:—Sir, I move that the Hong Kong Association of Banks Bill 1980 be read the second time.

The purpose of this Bill, Sir, is to incorporate a new association, to be known as the Hong Kong Association of Banks, to take over the functions of the unincorporated Exchange Banks’ Association, which has been in existence since 1897. At the same time, a condition is to be attached to bank licences under section 7A of the Banking Ordinance requiring every licensed bank to be a member of the new association. Taken together, these

two steps reflect the Government's view that an association of all licensed banks in Hong Kong has an important role to play in the management of our monetary system.

The present Exchange Banks' Association has four main functions. *First*, it provides a focal point for the Government's contacts and discussions with the banking industry as a whole (as distinct from the focal point for discussions on banking legislation, which is the Banking Advisory Committee, established under the Banking Ordinance). *Secondly*, the E.B.A. as the trade association for the banking industry, is closely involved with technical matters such as changes in the documentation of letters of credit, and developments in money transmission systems, and also with such matters of common interest as the training of bank staff. *Thirdly*, the E.B.A. lays down rules to be followed by member banks as to the minimum charges raised for certain services such as foreign exchange transactions or the issuing of guarantees. *Fourthly*, the E.B.A. is responsible for administering the interest rate agreement, which limits the rates of interest which may be paid on savings, call and time deposits up to 12 months taken by any member bank from the non-bank public.

These are functions important to the continued development of the banking industry in Hong Kong. But I am not certain how far the Exchange Banks' Association itself is structured and organized to meet the requirements of the market today, the size and nature of which is very different indeed to the market of 1965, the year in which the Association's current constitution was adopted.

It seems to me that there are three questions of general relevance here: *first*, the ability of all member banks to have their views heard in the formulation of the Association's policies; *secondly*, the degree to which the Financial Secretary and other officials concerned with monetary affairs are formally involved in the formulation of those policies; and, *thirdly*, the identity of potential chairmen of the Association. There is also one area of concern only to licensed banks incorporated in the United States, namely, the impact of anti-trust legislation on their ability to play a part in the Association.

As regards the first question of general relevance, namely, the ability of all member banks to have their views heard in the formulation of the Association's policies: let me, Sir, emphasize at once that the Government does not discriminate in any way between licensed banks incorporated outside Hong Kong and those incorporated in Hong Kong. A licence under the Banking Ordinance enables the holder, wherever incorporated, to carry on any business permitted by that Ordinance. So it is the Government's firmly held view that all banks in Hong Kong have a legitimate role to play in the banking business in Hong Kong and, through their trade association, they should have every opportunity to make their opinions and their needs heard. Specifically, I would point out that the banking business today is very much an international business; and overseas banks with branches in Hong Kong

have undoubtedly a great deal to contribute to the development of banking business in Hong Kong.

As regards the second question of general relevance, namely, the involvement of monetary officials in the formulation of the Association's policies: I am well aware of the claim that resentment is sometimes felt by one or another of the overseas banks in Hong Kong against some of the bigger banks with a local identity. Of course this is a competitive market, and competition sometimes hurts, but I do *not* believe that such resentment (if, indeed, it exists) is generally justified. I do, however, accept that there is, in certain areas, a need for the Government to act, as it were, as a neutral party keeping the ring and protecting the interests of all banks in the market: one of those areas concerns the constitution of the banks' trade association, and the ways in which its policies are determined and enforced. There is also a need today for a more overt Government presence in the formulation by the association of policy on certain matters, such as the setting of interest rates, where there is a very definite public interest.

As regards the third question of general relevance, namely, the identity of potential chairmen of the Association: as I said earlier, the overseas banks in Hong Kong have a great deal to contribute to the banking industry here, but I do *not* believe that they can legitimately expect to take the chair of the banks' trade association in Hong Kong. It would not, I think, be acceptable in any major financial centre for the banks' trade association to be headed by anyone other than a locally-incorporated bank, or a bank with a special place in the local economy: this argument applies even more strongly in Hong Kong, because of the unusually important place occupied by the association in our institutional arrangements, as against the limited special-interest group role which normally falls to association of banks elsewhere.

As regards the position of licensed banks incorporated in the United States under U.S. anti-trust law: I understand that, since the Exchange Banks' Association includes among its functions that of setting charges for certain banking services, the U.S.-incorporated banks here are, at any rate in theory, vulnerable to action under United States anti-trust law; but they would no longer be vulnerable if the Hong Kong Government were formally to require them to join an association, as a condition of their carrying on banking business in Hong Kong.

A mechanism exists for the imposition of such a requirement: section 7A of the Banking Ordinance provides that the Governor in Council, the licensing authority under the Ordinance, may at any time attach a condition to the licence held by any bank. It would, however, be improper formally to require every bank to be a member of an unincorporated association, where the authorities have no influence over the constitution of that association, and are not, therefore, in a position to ensure that the views of all banks are taken into account.

So the Bill before Members today, Sir, is put forward to meet five rather distinct objectives. The *first* is to give all banks licensed in Hong Kong, including all those banks incorporated outside Hong Kong, a clearly defined opportunity to have their voices heard in the running of their trade association. The *second* objective is to ensure that the Government is involved in the process of keeping the Association's constitution up to date. The *third* objective is to ensure that the Government, or rather the Financial Secretary, is directly involved in the formulation of rules made by the association and in the enforcement of those rules. The *fourth* objective is to provide that the chairmanship of the association will be held by the two note-issuing banks, alternating at intervals of two years. The importance of these two banks in our monetary system is already well-established under the Bank Notes Issue Ordinance. The *fifth* objective is to require, by a condition attached to its licence, that every bank shall be a member of the association.

Once it is incorporated, the new association will take over all the functions of the Exchange Banks' Association, including the present interest rate agreement. Indeed, that agreement will be strengthened by the existence of some effective sanctions against any breach of the agreement by a member. The E.B.A., in its present form, has no effective sanctions to apply. In fact, given that membership is voluntary, and appears to offer few benefits to its members, while restricting their ability to compete directly for deposits, it is difficult to see what effective sanctions could be imposed on a bank which contravenes the interest rate agreement.

For two reasons, however, it is important that the operation of the interest rate agreement should be strengthened at this time. The *first* reason is that the agreement protects the smaller locally-owned and incorporated banks from a degree of competition which they are not equipped to meet. I believe that these banks perform a valuable role in our economy, and I am not prepared to run the risk of seeing them fail to maintain their deposit base.

