

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 19 May 1982****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
THE HONOURABLE THE CHIEF SECRETARY
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR. HENRY CHING, C.B.E., 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 CITY AND NEW TERRITORIES ADMINISTRATION

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.
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, C.M.G., J.P.
SECRETARY FOR EDUCATION

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

THE HONOURABLE ALAN JAMES SCOTT, C.B.E., J.P.
SECRETARY FOR TRANSPORT

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

THE HONOURABLE ERIC PETER HO, C.B.E., 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., Q.C.
LAW DRAFTSMAN

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

THE HONOURABLE JOHN MORRISON RIDDELL-SWAN, O.B.E., 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.
REGIONAL SECRETARY (HONG KONG AND KOWLOON), CITY AND NEW
TERRITORIES ADMINISTRATION

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

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

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, J.P.
REGIONAL SECRETARY (NEW TERRITORIES), CITY AND NEW TERRITORIES
ADMINISTRATION

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

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

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

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.

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

THE HONOURABLE DAVID KENNEDY NEWBIGGING, O.B.E., J.P.

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

THE HONOURABLE HU FA-KUANG, J.P.

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

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, J.P.

THE HONOURABLE CHEUNG YAN-LUNG, M.B.E., J.P.

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE MARIA TAM WAI-CHU, J.P.

ABSENT

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, J.P.

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MRS. JENNIE CHOK PANG YUEN-YEE

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Public Revenue Protection Ordinance. Public Revenue Protection (Dutiable Commodities) Order 1982	154
Public Revenue Protection Ordinance. Public Revenue Protection (Motor Vehicles) (First Registration Tax) Order 1982	155
Public Revenue Protection Ordinance. Public Revenue Protection (Road Traffic) (Registration and Licensing of Vehicles) Order 1982	156
Merchant Shipping Ordinance. Merchant Shipping (Marine Courts) (Amendment) Regulations 1982	157
Pensions Ordinance. Pensionable Offices (Amendment) Order 1982	163
Public Health and Urban Services Ordinance. Food Business (New Territories) (Amendment) (No.2) Regulations 1982..	164
Public Health and Urban Services Ordinance. Frozen Confections (New Territories) (Amendment) (No. 2) Regulations 1982.....	165
Public Health and Urban Services Ordinance. Milk (New Territories) (Amendment) (No.2) Regulations 1982	166
Summary Offences Ordinance. Summary Offences Ordinance (Exemption from Section 13) Order 1982 ..	167
Public Health and Urban Services Ordinance. Public Health and Urban Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.7) Order 1982.....	168
Registrar General (Establishment) Ordinance. Registrar General (Establishment) (Amendment of First Schedule) Order 1982.....	169
Antiquities and Monuments Ordinance. Antiquities and Monuments (Designation of Monuments) (No.2) (Amendment) Declaration 1982	170

Public Health and Urban Services Ordinance.

Hawker (Permitted Place) Declaration 1982 171

Sessional Papers 1981-82:

No. 50—Hong Kong Export Credit Insurance Corporation—1980-81 Annual Report.

No. 51—The Prince Philip Dental Hospital—Report by the Provisional Board of Management for the period 1 May 1980-31 March 1981.

No. 52—1981 Annual Report by the Commissioner of the Independent Commission Against Corruption.

Oral answers to questions

Completion of major public works projects

1. MR. WONG LAM asked in Cantonese:—

請問於一九八〇至八一年及八一至八二年兩財政年度內，分別共有多少項價值在五千萬或以上之工程預期完成，本當依約完成而未能依期完成之數目若干？

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

How many public works projects, each costing \$50 million or more, were expected to have been completed, under their conditions of contract, in 1980-81 and 1981-82 respectively; and how many of these projects failed to meet their target completion dates?

THE FINANCIAL SECRETARY:—Sir, for reasons I shall later explain, I shall interpret Mr. WONG Lam's question as referring to contract completion dates, as distinct from project completion dates.

56 contracts were due for completion in 1980-81 relating to 34 large public works projects. Only two of these 56 contracts had a value in excess of \$50 million each, and neither was completed by the contract completion date.

In 1981-82, 58 contracts were due for completion relating to 39 large public works projects. Of these 58 contracts, five had a value in excess of \$50 million each. All five had not been completed by their contract completion dates.

I must explain, Sir, that the contract completion date is, in effect, no more than a reference point for the purpose of application of the terms of the contract. It takes no account of unforeseen or unforeseeable factors, such as adverse geotechnical conditions or inclement weather. Extensions of time are properly granted within the terms of a contract where valid reasons exist. Not

surprisingly, the larger the value of the contract, and the longer the contract period, the greater the possibility that the original contract completion date will not be met.

It has for long been the practice to monitor the progress of work on public works projects by reference to contract completion dates. A completion date for a project as a whole has not usually been pre-determined with any precision: it has been the practice to establish such a date only where it has been imperative to ensure the completion of a project by a given deadline.

The need, Sir, to monitor the progress of projects, as distinct from contracts, more closely has been recognized. The implementation of a system for improved project management is one of the specific tasks identified for the newly established Lands and Works Branch, and such a system is now being set up.

Maintenance of degenerate domestic buildings

2. MR. SO asked in Cantonese:—

為確保最低限度的清潔及公共衛生起見，政府可否考慮，規定殘舊住宅樓宇的業主及住客，進行重新粉飾及基本的維修工程？

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

To ensure minimum standards of cleanliness and public hygiene, will Government consider requiring the landlords and tenants of the older degenerated domestic buildings to undertake repainting and basic maintenance works?

SECRETARY FOR HOME AFFAIRS:—Sir, statutory powers exist and are used in the interests of public hygiene.

If the Urban Council in the urban area, or the Director of Urban Services in the New Territories, considers any premises constitute a nuisance, or pose a danger to health, or detract from the amenities of the neighbourhood, they can require the owner or occupier to limewash, paint or clean them. The appropriate authority may also require the owner or occupier to repair drains or other parts of the building in the interests of general sanitation and cleanliness.

The use of these powers contained in the Public Health and Urban Services Ordinance has been in the interests of public hygiene: to clear choked drains, repair wall and floor surfaces, clean and limewash internal parts of the buildings. It is not appropriate to use these powers to deal with *external* paint work. There are not many old degenerate domestic buildings and there is no evidence that they pose any threat to public health.

Besides the use of statutory powers City District Offices have helped building managements to improve both the external appearance and the internal

management of domestic buildings. Mutual Aid Committees and owners corporations have done a good deal of work on this. People are usually pleased with the results and certainly more can be done by this sort of encouragement.

Vietnamese refugee camps

3. MISS DUNN asked:—*In the light of the recent disturbances in Vietnamese refugee camps, what implications are there for the management of open camps and does the Government intend to change its open camp policy?*

SECRETARY FOR SECURITY:—Sir, it was agreed between the Government and the U.N.H.C.R. in 1979 that the High Commissioner would be responsible for four open camps in which Vietnamese refugees are accommodated. U.N.H.C.R. has arranged for the camps to be managed by voluntary agencies. Only one camp remains in full operation and a second is in the process of closure. Three other camps are operated by the Government.