The *second* reason for wishing to strengthen the agreement is that it forms the only part of the spectrum of interest rates in Hong Kong over which the Financial Secretary can exercise at present any influence. In present day circumstances, it is important that, at some point in the process of determining interest rates, the wider public interest is taken into account, as well as narrower market factors. In the absence here in Hong Kong, for valid operational reasons, of some form of centrally determined discount rate, and in the absence of and means whereby money market interest rates can be directly influenced, deposit rates set under the interest rate agreement have perforce to play an important role in the management of our monetary affairs.

This is not to say that I regard our present interest rate arrangements, and in particular the present scope of the interest rate agreement, as providing the definitive answer to Hong Kong's needs. I am well aware that it has produced pressures in a number of areas. One of these, to which I referred in reply to Mr. CHEUNG's question in this Council on 5 November, is the

definition of banking business and the borderline between business done by banks and business done by deposit-taking companies. But a resolution of the difficulties in this particular area should not delay the reconstitution of the association as an essential element in our monetary system.

I might perhaps say that there is one function which I would hope to see being exercised by the new association, although it is not at present being carried out by the Exchange Banks' Association. This is to establish some form of research capability into developments in the banking industry. Banking business, and the monetary system generally, is becoming much more complex both here in Hong Kong and elsewhere and there is a correspondingly greater need for a greater understanding within the industry, in Government and in the general public. Such research as is carried on in Hong Kong at present is basically done by individual banks for their own competitive benefit. That sort of research will, of course, always be needed, but there is also a need for more research to be done for the common good. This function clearly falls to the trade association for the banking industry, as it does to other industries.

By way of another slight digression, I might mention here another desirable element in our system, namely, an association of all registered deposit-taking companies. I welcome and support the steps which are being taken by a number of individuals and institutions to establish such an association. I realize that they face many problems in this task, largely because of the very wide variety of institutions registered under the Deposit-taking Companies Ordinance; but I believe that, when their association has finally been set up, it will be of considerable value as a contact point between the Government and the deposit-taking companies as a whole, and as a means of improving the general level of knowledge and understanding of those institutions, partly through a research function similar to that to which I have just described for the new association of banks.

I turn now, Sir, to the Bill itself: *clause 3* incorporates the Hong Kong Association of Banks. This title has been chosen because the name of the Exchange Banks' Association has been quite misleading since 1972, when the special status of an exchange bank (meaning a bank then authorized to deal in the official foreign exchange market) ceased to have any meaning with the withdrawal of the barrier against sterling back to the British Isles and the ending of barrier against sterling in Hong Kong. *Clause 4* sets out the objects of the Association, and *Clause 5* gives it the necessary powers. *Clause 4(i)* provides that one object of the Association is the provision or procurement of facilities for clearing cheques and other instruments (a function now carried out by the Banker's Clearing House, which is an unincorporated body). This point apart, the objectives of the new Association are almost identical to those set out in the constitution of the Exchange Banks' Association.

Clause 6 provides for the Association to make by-laws on a number of administrative matters; by-laws made by the members at a general meeting are then subject to the approval of the governor in Council, as a further means of ensuring that the interests of all banks are fully taken into account. *Clause 7* provides that membership of the Association is limited to banks licensed under the Banking Ordinance, and which are required to be members by a condition attached to their licences. But I have just been advised by, must I say it, by my *learned* Friend the Attorney General (*laughter*), that he now thinks this clause may possess a certain ‘repugnant’ quality (in a legal sense) and may require amendment at the committee stage (*laughter*).

Clause 8 establishes the Committee of the Association, and *clause 11* states that the Committee is responsible for the management of the Association. Of the 12 members of the Committee, three will be continuing members, that is, not subject to periodic re-election: the two note-issuing banks, to whose special position in the Hong Kong monetary system I referred earlier, and the Bank of China. The remaining nine members will be elected, with four of the places being reserved for banks incorporated in Hong Kong, and five places reserved for banks incorporated outside Hong Kong: the electorate will be similarly divided. As I said earlier, Sir, the chairmanship will alternate between the two note-issuing banks.

Clause 9 provides for a Consultative Council to be set up. This is a new concept, the purpose of which is to give all members a forum in which they can contribute to the making of the policies to be pursued by the Association. So the Council’s function, under *clause 14*, is to advise the Committee on any matter which it chooses to consider, or which is referred to it by the Committee or by at least 50 members of the Association. The Consultative Council will consist of 23 members: the three continuing members of the Committee, and 20 elected members representing 12 different countries or groups of countries having licensed banks in Hong Kong. The electorate is divided up in the same way so that, for instance, the 34 banks incorporated in Hong Kong or organized under Hong Kong law will elect five of their number to the Council, while the six banks incorporated in France, for example, will elect one of their number to the Council. The Governor in Council can, by Order, amend both the size and the geographical basis of the Council to take account of any future changes in the composition of the banking industry.

Clause 12 empowers the Committee, after such consultation with the Financial Secretary as he shall consider appropriate, to make rules relating to the conduct of banking business, including the maximum rate of interest payable by members on Hong Kong dollar deposits, the handling of foreign exchange and securities business and charges for that business and for guarantees and other services. Rules may also be made prohibiting members from transacting any specified type of business or using any particular type of instrument. This is the only way in which the scope of the rules which

may be made by the new Association differs from the scope of the rules of the Exchange Banks' Association. The reason is obvious: it is to forestall devices being introduced to evade the provisions of the interest rate agreement. Rules made by the Committee under clause 12 are binding on every member.

Clauses 16 to 21 cover the powers of the Committee to enforce rules under clause 12. A Disciplinary Committee is established, to consist of four members (including one elected member incorporated outside Hong Kong) of the main Committee. When hearing a complaint, the Disciplinary Committee can take evidence on oath, can examine witnesses and can issue summonses to employees of members to give evidence (although there is no sanction against a refusal to comply with a summons). These provisions may appear to be somewhat judicial in character, but they are essential to protect members whose activities are complained of from being penalized on the basis of inadequate hearsay evidence, and to protect the Association from accusations that they are imposing summary justice.

After a hearing the Disciplinary Committee may, on a 75% (three out of four) vote, recommend that a specific penalty be imposed on a member; and the main Committee may, again on a 75% (nine out of 12) vote, act on that recommendation. The penalties which may be imposed are a reprimand; suspension of membership; suspension from cheque clearing facilities; expulsion from membership. These penalties are deliberately incremental, so as to provide a type of warning system to the bank concerned. The two types of suspension can be applied only after consultation with the Financial Secretary, and a member can only be expelled with the approval of the Governor in Council: the point here is that if a bank ceases to be, for any reason, a member of the Association it will thereby be in breach of the condition attached to its licence, and will run the risk of having that licence revoked by the Governor in Council.