The administration of open camps should be carried out in compliance with Open Centre rules made under section 13C of the Immigration Ordinance last year.

Following the recent disturbances an examination of the division of responsibilities in open camps which I have described is being made with the aim of redefining them where necessary to ensure that acceptable standards of behaviour are maintained and law and order is preserved. I hope that agreement can be reached quickly on revised arrangements.

Independent of this, but coincidentally, the Government announced last week before Miss DUNN's question reached the order book that a feasibility study is being put in hand to determine whether closed camps for Vietnamese refugees is a practical proposition. I hope that the study will be completed in time for a decision on policy to be taken in about three to four weeks.

MISS DUNN:—*In what way have the present arrangements between the Government and the U.N.H.C.R. on the one hand, and the U.N.H.C.R. and the voluntary agencies on the other, proved to be defective?*

SECRETARY FOR SECURITY:—The arrangements which were made in 1979 were made, of course, at a time when the whole problem of refugees was a very heavy one. An approach was made to the U.N.H.C.R. for them to take over certain camps which they agreed to do. The arrangements for that, at the time, were considered satisfactory. The U.N.H.C.R. then entered into separate contractual arrangements with the voluntary agencies.

In the wake of hindsight, I think that the contractual arrangements could probably be improved upon in regard to wording and responsibility. Generally

speaking, the arrangements are that the U.N.H.C.R. indicates the costs of service which it will provide and requires from the voluntary agency a simple responsibility to administer the camp. I think again in the light of hindsight that a more comprehensive description of the duties of voluntary agencies is called for.

MISS DUNN:—*In a situation in which the re-settlement process has slowed down and many refugees in open camps have been there for well over two years, is the concept of open camps run by voluntary agencies now still appropriate?*

SECRETARY FOR SECURITY:—Whether or not it is appropriate, it is a fact of life and there are contractual obligations both by U.N.H.C.R. and by the voluntary agencies to undertake the present arrangements. As I have said in my reply, we are looking at this in the light of the number of people who have now been in Hong Kong for more than two to three years and to ascertain what changes should be made and also in what time scale such changes can be made.

DR. HO:—*In the closed camps as mentioned in paragraph 4, I assume that the Vietnamese refugees are not allowed to work outside to support themselves. Will it cost the Government an enormous amount of money to run such closed camps and is the Government prepared to shoulder such additional financial responsibility?*

HIS EXCELLENCY THE PRESIDENT:—I don't think that question arises from the substantive question. I therefore rule it out of order, I am afraid, at this stage.

Opening of Airport Tunnel

4. REVD. JOYCE M. BENNETT asked:—*In view of the promise in this Council on 13 May 1981 that the Airport Tunnel would be open for traffic at the beginning of this year, when will it in fact be open?*

SECRETARY FOR LANDS AND WORKS:—Sir, in answer to a question put by Miss BENNETT in May last year it was said that one tube of the Airport Tunnel would be opened to two-way traffic at the beginning of 1982 and the opening of the second tube was expected to be at the end of 1982.

However, it was pointed out at that time that the most critical problem which could affect the Tunnel opening date was the supply and installation of the surveillance system.

As it turned out poor progress by the overseas manufacturer of the traffic control and surveillance system did cause delay. The opening of the first tube to two-way traffic should now be possible by the end of next month. The opening of the second tube is still scheduled for the end of 1982.

Entry to the Universities and Polytechnic

5. REVD. JOYCE M. BENNETT asked:—*Will Government take steps to unify the syllabuses at Form 6 and rationalize entry to the Universities in order to help the schools and students and to save public moneys?*

SECRETARY FOR EDUCATION:—Sir, the two Universities and the Polytechnic are autonomous bodies and determine their own entry requirements. Changes therefore to public examination arrangements at the 6th Form level require to be made in consultation with these institutions.

Competition is keen to enter both of the Universities and the Polytechnic and I agree that unified arrangements at the 6th Form level could relieve pressure on students.

The Universities recognize that this is an area of public concern and are considering how matters might be improved.

Any scheme of unification, however, would have substantial repercussions on secondary schools as well as on the tertiary institutions themselves.

As Miss BENNETT is aware the Panel of Visitors who are conducting the Overall Review of Education in Hong Kong also examined this issue. It would seem wise, therefore, to consider any fresh proposals in this field in the light of the Panel's final report which is expected towards the end of this year.

REVD. JOYCE M. BENNETT:—*Sir, in view of the distress caused in this respect to schools and students, can the Government ensure that the Universities do more than 'consider the matter' and insist that the present system be changed in the near future after the Overall Review of Education has been made?*

SECRETARY FOR EDUCATION:—Depending on the meaning of 'insist', in its ordinary commonsense way of use, I think that to carry out the programme which Miss BENNETT has outlined would be contrary to the concept of having autonomous universities.

REVD. JOYCE M. BENNETT:—*Sir, how much extra money is now being spent on this dual system by the public purse?*

SECRETARY FOR EDUCATION:—I have an estimate of about \$38 million per annum.

REVD. JOYCE M. BENNETT:—*Sir, will the Government consider saving this money in the near future?*

SECRETARY FOR EDUCATION:—Sir, I believe that Miss BENNETT's last question is really a re-statement of her first supplementary question, i.e. she is suggesting

that the Government should over-rule the powers that the Universities have under their own Ordinances and statutes.

K.C.R. stations in the Sha Tin Valley

6. MR. CHEUNG YAN-LUNG asked:—*Will Government state whether it has any plans to provide additional K.C.R. stations in the Sha Tin Valley to serve new growing communities such as the Tai Wai Village?*

SECRETARY FOR TRANSPORT:—Sir, in addition to Sha Tin Station, two new stations to serve communities in Tai Wai and Fo Tan respectively are included in the K.C.R. modernization/electrification programme. Construction work on the permanent Tai Wai Station will begin in July 1983 after completion of a temporary alignment for railway traffic, which is necessary so that building can be carried on without interference to services. The permanent Tai Wai Station is due for completion by mid-1985.

However, in view of the rapid growth of population in Tai Wai and the introduction of the full electrified service to Lo Wu in mid-1983, I have agreed in principle with the Chief Executive (designate) of K.C.R.C. that a temporary station should be constructed at Tai Wai. I hope that this can be ready for use by the beginning of 1983. A proposal and request for funds will shortly be put to the Public Works Sub-Committee of the Finance Committee of this Council.

Work on the Fo Tan Station is due to start in January 1983 and to be completed by July 1984. This work will not interrupt services.

MR. CHEUNG YAN-LUNG:—*Sir, will the appropriate authority consider providing a half-way halt between Tai Po and Fanling to serve the needs of the newly created communities such as at Hong Lok Yuen, north of the established communities at Lam Chuen Valley or Tai Hang?*

SECRETARY FOR TRANSPORT:—Yes, Sir.