At the same time, Sir, it is obviously essential, in the interests of depositors and of the banking system, that matters should, if at all possible, be prevented from going as far as expulsion of a members. So the explicit need to consult with the Financial Secretary before either type of suspension is applied means that he and the Commissioner of Banking can consider the case and talk to the bank concerned.

Clause 21(2) provides that no appeal may be made against any penalty imposed by the Committee. The object of this provision is to prevent a deliberately time-wasting appeal being lodged, with the bank concerned continuing with the profitable (by definition) activity being complained of until the appeal procedure is exhausted. But the Committee must act in a judicial manner when imposing a penalty. Otherwise, the courts could intervene.

Clauses 22 to 24 set out the provisions in respect of the transition from the Exchange Banks' Association, which will cease to exist on the date the Ordinance comes into force, to the new Hong Kong Association of Banks. That date will be appointed by you, Sir, and will be as soon as possible after the Secretary of State has, under Article XXVI(4) of the Royal Instructions, given his approval for you to assent to the Bill.

Before I sit down, Sir, I would like to pay tribute to the Chairman of the Exchange Banks' Association, and to his colleagues on the Committee of the Association for the helpful and constructive way in which they have approached the drafting of this Bill. Indeed I am most grateful for their support and, for all the support they and their predecessors have give the Government in recent somewhat troublous years.

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

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

Question put and agreed to.

SUPPLEMENTARY APPROPRIATION (1979-80) BILL 1980

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to approve a supplementary appropriation to the service of the financial year which ended on 31 March 1980.’

He said:—Sir, I move that the Supplementary Appropriation (1979-80) Bill 1980 be read the second time.

This Bill seeks to give final legislative authority to the supplementary expenditure authorized by resolutions of this Council, and is the last stage in disposing of expenditure incurred during the financial year 1979-80. It also seeks an appropriation to meet expenditure incurred by departments where receipts appropriated-in-aid fell short of the sums originally estimated.

The original estimates were given legislative form in the Appropriation Ordinance 1979, which authorized a specific sum under each Head of Expenditure. It is necessary now to legislate further in respect of those heads of expenditure where the net effect of supplementary provisions and shortfalls in receipts appropriated-in-aid without a corresponding reduction in spending has resulted in an excess over the net sum appropriated in the Appropriation Ordinance 1979. The total supplementary appropriation required is \$1,668 million under 54 heads as against savings of \$228 million under various other heads.

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

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

Question put and agreed to.

BUILDINGS (AMENDMENT) BILL 1980

THE DIRECTOR OF PUBLIC WORKS moved the second reading of:—‘A bill to amend the Buildings Ordinance’.

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

The Bill extends the scope of the principal Ordinance to cover the safety of land adjacent to buildings and construction sites and extends existing provisions to control site formation works.

Clause 2 provides a new long title to the Ordinance which reflects its increased scope and clause 3 introduces new definitions consequential upon the provisions in this Bill.

Clause 5 amends section 17 of the principal Ordinance to enable the Building Authority to impose conditions when giving approval or consent to commence site formation works.

The new section 27A in clause 10 empowers the Building Authority to take action to render safe any natural, formed or man-made land, or any earth-retaining structures, that are dangerous or liable to become dangerous by risk of collapse.

Clause 14 introduces in section 38 of the principal Ordinance a regulation-making power for the planning, design and construction of site formation works.

The rest of the clauses in this Bill are consequential upon extending the scope of the principal Ordinance to cover the safety of the land adjacent to buildings and construction sites.

Clause 15 introduces offences and penalties in respect of section 17(1) and new section 27A.

Sir, I move that the debate be adjourned.

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

Question put and agreed to.

TELEVISION (AMENDMENT) BILL 1980

THE SECRETARY FOR INFORMATION moved the second reading of:—‘A bill to amend the Television Ordinance’.

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

The licences to broadcast held by the two television companies in Hong Kong (T.V.B. and R.T.V.) are due for mid-term renewal by the end of this year. The Television Advisory Board, after detailed examination, advised that it is generally satisfied with the performance of the two stations over the past five years. In recommending that the licences be extended for a further period of eight years, the Board advised that the renewal should be made subject to certain terms and conditions. The recommendations were largely accepted by the Governor in Council and the Bill now before this Council seeks to implement some of these recommendations. Others, relating to more detailed matters such as raising the standards, quality and control of television broadcasting, programmes for children, family viewing hours, public affairs programmes and the control of advertising, are being pursued separately by amendments to the Codes of Practice issued by the Television Authority.

The Bill Sir, Proposes four changes to the principal Ordinance: *First*, to remove the requirement for a television licensee to list its shares in a stock exchange and to make available not less than 25% of the shares to the public within four years of the date of the issue of its licence. The original intention of this provision was that if a licensee were to make substantial profits, the general public should be afforded the opportunity to share in those profits. However, several years’ working experience of competitive television in Hong Kong has shown that the industry as a whole is but marginally profitable and I repeat. Sir, as a whole, and that this is unlikely to change significantly in the foreseeable future. Requiring the companies to go public at this point might increase the risk of control of the stations passing into unsuitable hands. It was therefore concluded that the obligation should be removed completely, although the licensees would retain the right to go public, if they so wish. *Second*, to prevent significant holdings in the companies passing into unsuitable hands without the Television Authority becoming aware of the situation, licensees are required by this Bill to notify the Authority in writing within a specified time of any changes in directors, office holders and major shareholdings in their companies. *Third*, the Bill proposes to improve the existing appeals procedure by providing for consultation before imposing a prohibition on broadcasting, and by establishing an intermediate channel of appeal, wherein licensees are granted the right of appeal to the Secretary for Home Affairs against a prohibition imposed by the Television Authority. *Finally*, Sir, an amendment proposed in this Bill to the Ordinance will give the Television Authority the right to use a licensee’s equipment for previewing its programmes. This amendment only

formalizes the present arrangement whereby stations voluntarily provide previewing facilities to the Authority in those few cases where the programme cannot be provided in a form which can be previewed in the Authority's own viewing rooms.

The licensees are aware of the proposed amendments which will form part of the terms of the renewal of licences, and have indicated their general agreement.

Sir, I move that debate on the second reading of the Bill be adjourned.

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

Question put and agreed to.

PUBLIC OFFICERS (ASSIGNMENT OF EMOLUMENTS) BILL 1980

THE SECRETARY FOR THE CIVIL SERVICE moved the second reading of:—‘A bill to enable public officers to assign part of their emoluments in certain circumstances, and for incidental and related matters’.

He said:—Sir, in moving the second reading of the Public Officers (Assignment of Emoluments) Bill 1980, I should like first to place these legislative proposals in proper perspective in relation to the many recent developments affecting the management of the civil service. These developments have included:

- a complete overhaul of the pay and structure of different grades of civil servant.
- parallel reviews of major conditions of service and benefits such as housing, medical and dental treatment, and pensions,
- The introduction of more effective arrangements for the creation of posts through a new network of departmental establishment committees (D.E.C.'s),
- the strengthening of the management of the civil service, improved communications between staff and management, and more rigorous staff reporting,
- the introduction of the concept of supervisory accountability, and the adoption of proficiency in staff management as a requirement for promotion to posts having an appreciable management content,
- higher standards of discipline and the development of fairer disciplinary procedures, as well as
- the review of arrangements for helping civil servants who find themselves in financial and other personal difficulties.

These developments, and others, add up to a thorough overhaul of much of the internal management of the civil service. In all this, the Administration has been greatly assisted by:

- the Establishment Sub-Committee of Finance Committee of Legislative Council, under the chairmanship of Mr. T. S. Lo,
- the Standing Commission on Civil Service Salaries and Conditions of Service, under the chairmanship of Sir S. Y. CHUNG,
- the Standing Committee on Directorate Salaries and Conditions of Service, under the chairmanship of Mr. G. R. Ross,
- the Public Service Commission under the chairmanship of Mr. Li Fook-kow, and
- the working group chaired by Mr. Li Fook-wo which has been advising on how best to help civil servants in financial difficulties.

As part of this continuing effort towards a better-managed, contented and upright civil service, the working group chaired by Mr. Li Fook-wo has reviewed the Government's existing arrangements for advances of salary and loans to civil servants, as well as the rules governing the borrowing of money by civil servants. The working group has also considered what other steps should be taken to keep civil servants out of serious debt. Proposals have now been drawn up to increase the size of departmental relief funds so that heads of departments may make larger loans to staff in need, and to increase the amounts of salary which officers may draw in advance to help meet expenses arising from domestic calamity and other unforeseen need. Consideration is also being given to encouraging the formation of credit unions among civil servants.

The working group has also recommended the introduction of a new Civil Service Regulation which would make it a disciplinary offence to borrow money from unauthorized sources, particularly unlicensed money lenders. If this proposed regulation is to be effective it is necessary that civil servants should first be helped to rid themselves of debts which will be prohibited once the new Regulation comes into force.

With this in mind it is proposed to establish an independent Civil Service Finance Advisory Office. This Office is expected to open early in 1981 and it will have two main functions: first, arranging for individual civil servants to obtain advice on their financial problems; second, arranging for the refinancing of civil servants' debts by means of loans from one of the many banks or deposit-taking companies who have agreed to participate in this scheme. I should like to make it clear that civil servants who avail themselves of this facility will be charged interest at a commercial rate. I should also make it clear that the Office will only accept applications for refinancing during a limited period of time, perhaps six months, and that any officer who at the end of that period has not rid himself of debts to unauthorized sources will be liable to disciplinary proceedings under the new Civil Service Regulation to which I have referred.

Turning now to the Bill before Council, this contains the legislative provisions necessary for the success of the refinancing scheme.

As the title of the Bill implies, its main provisions cover the assignment by a civil servant of part of his future emoluments. These are defined in clause 2 of the Bill as including salary, pensions and annual retirement allowances. Under the refinancing scheme the bank or deposit-taking company will itself settle the officer's debt on his behalf. The officer will then repay the bank or deposit-taking company by monthly instalments over a period of up to ten years. To ensure that these monthly instalments are made it is considered that officers should be required to make an irrevocable assignment of a portion of their future emoluments. The necessary deductions would be made by the Government and the sum assigned paid direct to the bank or deposit-taking company. This is provided for in clause 3.

In order to prevent hardship clause 5 provides that an officer shall not normally assign more than 25% of his emoluments, but that he may in special circumstances assign up to 50% with the approval of the Secretary for the Civil Service.

Clause 6 sets out the circumstances in which an assignment can be revoked. This will occur automatically where the officer dies or becomes bankrupt, where the period of assignment has expired, or where the loan has been fully repaid. This clause also permits an officer to amend, suspend or revoke an assignment where the Secretary for the Civil Service is satisfied that there are sufficient grounds for so doing, for example where an officer may be on half-pay because of prolonged sickness.

Clause 9 amends the Pensions Ordinance to allow the assignment of a portion of an officer's future pension or annual retirement allowance.

Similarly clause 10 amends the Police Force Ordinance to allow noncommissioned officers and constables to assign a portion of their future emoluments in the same way as other civil servants. At the same time, the Police Force Ordinance is amended to remove the exemption which non-commissioned officers and constables at present enjoy from liability to imprisonment for non-payment of civil debts.

Sir, I believe that this Bill, and the refinancing scheme with which it is associated, will enhance the integrity and efficiency of the civil service. 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 CIVIL SERVICE.

Question put and agreed to.

LEGAL PRACTITIONERS (AMENDMENT) (NO. 2) BILL 1980

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

He said:—Sir, I move that the Legal Practitioners (Amendment) (No. 2) Bill be read the second time.

This Bill, Sir, is another link in a chain of events that goes back a considerable way. The Law Society of England has for long held both Part I and Part II of its qualifying examinations in certain overseas centres, of which Hong Kong has been one. This has enabled non-law graduate students, including in particular mature students in full-time employment who are not able to take time off to go to University or to England, to qualify as solicitors in Hong Kong. The Students Rules made under the Legal Practitioners Ordinance recognized this means of qualifying by permitting the enrolment as students of persons who had passed recognized General Certificate of Education examinations. That, Sir, was the situation until early 1978 when the Law Society of England, in the context of a major reform of legal education, announced that it would not provide overseas examinations after the end of 1980. The Hong Kong Law Society, however, managed to arrange for Part II examinations to be provided until 1982 so that those students who were able to pass their Part I examinations by 1980 would have another two years within which to pass their Part II examinations. But inevitably the question arose of whether it was right to continue to allow non-law graduates to enroll as students when the means by which they could qualify would disappear, and when such enrolment would become meaningless and frustrating. There could only be one answer and in April 1979 this Council added section 26AA to the Legal Practitioners Ordinance to restrict the enrolment of non-law graduate students. Unofficial Members were, however, concerned that the amendment should not permanently exclude local non-university means of qualification, and section 26AA was accordingly amended in committee to provide for its expiration on 31 December 1979, unless extended by this Council.

At the request of Your Excellency in Council the Advisory Committee on Legal Education gave urgent consideration to the question of how arrangements for entering the legal profession could provide for an increased number of practising lawyers. The committee submitted its First Report in August 1979, but did not have sufficient time to consider all possibilities. Accordingly in December last year this Council extended section 26AA until the end of this year. Since then the Committee has carefully considered the matter and has made a Second Report which was submitted to Your Excellency in Council last month.