Co-operative Housing Societies

7. MR. SO asked in Cantonese:—

請問由政府公務員組成的建屋合作社，有多少已將政府貸款全部清還，又政府可否考慮，准許這些合作社將樓宇出售或重行發展？

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

How many Co-operative Housing Societies formed by civil servants have fully repaid their Government loans and will Government consider allowing such societies to sell or re-develop their properties?

SECRETARY FOR THE CIVIL SERVICE:—Sir, of a total of 238 Government Cooperative Housing Societies, 93 have fully repaid their loans. As regards the second part of the question, I am at this moment considering whether the Government should allow these societies to assign or redevelop their properties, and if so on what basis.

MR. SO asked in Cantonese:—

銓叙司於一九七九年二月十四日之立法局會議席上，就同類的問題予以類似的答覆，但當時只有六個合作社將全部貸款還清，今日經已有九十三個，請問銓叙司今次的考慮結果何時可以通知本局的財務委員會，同時將其公佈呢？

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

The Secretary for the Civil Service gave a reply on 14 February 1979 to a similar question that at that time there were only six Co-operative Societies which had fully repaid their loans. I am glad that to-day the number has risen to 93. May I ask the secretary for the Civil Service when his consideration will come to fruition and when he will be ready to announce his decision?

SECRETARY FOR THE CIVIL SERVICE:—Sir, the decision on this will be taken by Executive Council in due course. The reason why this has taken longer perhaps than I had hoped is that during the last two years resources have had to be devoted to the preparation and introduction of the Home Purchase Scheme for civil servants. Indeed, as part of that scheme, we did consider some of the problems relating to Co-operatives and decided that they would have to be dealt with separately, and this we are now doing. I would like to take this opportunity of saying that the central question to be resolved here is the extent to which future assignment or re-development of these co-operative housing schemes should take account of the subsidy which they have received in the past in the form of a preferential land grant at one-third of full market value, together with extremely low interest rate building loans. It will be for Executive Council to take a decision on this question. After that I would propose to go to the Staff Side of the Senior Civil Service Council and also to the Co-operatives themselves with a consultative document.

Temporary industrial areas

8. MR. WONG PO-YAN asked:—*Will Government make a statement on the current situation and its policy regarding temporary industrial areas; in particular—*

- (a) how many workshops are being accommodated;*
- (b) what is the average size of the workshops;*
- (c) what is the anticipated demand; and*
- (d) whether there are plans to clear or expand such areas?*

SECRETARY FOR HOUSING:—Sir, there are 181 separate industrial undertakings in four existing temporary industrial areas. The average size is approximately 63 square metres.

Temporary industrial areas were established about three years ago for the reprovisioning of factories displaced by development clearances as an interim measure pending the building by the Housing Authority of additional flatted factories.

From this year onwards there will be a good supply of Housing Authority flatted factory units available in Kowloon and the major new towns to cater for this demand.

The only anticipated demand for temporary industrial area space is in Aberdeen where it will be necessary to reprovision in the Po Chong Wan temporary industrial area some 25 marine engine repair workshops, which provide an essential service to the port, and which have to be cleared for the Aberdeen harbour reclamation project. These workshops will eventually move to a new flatted factory which is to be built on Ap Lei Chau, and which will include accommodation especially designed for these specialized workshops, in early 1986.

The remaining three temporary industrial areas will be cleared this year, and the factories re-accommodated in nearby Housing Authority flatted factory buildings.

Highways maintenance works and traffic

9. MR. SO asked in Cantonese:—

政府是否會採取積極措施，加速完成道路維修工程，及在掘開路面以敷設及修理各類地下喉管及電線等方面，加強調協工作，藉以減少道路擠塞情況？

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

Will Government reduce road congestion by taking positive steps to expedite road maintenance and repair works and by better co-ordinating road openings for the laying and servicing of underground mains, pipes, cables, etc.?

SECRETARY FOR LANDS AND WORKS:—Sir, highways maintenance works have largely been re-scheduled to off-peak hours to avoid conflict with traffic. Night working is also adopted on some trunk roads where traffic congestion is prevalent throughout normal working hours and where no residential areas will be disturbed by the noise of the operations.

In addition, the introduction of new plant such as road planers and asphalt pavers has allowed a higher degree of mechanization and has speeded up the process of re-surfacing and other preventive maintenance.

Requests for road openings for the laying and servicing of underground cables and pipes are processed at monthly meetings held in the three Highways Office districts of Hong Kong, Kowloon and the New Territories. Whenever possible the requirements of the various utility organizations are co-ordinated to reduce the number of openings to a minimum and to determine the conditions for traffic diversions and the working programmes for trench works.

MR. SO asked in Cantonese:—

請問維修路面在非繁忙的時間進行，以避免交通阻塞這個原則，是否適用於在道路油白界線、箭咀及其他交通符號方面呢？

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

Sir, may I ask whether maintenance works at off-peak hours to avoid conflict with traffic is the principle adaptable to the painting of lane dividers and traffic lights?

SECRETARY FOR LANDS AND WORKS:—Yes, Sir.

Vacancies in special classes in aided schools

10. MR. CHAN KAM-CHUEN asked:—*How many vacancies are there currently in special classes in aided schools and what action is being taken by Government to fill these vacancies?*

DIRECTOR OF EDUCATION:—Sir, there are 1 460 vacancies in special classes in aided schools and the Education Department has taken a number of positive steps to try to fill them.

A group testing programme conducted annually identifies children requiring special education provision, and these children are referred to schools where there are vacancies in special classes.

Meetings are held with heads of ordinary schools to let them know which schools in their immediate vicinity have vacancies in special classes for children with special needs.

The parents of handicapped children are given individual counselling to help them understand the special needs of their children and there is regular publicity in the form of pamphlets and leaflets distributed from City and New Territories District Offices, other Government Offices, and Special Education Centres explaining the special facilities available for children with learning difficulties.

The Department has concluded that a fresh approach to this problem of vacancies is necessary, and as a result of a comprehensive survey last year has compiled a number of recommendations for reorganizing special and resource classes. A paper on this subject will be presented to the Rehabilitation Development Co-ordinating Committee at its next meeting on 7 June 1982.

REVD. JOYCE M. BENNETT:—*Sir, how many ordinary secondary schools have been approached say in the Kwun Tong area to ask how many of their slower learning children would like to be transferred to such classes for slow learners?*

DIRECTOR OF EDUCATION:—*Sir, I am told that a number of schools in the Kwun Tong area and in Kowloon City have been approached with specific reference to vacancies that exist in Miss BENNETT's own school. Unfortunately, the clientele have turned out to be male and have therefore not been referred to Miss BENNETT (laughter).*

Transport and other district facilities for Tai Po and the Fanling/Shek Wu Hui areas

11. MR. CHEUNG YAN-LUNG asked:—*In view of the projected population growth in Tai Po and the Fanling/Shek Wu Hui areas, will Government state whether adequate planning and provision has been made to ensure the timely completion of facilities such as:—*

(a) trunk roads;

(b) electric train services; and

(c) public bus routes and depots;

to meet the anticipated needs of these major growth areas?