The Report points out that the University has for some time been considering the possibility of restructuring the LL.B. degree course so as to

give greater flexibility in meeting the needs of individual students including part-time students. In the meantime the University has increased the intake of students for the LL.B. degree from 55 to 80. Up to 15 of the additional students will be selected from persons engaged in full-time legal or law-related employment. These students will attend courses of instruction at the University of Hong Kong over an extended period of probably about five years. They will have to attend at least six hours instruction per week and will have to secure their employers' agreement to this. These part-time students would previously have sought to qualify as solicitors by passing the overseas examinations of the English Law Society, which, of course, are now being discontinued.

The Report also deals with the Post Graduate Certificate in Laws of the University, i.e. the P.C.LL. which the Committee considers must remain the final qualification for entry into the profession in Hong Kong. The Committee recommends that immediate provision be made for an increase in the number of P.C.LL. places from 55 to 65 for the current academic year.

But apart from the possibility of restructuring the LL.B. course to meet the needs of part-time students, and the provision for 15 part-time LL.B. students, the Committee has not been able to find any satisfactory means of qualification locally to replace that formerly afforded by the overseas examinations of the English Law Society. The majority view of the Committee is that it would be futile to permit students to sit for the University LL.B. and P.C.LL. Examinations without their having first received a course of instruction leading to those examinations. That view is based primarily on educational reasons and the evidence of the very high failure rate amongst candidates who formerly sat the English Law Society's examinations without prior instructions.

We now find ourselves in the following situation. Apart from the English Law Society Part II overseas examinations which can only be held until 1982 there is locally no means for non-law graduate students to qualify, and no early prospect of providing such means. Furthermore, student enrolment by the Law Society now has little bearing on the eventual entry into the profession of qualified solicitors. It cannot provide examinations that have been discontinued by the Law Society of England; nor is it a prerequisite to the admission to University LL.B. and P.C.LL. courses. Clause 2 of the Bill accordingly seeks not only to do away with the existing references in section 26AA to the enrolment of students but also to abolish the status of enrolled students. Actual abolition of the roll of students, which is provided for in Students Rules made by the Council of the Law Society, will be effected by amendments to those Rules.

But that is not to say that the door is being permanently shut on the means to qualify locally as a solicitor outside the university system. As part of the revision of the ways of entering the profession, the Hong Kong Law Society proposes, if the Bill is enacted, to amend the Students Rules to

enable professional examinations to be prescribed. So that if the means, particularly facilities and staff, are found to provide suitable courses and examinations, non-graduate entry into the profession can again be provided for.

Sir, the other clauses of the Bill are consequential to clause 2.

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.

PUBLIC ORDER (AMENDMENT) BILL 1980

Resumption of debate on second reading (23 July 1980)

Question proposed.

MR. PETER C. WONG:—Sir, public order is central to the stability of a community. Hence, the need to have appropriate legislation.

In Hong Kong such legislation is to be found in the Public Order Ordinance. However, certain provisions relating to public meetings and processions have been widely criticized for being too broad in scope, enacted as they were at a time when the local scene was not as stable as it is today.

In introducing the Bill now before Council, aimed at relaxing the existing law, my learned and honourable Friend, the Attorney General said that the object of the Bill was not to frustrate public discussion but only to ensure that such public expression could take place conveniently and without the disruption of the lives of others.

The main task of the ad hoc group of the Unofficial Members of this Council was therefore to examine whether a sensible balance of these competing interests had in fact been achieved.

As expected, the Bill has attracted a great deal of public interest. Apart from receiving written representations, the group met with the Hong Kong Federation of Students and the Hong Kong Social Workers' General Union. We are grateful to them for their views, which were carefully taken into consideration in subsequent discussion with the Administration.

The main change proposed by the Bill relates to public meetings. In his speech, the Attorney General spoke at length and eloquently on this and other changes. Suffice it to say that the group is in general agreement with the Attorney General's rationale for introducing this Bill.

After careful deliberation of the proposals and consideration of representations made to U.M.E.L.C.O., the group had a frank and useful discussion with the Attorney General. We came to the conclusion that, given the present political climate in Hong Kong, the Bill does go a long way towards striking a fair balance between the competing interests referred to by the Attorney General.

However, three amendments will be introduced at the committee stage:—

1. The proposed new definition of ‘meeting’ in clause 2(b) will be amended in the manner indicated by the Attorney General in his speech. In our view, the proposed amendment is a definite improvement. It avoids the use of the term ‘public interest’, which is obviously impossible to define with any degree of certainty.
2. The list of exemptions in clause 2(b) will be amended by the addition of conferences or seminars *bona fide* intended for the discussion of topics of a social, recreational, cultural, academic, educational, religious, charitable, professional, business or commercial character. This addition is both sensible and desirable.
3. In the proposed new section 7(2)(a) in clause 3, public meetings of not more than 20 persons would be exempted from the notice requirement. It was thought that the number was on the low side, and Government has now agreed to increase this number to 30. This means that a group of not more than 30 persons can freely hold a public meeting without infringing the law, provided they do so in an orderly manner. To permit a greater number of persons to do so without prior notification might pose difficulties for the law enforcement agencies. In a crowded place like Hong Kong a group of people meeting in public would attract other people in the vicinity and the gathering would in no time swell to two or three times its original number.

My Unofficial Colleague, Dr. Ho Kam-fai will be speaking on other aspects of the Bill; in particular, on the subject of Police action and control at public meetings and processions.

Finally, Sir, on the recommendation of the ad hoc group, Government has agreed to publish a leaflet explaining the implications of the Bill. A draft has already been prepared. Although it does not purport to be an exhaustive commentary on the new provisions, it nevertheless highlights some of the more important aspects and gives examples contrasting ‘matters of public interest’ with ‘social purposes’. In short, the aim of the leaflet is to assist an organizer to decide whether his particular meeting should be notified to the Police. Members of the public who intend to organize public meetings or processions would be well advised to read this very useful leaflet.

Sir, with these remarks, I support the motion.

DR. HO: — Sir, I support the Bill to amend the Public Order Ordinance. The recommendations made by the Working Party to review the principal

Ordinance are appropriate and necessary to meet the aspirations of a better informed and more articulate community.

I welcome relaxing the control of meetings, processions and gatherings of a public nature and the methods to facilitate expression of views and grievances by our citizens in public.

The salient provisions of the Bill stipulate that the licensing system for public meetings be replaced by a simpler requirement that the Police be notified of the intention to hold a meeting and this is required only if matters of public interest are to be discussed and exempts meetings held exclusively for social, recreational, cultural, academic, educational, religious or charitable purposes.

Exemption from the notification procedures will also be extended to meetings held in schools, colleges, universities or other educational establishments with the consent of the governing body concerned and to meetings where the attendance is less than 30 persons, in a public place, or in private premises where less than 200 people are able, or expected, to attend.

Public processions will, however, be subject to the licensing procedure. This is justifiable because processions in congested streets, on public thoroughfares or in public parks and with the crowded conditions in Hong Kong, are more likely to cause obstruction to other members of the public. I am glad that a fair balance is maintained with processions of under 20 persons being allowed without notice.

These provisions will afford the public a much larger degree of freedom in expressing their feelings and views about community affairs than under the existing Ordinance.

An ad hoc group of Unofficial Members of Legislative Council was convened by my Unofficial Colleague, Mr. Peter C. WONG who has just given a succinct account of its deliberations and recommendations. I would like to take this opportunity to place on record the assurance given by Government to the group that each application for public meetings or processions will be considered on its own merits by the Commissioner of Police and that the decision to interfere at public meetings or processions will be made at a senior level and that Police officers concerned have been specially trained and will act with maximum constraint and minimum force. At the suggestion of the Unofficial Members, the Government will publish a leaflet which will serve as a guide line to explain some of the important provisions contained in the Bill and to assist organizers of public meetings and processions.

The Bill has struck a good balance between the need for preserving civic liberty on the one hand while providing the means to maintain peace and order for the community on the other.

With these remarks, Sir, I have pleasure in supporting 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).

SUMMARY OFFENCES (AMENDMENT) (NO. 2) BILL 1980

Resumption of debate on second reading (5 November 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).

TRADE DESCRIPTIONS BILL 1980

Resumption of debate on second reading (25 June 1980)

Question proposed.

MR. CHEUNG:—Sir, the proposals in this Bill which was published on 20 June last aroused considerable interest, and Government and Unofficial Members received strong and cogent representations from commercial concerns and organizations, both local and overseas, and from the legal profession. Unofficial Members have considered very carefully these representations, and discussed them at length with the Secretary for Economic Services, the Law Draftsman and other Government officials, who listened, in the view of Unofficial Members, attentively and responded with reasonableness. I hesitate to use the phrase ‘sweet reasonableness’ in describing any Government officials and I therefore did not use it (*laughter*). As a result the Secretary for Economic Services will move a number of amendments at the committee stage, and I will leave it to him to deal with the main changes and the reasons for them, and I will therefore confine myself to three matters.

First there was some serious concern that the proposed Bill would be less effective in its provisions for enforcement than the Merchandise Marks Ordinance which it is going to repeal. In particular, there was concern on transferring the enforcement from the Police to the Trade, Industry and

Customs Department, because it was thought that the existing practice for search warrants which are executed by the Police should be maintained, as the Police had the manpower required for such operations to be carried out quickly, and if necessary, simultaneously in several different locations.

The Administration has assured Unofficial Members that the Trade, Industry and Customs Department will be able to act swiftly on complaint being made. Staff has been increased; for example, the number of officers directly engaged in enforcing the Ordinance is 31, and will be increased to 46. Unofficial Members are satisfied that the change will be for the better, and, indeed, during the course of the consultation, the Department demonstrated its efficiency and despatch.

Secondly, it has been decided that, where an offence has been committed by a corporation, the burden of proof that a director of the corporation was not involved should remain on him, as at present, and not shift to the prosecution, as originally proposed.

Thirdly vigorous representations have been made for a long time, to my recollection for at least three years, by the Tourist Association and others for the marking or compulsory marking of articles containing gold, to prevent malpractices being perpetrated on shoppers and particularly on tourists.

I am glad that this Bill when enacted, will enable the Governor in Council to make Marking Orders to control fraudulent and misleading descriptions of articles with gold content offered for sale. This control measure was overdue and, in our view, given that Government ought to have given detailed consideration to it in the last three years, during which I regularly sent reminders to the Attorney General of the day, it should be implemented as soon as possible, to forestall any further damage to Hong Kong's reputation. Unofficial Members have suggested and the Government has agreed that Marking Orders should be extended to cover platinum and, if necessary, palladium and other metals in the noble group.

This Bill was conceived as a measure for the protection of the consumer, but it has been recognized by the Administration that it also has a duty to protect private proprietary rights, and Unofficial Members are of the opinion that such rights will be as well protected as hitherto. The Administration has assured us that if such prognosis be in some respects wrong, it will propose changes in the light of experience. Accordingly we support the motion.

MR. ALEX WU:—Sir, in general, of course, I welcome this Bill as we must all welcome a measure which affords protection to consumers and the proprietors of industrial properties. This form of protection is especially important for a community which depends as much as we do on the good reputation of our manufactured exports. It may well be that there is scope for more improvement than this Bill provides but I shall confine my remarks now to the question of copyright.

The legislation which this measure is intended to replace included certain protection for copyright in addition to that available under the Copyright Ordinance. In the course of our discussion with the officials in charge of the Bill we have been told that these provisions have been removed because they 'distorted' the Bill.

Against that view we must set the fact that at some time someone thought it was appropriate to include protection for certain aspects of copyright. It is also a fact that copyright is a form of industrial property in certain quite important sectors of our manufacturing economy.

There is in fact a developing industry known as character merchandizing and Hong Kong is one of the major manufacturers of articles with copyright protected cartoon characters.

With the removal of reference to copyright from the proposed legislation, copyright holders are denied one form of redress and must turn to the more cumbersome, more expensive and, in my view, less relevant provisions of the Copyright Ordinance.

It is hard to see why, in the name of legal tidiness, we should be reducing protection for anyone. The fact that this Bill is directed mainly towards consumer protection is not an argument for reducing protection of industrial property. Given our dependence on exports and their acceptance in overseas markets, it will be a pity if we have simply made it easier to make and sell false goods—a fraud on industrial property owners *and* consumers.

I can only express the hope that the Government will now look without delay at the Copyright Ordinance so as to restore and if necessary strengthen its provisions as they affect the integrity of our manufactured products.

SECRETARY FOR ECONOMIC SERVICES:—Sir, if I may pick up the story where my honourable Friend Mr. Oswald CHEUNG left off. The amendments which I shall be proposing at the committee stage and the reasons for the amendments are as follows—

I shall propose a subclause (3) be added to clause 7 to make disposal or possession of equipment for applying a false trade description an offence unless there is no intent to defraud. This is to bring the provisions in the Bill in respect of trade descriptions closer to those related to trade marks. It was represented to us that there were no valid grounds for treating the two differently.