REGIONAL SECRETARY (NEW TERRITORIES):—*Sir, in the planning and provision of transport and other district facilities for the Tai Po and the Fanling/Shek Wu Hui areas due regard has been given to the projected population growth.*

To take the specific items mentioned by Mr. CHEUNG, Tai Po and Fanling/Shek Wu Hui will be linked to Sha Tin in the south and Yuen Long in the west by a six-lane trunk road, part of the New Territories Circular Road: work on the section between Sha Tin and Tai Po has begun with work on the remaining section due to start later this year. The whole road is expected to be completed by the end of 1984. The trunk road is complemented by a series of secondary distributor roads in the area.

Separately, work on the double-tracking and electrification of the Kowloon-Canton Railway is continuing. It is expected that *electrified train services* will be extended to Tai Po in Spring 1983 and to Fanling/Shek Wu Hui in June/July of that year. Train frequencies will be four per hour off peak and eight per hour during busy periods: the trains will be able to accommodate some 20 000 people per hour and capacity can be increased to double this. The railway will operate for 16 hours a day, i.e. 320 000 people can make use of the services each day.

The New Town Development Plans for Tai Po and Fanling/Shek Wu Hui make provision for roads, bus termini and depots to allow for the efficient operation of public bus services. The proposals regarding *bus routes* in these

development areas are contained in the route development programme which has been drawn up and which the District Boards will have the opportunity to comment on.

The existing 11 routes in the areas have a vehicle allocation of 59 double-deck and 34 single-deck buses. The latter are being replaced by double-deckers and frequencies are being increased.

56 net additional double-deckers will be allocated during the second half of this year, a further 15 in 1983 and 13 in 1984. Account has been taken of all major housing developments due for completion in this period. I am also pleased to say that a programme to provide shelters at bus stops, both existing and planned has been agreed.

Confrontation between Police and citizens seeking to take the law into their own hands

12. MR. CHARLES YEUNG asked:—*Will Government make a statement on—*

- (a) *the cause and underlying reasons for the recent confrontation involving the Police and a group of citizens who sought to take the law into their own hands when a suspected criminal was apprehended by them; and*
- (b) *the measures Government is taking to discourage the recurrence of such incidents?*

SECRETARY FOR SECURITY:—Sir, before answering this question I should like to ask Mr. YEUNG whether he is referring to an incident in Ngau Chi Wan Village on the evening of 3 May?

MR. CHARLES YEUNG:—That was one of the incidents.

SECRETARY FOR SECURITY:—If that is the case, Sir, I will reply with reference to that incident and that incident only.

On 3 May in response to a hue and cry, Police officers arrested a suspected robber. Subsequently they had to protect him from a hostile crowd of villagers.

Police investigations indicate that the arrested suspect was probably known to some of the villagers as a person charged and released on bail earlier on the same day in connection with another charge of burglary. This knowledge may have sparked off the incident. Underlying reasons may have been—

- (a) a high local crime rate in the first quarter of 1981-82. 19 robberies, 22 burglaries and one case of snatching have been reported in the area of Ngau Chi Wan Village; this represents about 9% of all robberies and 10% of all burglaries reported in Wong Tai Sin Sub-division.
- (b) increased local population: recent squatter development around the village may have provided additional opportunities for criminal activities. Newly

arrived residents of these squatter areas lacking understanding of Hong Kong's laws and system of justice, or longer term residents exasperated at the incidence of local crime may have sought spontaneously to take the law into their own hands. And in this respect it is relevant that long-term residents in the area are estimated to total about 2 500 whereas there are a further 4 000 who are regarded as more recent arrivals.

Steps are being taken to discourage the recurrence of such disorderly incidents. The Police maintain beat patrols in the area over a full 24 hour period augmented by C.I.D., P.T.U. and auxiliary police patrols whenever operational commitments permit. Good relations are maintained between the various Mutual Aid and Village Committees, the Police Community Relations Office and the City District Office of Wong Tai Sin; and efforts to foster improved understanding between residents and the Police will continue through these established channels.

Additionally as Members may be aware, measures, are being adopted on an experimental basis to provide for short-term environmental improvements in squatter areas. The provision of utilities, street lighting and adequate access routes should improve the general security and orderliness of these areas and in turn give their residents a better sense of physical security. Again, in this respect, arrangements are in hand and work is expected to start in June or July to effect improvements in this particular squatter area.

MR. CHARLES YEUNG:—*Sir, may I enquire whether those citizens involved in the alleged fact of taking the law into their own hands been organized in the form of district or village institutions or other set-ups?*

SECRETARY FOR SECURITY:—May I ask the honourable Member to repeat his question?

MR. CHARLES YEUNG:—*Are those citizens involved members of organized institutions such as mutual aid associations or village patrol units etc.?*

SECRETARY FOR SECURITY:—I shall have to reply to the honourable Member in writing when I understand his question. When he says those citizens involved does he mean those citizens who were arrested in the course of the incident or those persons who attempted to release the suspect?

You subsequently raised with me whether the term "rural committee" was correct in this case. I am advised that Ngau Chi Wan village dates back to the 18th century and that it has had a rural committee for very many years.

MR. CHARLES YEUNG:—*Sir, may I explain that what I mean by citizens involved is citizens involved in the alleged incident of taking the law into their own hands to*

deal with the suspected criminal. I don't know whether my question is comprehensible to the Secretary.

SECRETARY FOR SECURITY:—Sir, I will have an enquiry made as to the relationships between those who were involved and the various Mutual Aid Committees etc. in this area.

(The following written reply was provided subsequently.)

Following enquiries with the Commissioner of Police and City District Commissioner Wong Tai Sin I am informed that it is not possible to show conclusively that those who took part had any connection with the Ngau Chi Wan Rural Committee and its patrol teams.

REVD. JOYCE M. BENNETT:—*Sir, could we be advised on the nearest Police post or Neighbourhood Police Unit or Police Station to this area of Ngau Chi Wan?*

SECRETARY FOR SECURITY:—There were in fact four Police constables on duty who attended the scene of the crime within minutes of the particular offence.

(The following written reply was provided subsequently.)

There are three Neighbourhood Police Units in close proximity—at Choi Hung, Ping Shek and Choi Wan all within three to six hundred yards of the village.