I shall propose amendment also to the subclause (3) of clause 9 to provide for a defence, similar to that available under the Trade Marks Ordinance, that the owner of a trade mark did not know it was the same or very like another registered trade mark. The argument has been put forward and accepted by the Unofficial Members and the Government that rights and

defences under civil legislation contained in the Trade Marks Ordinance should also be available under the trade descriptions legislation.

I shall propose amendment to the subclause (2) of clause 17 to allow for information relevant to possible offences under the Ordinance to be made available by order of the courts in civil proceedings. This is further to help trade mark owners in civil proceedings against counterfeiters.

Also in connection with clause 17, I shall propose a new subclause (5) to provide for evidence to be given in civil proceedings, notwithstanding that it would ordinarily be inadmissible as being self-incriminating, provided that such evidence shall not be admissible in proceedings under the Ordinance itself against the person giving it. The intention is to allow for more information to be disclosed in civil proceedings instituted by trade mark owners.

With regard to clause 20, instead of requiring the prosecution to prove that officers of a body corporate were also liable for offence committed by the body corporate, I shall propose a revision placing the onus on the officers of a body corporate to prove they *were* not involved.

I shall also propose the addition of a subclause (4) to clause 26 so that in any proceedings for the sale or possessions for sale of counterfeit goods, it will be an defence for the defendant to show that he did not know and could not reasonably have found out that the goods were counterfeit. The argument is that the provisions for the sale of counterfeit goods should be closer to the other provisions in respect of the counterfeiting.

I shall also propose a subclause (7) be added to clause 30 so that when counterfeit goods are seized, the proprietor of the trade mark or his agent will be notified wherever practicable. This again is to give him a chance to institute civil proceedings as soon as possible.

So much for the main representations that we and Unofficial Members of the ad hoc group have agreed are acceptable. We also found a number were unacceptable, largely because *either* they were seeking too much from the legislation, *or* they were proposing ways of dealing with matters that were being well taken care of by other means *or* they were not appropriate to this Bill. I would like to refer to two of the more controversial of these representations that were not accepted.

My honourable Friend Mr. Oswald CHEUNG referred to the most controversial one, which was whether the Bill should be amended to retain section 11(1) of the Merchandise Marks Ordinance. This section provides that any person can apply to a Magistrate for a search warrant to direct the Police to search suspected premises, to arrest people and to seize goods in connection with the offences under the Ordinance. There are a number of reasons why the Bill does not include this provision, the main one is that it enables trade mark owners to require the Police to act immediately, regardless of the Force's overall priorities and commitments. There is no similar provision

which allow the criminal law to be invoked in this way to protect other private proprietary rights; and we can see no reason why one type of private property, trade marks, should be singled out for special treatment. Furthermore, while the search warrants are directed towards the Police, it was the Trade, Industry and Customs Department which now has the expertise and the resources for this type of work. When they have valid evidence of an offence, the appropriate staff of the Trade, Industry and Customs Department will respond rapidly and effectively. And for those who still want to make their own arrangements to search suspected premises and seize exhibits, the alternative will still be available under the civil law.

The second controversial suggestion was the one referred to by my honourable Friend Mr. WU, namely that the Bill should include provisions protecting copyright. While there possibly is room for improving copyright legislation, this Bill on trade descriptions is not the right vehicle. There is a Copyright Ordinance and I can assure my honourable Friend that we would certainly be prepared to look at any proposals to amend or to add to it.

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).

UNDESIRABLE MEDICAL ADVERTISEMENTS (AMENDMENT) BILL 1980

Resumption of debate on second reading (19 November 1980)

Question proposed.

DR. FANG:—Sir, I welcome the Undesirable Medical Advertisements (Amendment) Bill 1980 which attempts to tighten further the existing legislation.

Whilst this Bill deals solely with advertisements relating to abortion, I would like again to urge the Government to consider carefully whether existing legislation is adequate to safeguard the public from improperly trained medical practitioners who advertise their so-called expertise in a variety of other medical specialities.

Sir, I support the motion.

SECRETARY FOR SOCIAL SERVICES:—I am grateful to Dr. FANG for his support of this Bill.

In reply to his plea for safeguards against advertisements by improperly trained medical practitioners, I can state that the only medical practitioners recognized under the law are those registered, or deemed to be registered, under the Medical Registration Ordinance. I can also assure this Council that only duly qualified doctors are so registrable. Any improper advertising by such medical practitioners will, of course, render them liable to disciplinary action before the Medical Council of Hong Kong.

Under section 28 of the Medical Registration Ordinance any unqualified person who purports to be a medical practitioner is liable on summary conviction to a fine of \$2,000 and to imprisonment for six months.

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.

PUBLIC ORDER (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.

With regard to the amendment to clause 2(b) I believe that the expression ‘issues or matters of interest or concern to the general public or a section thereof’ is more readily understandable than the phrase ‘matters of public interest’.

I regret I can’t suggest that this amendment is a perfect solution to the question of what is or is not a ‘matter of public interest’. But I would respectfully say, if an organizer of a proposed meeting asks himself the question ‘Is this meeting to discuss an issue or matter of interest or concern to the general public or a section of it?’, it seems to me highly unlikely in any instance that he will say, ‘Well I don’t know.’ So I hope this made for clarity in this part of the Bill.

The intention of the amendment to clause 2(b)(a) is to put beyond doubt the fact that it is not necessary to notify the Police of the holding of conferences or seminars genuinely intended to discuss the topics listed. Honourable Members will note in particular that 'professional, business and economic' seminars are included in the list. Increasingly Hong Kong is used as a regional centre in which to hold such seminars and the aim of this amendment is to make clear that they can be held without notification.

Proposed Amendment

Clause 2

That clause 2(b) be amended in the proposed new definition of 'meeting'

(a) by deleting 'matters of public interest or for the purpose of the expression of views on such matters' and substituting the following—

'issues or matters of interest or concern to the general public or a section thereof, or for the purpose of the expression of views on such issues or matters'; and

(b) in paragraph (a), by inserting after 'charitable purposes' the following—

', or as a conference or seminar *bona fide* intended for the discussion of topics of a social, recreational, cultural, academic, educational, religious, charitable, professional, business or commercial character'.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3

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

Members will note a change to clause 3 in relation to small public meetings which need not be notified.

At present the Bill proposes that there should be no requirement to notify if the meeting consists of no more than 20 persons. Following representations from some honourable Unofficial Members it has been decided that the number should be raised from 20 to 30 for the reasons explained to this Council earlier in the day. Of course, where numbers are concerned, there is infinite room for differences of opinion as to what is the right figure to take, but the limit has been pitched somewhere. After listening carefully to the arguments put forward, the Government now feels that it can safely agree to the proposal that 30 instead of 20 should be the figure.