Use of public pavements by building and public utility contractors

13. MR. CHAN KAM-CHUEN asked:—*What rules govern the use of public pavements by building and public utility contractors and how are these rules enforced by the authorities?*

SECRETARY FOR LANDS AND WORKS:—Sir, requests for permission to erect hoardings and covered walkways on public pavements are submitted together with plans to the Building Authority. If the Building Authority is satisfied that the proposals are adequate to ensure pedestrian safety and convenience a permit is issued. Registered contractors are required to erect such hoardings in strict accordance with the approved plans and to maintain them in good repair. Spot checks are made by Buildings Ordinance Office staff to ensure that the hoardings are properly maintained. Failure to comply with any requirement would result in the Building Authority carrying out the necessary work and recovering the cost from the defaulter.

Requests by public utility companies for permission to lay service cables and pipes in trenches excavated in public pavements and footpaths are submitted to

the Highways Office giving details of the nature and likely duration of the works. Each permit issued by the Highways Office contains stringent conditions covering the method of excavation, proper guarding and lighting, necessary pedestrian and vehicular traffic diversions and the reinstatement of pavement surfaces. All such excavation works are inspected on a weekly basis by Highways Office technical staff. Contravention of the stated conditions would result in cancellation of the permit and possible prosecution.

The trucking industry

14. MR. STEPHEN CHEONG asked:—*In the context of developing an overall Transport Policy will Government state how the needs of Industry will be taken into consideration especially with regard to the movement of freight by road?*

SECRETARY FOR TRANSPORT:—Sir, Government's overall transport policy is based on the 1979 White Paper—'Keeping Hong Kong Moving'. This recognized that goods vehicles play a crucial economic role, but foresaw the probability that their rate of growth would have to be reduced eventually because of their contribution to road congestion. On 5 May in this Council I made it clear that the proposed restraints on the growth of private vehicles aim to preserve the mobility both of public transport and of goods vehicles essential to the economy.

There are now about 65 000 goods vehicles in Hong Kong, that is, one-fifth of all vehicles on our roads. This is a very high proportion by international standards, but there are good reasons why Hong Kong should be unusual in this respect. The rate of increase has exceeded 11% annually over the last five years, compared with over 13% for private vehicles. This can, I think, be taken crudely to mean that the industry is thriving.

However, as I said on 5 May, continued growth at this rate cannot be uncritically accepted and the time has come for an evaluation of the trucking industry to ensure optimum efficiency both as regards their use of roads and the needs of industry.

There are several ways in which the needs of the industry are ascertained or made known to Government; for example, the Transport Department has regular meetings with the Goods Vehicle Fleet Owners Association and the Federation of Hong Kong Industries. There is the recently created Container Port Executive Committee, on which both the Secretary for Economic Services and I are represented. There is also the Transport Advisory Committee, as Mr. CHEUNG knows first-hand; and relevant papers and minutes of that Committee are forwarded to the Director of Trade, Industry and Customs who has a standing invitation to attend or send a representative if he wishes to join in the discussion of any particular matter.

MR. STEPHEN CHEONG:—*Sir, is it the intention of the Government to commission consultants to evaluate the trucking industry as mentioned?*

SECRETARY FOR TRANSPORT:—Yes, Sir, I think I mentioned this in the last sitting of Council. Such a consultancy is being defined now between the Secretary for Economic Services and myself and we will have to go outside for it—it's rather a specialized area. Our target is to get it done within 12 months.

MR. LO:—*As a matter of interest, Sir, can I be told how often, if at all, has the Director of Trade and Industry attended Transport Advisory Committee meetings?*

SECRETARY FOR TRANSPORT:—Sir, as you know, I am a recently joined member of that Committee. Mr. LO has been on it somewhat longer than I have. I imagine that in asking the question he knows the answer is: no, I don't think he has attended.

Robberies involving real or imitation firearms

15. DR. HO asked:—*Will Government say, for the last 12 months compared with the previous 12-month period,*

- (a) how many cases of robbery were reported involving the use of real or imitation firearms;*
- (b) what is the detection rate in such cases; and*
- (c) whether there has been any change in the level of sentence imposed?*

SECRETARY FOR SECURITY:—Sir,

Cases

(a) In the 12 month period ending 30 April there were 280 reported cases of robberies involving real imitation firearms in 1982—compared with 212 such cases in 1981.

In this context a firearm is defined as a weapon capable of discharging a bullet or projectile, and includes commercially manufactured firearms, illegally converted starting pistols and toys, and home-made weapons. In the two periods under review in 1982 and 1981, 29 and 30 cases respectively are known to have involved the use of real firearms, either because the weapon was seized or because there is evidence that a bullet or projectile had been discharged.

Detection Rates

(b) In the year ending 30 April 1982, 27 cases of robbery involving real or imitation firearms were detected by the Police, (a detection rate of 9.6%) but of these, 11 cases were detected in which real firearms were used (a rate of 40%). For the previous 12 months, the comparable figures were 35 detected cases involving real or imitation firearms (a rate of 16.5%) of which 12 were real firearms (a rate of 40%).

Sentences

(c) The sentences imposed by the High Court upon those convicted of armed robbery averaged generally between seven and eight years' imprisonment during the year 1980-81; and increased during 1981-82 to a level of ten years' imprisonment or more.

DR. HO:—*Sir, is Government satisfied with the detection rate of 16.5% as mentioned in paragraph (b) and how is this rate compared with that in the neighbouring countries in Asia?*

SECRETARY FOR SECURITY:—Obviously, Sir, we should like to be able to detect all crime. Therefore no-one can be satisfied with a detection rate of this proportion. So the answer to the first question is 'no'. The answer to the second question is that I will let the honourable Member have the information in writing if it is available and whether or not it is relevant.

(The following written reply was provided subsequently.)

On further enquiry I find that specific figures are not available within the Region. I am also advised that because agencies adopt different counting methods to classify crime statistics it is difficult to arrive at any reliable conclusions from such comparisons. In these circumstances I am not able to take the matter further.

MISS DUNN:—*Sir, is the Government concerned about the increase in the number of robberies involving firearms i.e. from 212 cases to 280 cases and what are the reasons for this increase?*

SECRETARY FOR SECURITY:—The Commissioner of Police has expressed himself as being concerned, as we must be, about the increase in violent crime. As to the reasons, it is, I am afraid, that people are resorting to an increasing use of firearms in the carrying out of crime. Firearms can be purchased relatively easily in some places and, with the very large numbers of people entering Hong Kong, it is possible that they can import them without them being ascertained by the authorities. It is perhaps relevant that some steps are being taken to install devices to attempt to reduce the opportunities for persons bringing in firearms remaining undetected.

Moving pavements to connect Central and Mid-levels areas

16. MR. STEPHEN CHEONG asked:—*Will Government commission consultants to study the possible use of moving pavements as a means of linking Central and Mid-levels areas?*

SECRETARY FOR LANDS AND WORKS:—Sir, an item has been included in the Public Works Programme for the engagement of Consultants to investigate the feasibility of alternative passenger moving systems to connect the Mid-levels areas with the Central District. The possible alternatives include a moving belt system as suggested by Mr. CHEONG. It is intended that consultants will be appointed in the near future with a view to completing the study by September 1983.

Statements

Hong Kong Export Credit Insurance Corporation—1980-81 Annual Report

SECRETARY FOR ECONOMIC SERVICES:—Sir, tabled today is the Report of the Hong Kong Export Credit Insurance Corporation for 1980-81 and its accounts, in accordance with section 28 of the Hong Kong Export Credit Insurance Corporation Ordinance.

Established in 1966, the Corporation functions as Hong Kong's official export insurer, providing protection for manufacturers and exporters of Hong Kong against the risks of their not being paid for the goods and services they supply to overseas clients. While the Government has provided the Corporation with capital now standing at \$20 million, and with a guarantee of its liabilities now up to \$2,500 million, the Corporation operates on a commercial basis and is required to pay its own way, deriving its income from premium payable by its policy holders and also from investment returns.

During the year 1980-81, the Corporation made steady progress. It achieved an insured turnover of \$3,507 million, a slight increase over the previous year. Premium income increased by 12% to reach \$18 million and the small underwriting deficit for 1979-80 was turned into a small surplus. The Corporation serviced 1 113 policies during the year and this number has since increased to 1 209. With this increase in business, liability now stands at \$2,358 million compared with the Government's guarantee of \$2,500 million. Later this afternoon, the Financial Secretary will move that the Government's guarantee be increased to \$3,000 million so as to allow adequate room for further growth.

The Corporations insured exports formed about 5% of Hong Kong's total exports and consistent with the characteristics of our exports, textiles, mainly in the form of clothing, was by far the most significant product the Corporation covered. In terms of value, textiles represented 42% of exports insured. The E.E.C., with nearly \$2,000 million of insured exports, remained the largest exposure area. The United Kingdom, despite an 8% decrease in insured sales caused by the unfavourable economic climate there, still remained the largest single market covered, with 30% of the total. Insured exports to North America have also grown, by 13% to reach \$443 million. there were also increases to Central and South America, Africa and the Middle East.

Risks, of course, are inherent in the business of insurance. For a number of years, inevitably with the growth in business, there have been increasing claims payable. In 1980-81, close to \$13 million was required to meet and to provide for claims. This figure represents 75% of gross premium income and was an improvement over 84% for the previous year. There are two main causes of claims: the commercial one, that is an overseas buyer becomes bankrupt, defaults on payment or repudiate his contract; and the political or economic one involving a change in environment in the buyer's country. During 1980-81, 61% of claims paid were derived from commercial causes.

Since 1975-76, the value of exports insured by the Corporation has increased by over 120%. The Corporation has now accumulated an underwriting surplus of \$6.1 million. The size of this surplus indicates that the Corporation has been able to strike a prudent balance between expansion of business and exposure to risks. It is towards this end that the Corporation, its Commissioner and staff have been endeavouring, and will continue to endeavour.

1981 Annual Report by the Commissioner of the Independent Commission Against Corruption

MR. LOBO:—Sir, I refer to the Annual Report by the Commissioner of the Independent Commission Against Corruption for 1981 which is tabled today in this Council.

The report describes a very active year in the eighth year of the Independent Commission's existence.

The Commissioner emphasizes that the dark days of large-scale vicious corruption are no longer with us. The climate has changed markedly and the majority of Hong Kong people do not have to accept corruption as a day-to-day occurrence.

But corruption is still much in evidence, as shown by the total number of reports received about corruption during 1981, the highest annual figure since 1976. The number of prosecutions conducted in 1981 was 509. This is the highest annual figure since the Commission was established. Similarly the number of persons convicted in the Courts for corruption or allied offences was a total of 358—representing a record figure—the highest number so far convicted in any one year.

Although it can be argued that statistics do not provide a true index of the state of corruption, and of the success of the forces combating it, the feedback obtained from the people of Hong Kong during nearly 10 000 meetings and discussions organized by the Community Relations Department, was certainly reassuring. During the year the Community Relations Department made special efforts to get close to as many young people as possible.

The support of the people of Hong Kong is essential for the success of the I.C.A.C.'s effort. In 1981 about two-thirds of all the people who reported corruption did so by giving their names and addresses. It takes courage to make reports about corruption and the Commissioner feels that this willingness is a significant demonstration of public confidence.

The Corruption Prevention Department put in another solid year's work and although its effectiveness is not heralded by anything spectacular, this in no way detracts from the quiet persisting influence it has for good. Co-operation with, and mutual understanding of, Government departments and other clients is the basis of the Corruption Prevention Department's work.

Finally, I am sure honourable Members will wish to endorse the thanks expressed in the Report for the very helpful manner in which Heads of Government departments and their staff have worked with I.C.A.C. during the year, and for the continuing valuable help and advice given by the Unofficial Members of the various Advisory Committees of the I.C.A.C.

Government business

Motions

HONG KONG EXPORT CREDIT INSURANCE CORPORATION ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—That the contingent liability of the Hong Kong Export Credit Insurance Corporation under contracts of insurance shall not at any time exceed the sum of 3,000 million dollars.

He said:—Sir, in May 1980 the maximum contingent liability of the Export Credit Insurance Corporation was increased by \$500 million to \$2,500 million. In the past two years the Corporation's liability under contracts of insurance has risen by \$424 million, and at the end of April 1982 stood at \$2,358 million.

The contingent liabilities of the Corporation are increasing at the rate of approximately \$50 million per quarter, but the rate of increase could be higher if, for example, the Corporation issues large medium-term policies. In the circumstances the Corporation's Advisory Board considers that the existing statutory limit may be reached shortly and has advised that the maximum contingent liability should be increased to \$3,000 million. Failure to raise the limit could result in the Corporation having to turn away further business.

I should stress that this maximum liability is a theoretical amount, never likely to be at risk at any one time.

Sir, I beg to move.

Question put and agreed to.

MASS TRANSIT RAILWAY CORPORATION ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—Under section 12(1) of the Mass Transit Railway Corporation Ordinance that the Schedule to the Resolution of the Legislative Council published as Legal Notice No. 242 of 1975 in the *Gazette* on 31 October 1975 as amended from time to time be further amended by adding as items 42, 43, 44 and 45 the following—

- | | |
|---|--|
| ‘42. Supplier’s Credit facilities to finance Contracts placed in Japan | Hong Kong Dollars Four Hundred and Twenty Million (H.K.\$420,000,000) and such amounts as may become payable in respect of interest and other charges |
| 43. Export Credits arranged by Lazard Brothers & Co. Ltd. to finance contracts placed in U.K. | Hong Kong Dollars Two Hundred Million (H.K.\$200,000,000) and such amounts as may become payable in respect of interest and other charges including deferred interest provided that the liability of the Government in respect of deferred interest shall be limited to Hong Kong Dollars Forty Eight Million (H.K.\$48,000,000) |
| 44. Export Credit arranged by Hill Samuel & Co. Ltd. to finance a contract placed in U.K. | Hong Kong Dollars Thirty Million (H.K.\$30,000,000) and such amounts as may become payable in respect of interest and other charges including deferred interest provided that the liability of the Government in respect of deferred interest shall be limited to Hong Kong Dollars Eight Million (H.K.\$8,000,000) |
| 45. Export Credit to finance a contract placed in France | Hong Kong Dollars Sixty Nine Million (H.K.\$69,000,000) and such amounts as may become payable in respect of interest and other charges including deferred interest provided that the liability of the Government in respect of deferred interest shall be limited to Hong Kong Dollars Sixteen Million (H.K.\$16,000,000)’. |

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

Section 12 of the Mass Transit Railway Corporation Ordinance requires the authority of the Legislative Council for the Financial Secretary, on behalf of the Government, to grant guarantees in respect of the repayment of loans and other indebtedness incurred by the Corporation.