*Proposed Amendment***Clause 3**

That clause 3 be amended in the proposed new section 7(2)(a) by deleting '20' and substituting the following—
'30'.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 to 10 were agreed to.

SUMMARY OFFENCES (AMENDMENT) (NO. 2) BILL 1980

Clauses 1 and 2 were agreed to.

TRADE DESCRIPTIONS BILL 1980

Clause 1 was agreed to.

Clause 2

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 2 be amended as set out in the paper circulated to Members in order to improve the wording of the clause.

*Proposed Amendment***Clause 2**

That clause 2 be amended—

- (a) in the definition of 'goods' by deleting 'ships' and substituting the following—
'vessel';
- (b) in the definition of 'goods' in transit' by deleting 'ship' and substituting the following—
'vessel'; and
- (c) in the definition of 'premises' by deleting 'ship' and substituting the following—
'vessel'.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 to 6 were agreed to.

Clause 7

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 7 be amended as set out in the paper circulated to Members for the reasons I explained in my speech winding up the second reading debate.

Proposed Amendment

Clause 7

That clause 7 be amended by adding the following subclause—

‘(3) Subject to the provisions of this Ordinance any person who disposes of or has in his possession any die, block, machine, or other instrument for the purpose of making, or applying to goods, a false trade description commits an offence unless he proves that he acted without intent to defraud.’.

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Clause 8 was agreed to.

Clause 9

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 9 be amended as set out in the paper circulated to Members for the reasons I explained in my speech winding up the second reading debate.

Proposed Amendment

Clause 9

That clause 9 be amended in subclause (3)—

- (a) in paragraph (a) by deleting ‘and any trade mark or mark so made or falsified in a forged trade mark;’; and
- (b) by inserting after paragraph (b) the following—

‘unless he proves that he acted without infringing the right of the proprietor of the trade mark conferred by section 27 of the Trade Marks Ordinance, and "forged trade mark" shall be construed accordingly.’.

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clauses 10 and 11 were agreed to.

Clause 12

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 12 be amended as set out in the paper circulated to Members in order to improve the wording of the clause.

Proposed Amendment

Clause 12

That clause 12 be amended in subclause (1) by inserting after ‘forged trade mark’ the following—

‘, which expression shall be construed in accordance with section 9(3),’

The amendment was agreed to.

Clause 12, as amended, was agreed to.

Clauses 13 to 16 were agreed to.

Clause 17

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 17 be amended as set out in the paper circulated to Members for the reasons I explained in my speech winding up the second reading debate.

Proposed Amendment

Clause 17

That clause 17 be amended—

(a) by deleting subclause (2) and substituting the following—

‘(2) Any person who discloses to any other person—

(a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this Ordinance; or

(b) any information obtained by him in pursuance of this Ordinance,

- commits and offence unless the disclosure was made—
- (i) in or for the purpose of the performance by him or any other person of functions under this Ordinance, or
 - (ii) in the case of paragraph (b) under the direction or order of a court.’;
- (b) in subclause (4)—
- (i) by deleting ‘Nothing’ and substituting the following—
‘Subject to subsection (5), nothing’;
 - (ii) in paragraph (a) by deleting ‘him’ and substituting the following—
‘that person or the wife or husband of that person’; and
- (c) by adding the following subclause—
- ‘(5) A person shall not be excused, by reason that to do so may incriminate that person or the wife or husband of that person of an offence under this Ordinance—
- (a) from answering any question put to that person in any civil proceedings;
 - (b) from complying with any order made in any such proceedings, but no statement or admission made by a person in answering a question put or complying with an order shall, in proceedings for an offence under this Ordinance, be admissible in evidence against that person or (unless they married after the making of the statement or admission) against the wife or husband of that person.’.

The amendment was agreed to.

Clause 17, as amended, was agreed to.

Clause 18 was agreed to.

Clause 19

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 19 be amended as set out in the paper circulated to Members for the reasons I explained in my speech winding up the second reading debate.

Proposed Amendment

Clause 19

That clause 19 be amended in paragraph (b) by inserting after ‘offence’ the following
—
‘by the prosecutor’.

The amendment was agreed to.

Clause 19, as amended, was agreed to.

Clause 20

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 20 be amended as set out in the paper circulated to Members for the reasons I explained in my speech winding up the second reading debate.

Proposed Amendment

Clause 20

The clause 20 be deleted and the following substituted—

Offences by corporations	<p>20. Where a body corporate is convicted of an offence under this Ordinance, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.’.</p>
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The amendment was agreed to.

Clause 20, as amended, was agreed to.

Clauses 21 to 25 were agreed to.

Clause 26

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 26 be amended as set out in the paper circulated to Members for the reasons which I have already explained.

Proposed amendment

Clause 26

That clause 26 be amended by adding the following subclause—

‘(4) In any proceeding for an offence under section 9(2) it shall be a defence for the person charged to prove that he did not know, had no reason to suspect and could not with reasonable diligence have ascertained, that a forged trade mark had been applied to the goods or that a trade mark or mark so nearly resembling a trade mark as to be calculated to deceive had falsely been applied to the goods.’.

The amendment was agreed to.

Clause 26, as amended, was agreed to.

Clauses 27 to 29 were agreed to.

Clause 30

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 30 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 30

That clause 30 be amended by adding the following subclause—

‘(7) Where goods seized or detained under section 15 are goods to which a forged trade mark is applied, or to which a trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, the Director shall, wherever reasonably practicable, notify the proprietor of the trade mark or his agent.’

The amendment was agreed to.

Clause 30, as amended, was agreed to.

Clause 31 was agreed to.

Clause 32

SECRETARY FOR ECONOMIC SERVICES:—Sir, I move that clause 30 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 32

That clause 32 be amended—

- (a) by deleting ‘within the meaning of the Trade Marks Ordinance’; and
- (b) by deleting paragraph (b).

The amendment was agreed to.

Clause 32, as amended, was agreed to.

Clauses 33 to 37 were agreed to.

The Schedule was agreed to.

UNDESIRABLE MEDICAL ADVERTISEMENTS (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

SUMMARY OFFENCES (AMENDMENT) (NO. 2) BILL

UNDESIRABLE MEDICAL ADVERTISEMENTS (AMENDMENT) BILL

had passed through Committee without amendment and that the

PUBLIC ORDER (AMENDMENT) BILL

TRADE DESCRIPTIONS 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, 17 December 1980.

Adjourned accordingly at five o'clock.