Authority is now sought for a Government guarantee to cover repayment of a loan of H.K.\$719 million and such amount as may become payable in respect of interest and other charges.

The sum borrowed under this guarantee will be used to finance the Island Line contracts for the construction of the tunnels from Sheung Wan to Admiralty and from Sai Wan Ho to Aldrich Bay; the stations at Shau Kei Wan and Sai Wan Ho; and the concourses of Wan Chai, Causeway Bay East, Tin Hau and Sai Wan Ho Stations.

If Members approve this motion, the Government's total guarantee commitment in respect of outstanding loans available to the Mass Transit Railway Corporation will be H.K.\$8,037 million. This contingent liability is provided for within our reserves.

Sir, I beg to move.

Question put and agreed to.

EMPLOYMENT ORDINANCE

THE COMMISSIONER FOR LABOUR moved the following motion:—That the level of wages specified in section 4(2)(a) and 31G(2) of the Employment Ordinance be amended by deleting '\$6,000' wherever it occurs and substituting in each case the following—

'\$7,500'.

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

The current wage ceiling for non-manual employees in the Employment Ordinance is \$6,000 per month. At the last revision of this wage ceiling in January 1981, I informed Council that the Labour Advisory Board had advised that this wage ceiling should be reviewed every year and that action should be taken to revise it if there was a clear need to do so.

A review was made in February 1982. It indicated that the monthly wage level of \$6,000 in September 1980 would be equivalent to around \$7,500 in March 1982. It is therefore proposed to raise the wage ceiling for non-manual employees in the Employment Ordinance from \$6,000 to \$7,500. It is estimated

that thereafter, about 40 300 employees, amounting to approximately 2% of the total number, will remain outside the scope of the Employment Ordinance. This is similar to the position when this ceiling was last revised.

Sir, I beg to move.

Question put and agreed to.

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE

THE SECRETARY FOR HOUSING moved the following motion:—That section 10(1) of the Landlord and Tenant (Consolidation) Ordinance be amended—

- (a) in paragraph (a), by deleting ‘8’ and substituting the following—
‘12’; and
- (b) in paragraph (b), by deleting ‘18’ and substituting the following—
‘21’.

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

Under section 10(8) of the Landlord and Tenant (Consolidation) Ordinance this Council may by resolution vary the permitted rents payable for prewar premises subject to rent controls under Part I of the Ordinance.

This motion seeks to increase the permitted rents of:

- (a) prewar domestic premises—from the existing level of 8 times the standard rent (that is the rent passing in 1941) to 12 times the standard rent; and
- (b) prewar business premises—from the existing level of 18 times the standard rent to 27 times the standard rent

subject, in accordance with section 9A of the Ordinance, to the permitted rent not exceeding the fair market rent for the premises.

In November 1978, Government agreed to pursue a policy of allowing annual increases in the permitted rents of prewar premises in order to mitigate the restrictive nature of these static rent controls. In particular, it is the declared policy of this Council to decontrol prewar business premises on 1 July 1984. This is already provided under Part I of the Ordinance.

Since 1978 the number of units in prewar buildings has decreased steadily from 14 400 to about 9 000 now, or by an average rate of 1 350 each year. Of the 9 000 still in existence only about 5 000 (55%) are effectively subject to the Part I Controls. The balance (4 000 units) is either occupied by owners, specifically excluded from controls or let at rents at or approaching market levels. The proposals in this resolution will have little effect on the rents payable by tenants of premises which are not effectively subject to controls.

Despite repeated increases, average permitted rents of business premises, subject to the Part I controls, still stand at only about 26% of fair market rents,

and those of domestic premises at about 18% of fair market rents. This is due to the very low base on which rent increases are calculated and to substantially increased market rental levels over the past two years. Unless further increases are allowed, the gap between controlled rents and market rents will widen.

Domestic Premises

It is recommended that the permitted rent of domestic premises should be 12 times the standard rent. For a typical upper floor tenement unit, the proposal will result in an increase of about \$170 per month, bringing the rent to about \$500, or 26% of its market rent. About 3 500 domestic units in prewar buildings are likely to be affected by this proposal.

Business Premises

In order to bring rents of business premises closer to market levels by 1984, it is recommended that the permitted rent should be 27 times the standard rent. For a typical commercial ground tenement floor, the increase will be about \$700 per month, bringing the rent to about \$2,100, or 40% of its fair market rent. About 1 500 business units are likely to be affected by this proposal.

The increases are small in cash terms but represent another step in Government's policy of loosening these rigid and outdated controls which have been in force for over 30 years. In the case of public assistance recipients, any increase in rent will be offset by increases in rent allowances up to the permitted maxima.

If the proposals are approved by this Council, landlords will be required to serve at least one month's notice of the increased rents to their tenants.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

ESTATE DUTY (AMENDMENT) BILL 1982

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1982

SOCIETIES (AMENDMENT) BILL 1982

SIR MURRAY MACLEHOSE TRUST FUND BILL 1982

BUILDINGS (AMENDMENT) BILL 1982

INSURANCE COMPANIES BILL 1982

DUTIABLE COMMODITIES (AMENDMENT) BILL 1982

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

Second reading of bills

ESTATE DUTY (AMENDMENT) BILL 1982

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

He said:—Sir, I move the second reading of the Estate Duty (Amendment) Bill 1982.

This Bill seeks to implement proposals made and fully explained in paragraphs 99 to 101 of this year’s budget speech to raise the exemption limit for estate duty; to revise the schedule of rates for estate duty in order to reduce the initial impact of the duty which has become more significant in recent years due to successive increases in exemption limits; and to grant relief from estate duty on the matrimonial home of the deceased in Hong Kong which, at the time of death, was used by him exclusively for residential purposes.

The cost to the revenue of these proposals in a full year is estimated at \$52 million.

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 FINANCIAL SECRETARY.

Question put and agreed to.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1982

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

He said:—Sir, I move the second reading of the Inland Revenue (Amendment) (No. 2) Bill 1982.

This Bill seeks to give legislative effect to proposals made and detailed in paragraphs 81 to 95 in this year’s budget speech, to provide for tax exemptions on certain categories of foreign currency deposits placed with financial institutions carrying on business in Hong Kong; to adjust business taxation by increasing the initial allowance in respect of plant and machinery and by altering the basis on which the industrial buildings allowance is calculated; and to increase personal allowances to reduce the liability of most personal

taxpayers, while taking some existing and potential taxpayers out of the tax net. The total cost to the revenue of these proposals in a full ordinary year is estimated at \$930 million at present levels of incomes and profits.

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

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

Question put and agreed to.

SOCIETIES (AMENDMENT) BILL 1982

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

He said:—Sir, I move the second reading of the Societies (Amendment) Bill 1982.

Triad infiltration of some of the 625 or so known Martial Arts Associations has, for some time in Hong Kong, been causing concern to both the Police and to the general public. The object of this Bill, once enacted, is to amend the present Societies Ordinance within which the control of most of these associations falls. It is introduced with the intention of increasing the powers of control of the Registrar of Societies over the activities of societies, both those registered and those exempted from registration at present under the Societies Ordinance.

It is, of course, well known to honourable Members that the martial arts play a most honourable and deeply rooted role in Chinese tradition and history, and as such are today a very acceptable recreational and widely used sporting activity in Hong Kong. I should emphasize, therefore, it is in no way at all the intention of this Bill to interfere with the continued practice of martial arts for such recreation, nor to place controls upon reputable societies using their objects for recreation and sporting activity. But it has been shown that there has been a continued and increasing attempt by Triad Societies, whose history is also deeply rooted in the martial arts, to use such societies as a front for their own activities, namely the promotion of organized crime. A survey by the Police in 1980 showed that a substantial proportion of Martial Arts Associations, either the instructors or the organizers, had connections with triad related offences or with illegal societies, and in certain other cases, instructors or members or office bearers had other criminal convictions.

The present Societies Ordinance, although generally effective, has been found to be deficient in certain areas, particularly in preventing this use of martial arts associations by triad societies.

One example of the deficiency is the ability to evade the present Ordinance completely. Honourable Members will remember that a triad society used to be able to avoid control under the Societies Ordinance by registering as a company under the Companies Ordinance, so that it then fell within one of the specific exemptions to the need to register under the Societies Ordinance, and that this problem necessitated some years ago the introduction of the Companies (Prevention of Evasion of the Societies Ordinance) Ordinance (Chapter 312) which was effective in preventing this particular loophole.

However, no such legislation exists with respect to a Martial Arts Association of not more than 20 persons which registers under the Business Registration Ordinance as a registered business. The device used by certain triad associations is to register the office-bearers of such small societies as the 'business', and then treat the membership as clients of that 'business'. Accordingly it is possible for a small triad connected martial arts association to exempt itself entirely from control under the Societies Ordinance. In fact the Police survey in 1980 showed that of 625 or so known Martial Arts Associations, no less than 95 were registered as businesses under the Business Registration Ordinance. One of the principal objects of this Bill, therefore, is to remove that avoidance technique and it has been decided to do so by amending the Societies Ordinance rather than by introducing an Ordinance similar to the Companies (Prevention of Evasion of the Societies Ordinance) Ordinance.

The Bill also gives the Registrar of Societies (who is the Commissioner of Police) new powers so that he may control those Societies where undesirable criminal elements are office-bearers or members. This is effected by clauses 3, 5 and 6 of the Bill which empower the registrar to obtain particulars of the premises used by a Society, and to order it to keep a register of its members. He is also empowered either to refuse to register, to refuse to exempt from registration, or, in an appropriate case, to de-register a Society if he finds an office-bearer has been convicted of an offence of such seriousness as to render him unfit to hold office. Similarly he may de-register, for amongst other reasons, if on two or more occasions within a year, offences against the Dangerous Drugs Ordinance, or the Gambling Ordinance, crimes in connection with exploitation of females or other serious crimes are committed on Society premises, or if the premises are used for a triad initiation ceremony or rituals, or where more than ten members of the Society, or 10% of the membership, if it is less than that, have been convicted of arrestable offences within a period of twelve months. Various other grounds for de-registration are contained in clause 6 of the Bill to which I would refer Members for the details.

The Bill also seeks to increase the penalties for existing offences under the Ordinance. These have not been reviewed since 1964 and eroding cash values during that time illustrate the need to increase the penalties.

Lastly, Sir, I would point out that by clause 7, the present system under which some appeals go to the courts and some appeals go to the Governor in Council

have been rationalized so that all appeals under the Ordinance will now be taken by the Governor.

As the proposed legislation by necessity affects all societies reputable or disreputable, I want to take this opportunity to reassure reputable societies of all sorts that they have nothing whatsoever to fear, and that the purpose of the legislation is to control and regulate societies only where there is evidence available to the Commissioner of undesirable or criminal influence in the society.

Sir, if this Bill is enacted and passes into law, I believe the Registrar of Societies will be given an effective means of controlling what is an undesirable trend of infiltration of Martial Arts Associations by triad societies.

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

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

Question put and agreed to.

SIR MURRAY MACLEHOSE TRUST FUND BILL 1982

THE SECRETARY FOR HOME AFFAIRS moved the second reading of:—‘A bill to establish for the benefit of the people of Hong Kong a trust fund called the MacLehose Fund and to provide for the due administration of the fund and connected matters’.

He said:—Sir, I move the second reading the Sir Murray MACLEHOSE Trust Fund Bill 1982.

The purpose of this Bill is to set up a trust fund, as suggested by honourable Unofficial Members, to commemorate Sir Murray’s distinguished governorship over the past ten and a half years. The fund will be a perpetual one, established by public donation, under the trust of the Secretary for Home Affairs Incorporated.

In contrast to similar trust funds, this fund does not refer to any specific social area. This is because all social services are now so comprehensively covered by Government programmes that a charitable fund of this kind could not finance a significant additional service. Instead, Sir Murray thought it would have the greatest impact if it could assist worthy projects or activities which could not be financed in any other way. The object of the fund is therefore stated in the broadest terms—to be used for the benefit of the people of Hong Kong as the Governor of the day may *personally* decide.

The Commissioner of Inland Revenue has confirmed that a trust fund with this object is a charitable trust under the Inland Revenue Ordinance. It will, therefore, be exempted from tax, and donations to it are tax deductible under the provisions of that Ordinance. The Trust Fund will be included in the list of approved charitable bodies published every year under s. 88 of the Ordinance.

The provisions for administering the fund are modelled on similar trust funds, for example, Sir David Trench Fund. The explanatory note to the Bill explains the arrangements.

Sir Murray is appreciative of this kind gesture and has agreed to the use of his name in the title of this fund. He feels sure that the fund will be put to very good use by his successors.

I am happy to report that, as at to-day, a total of \$21.5 million has been pledged. All donations pledged will be paid either in one single instalment before December 1982 or in two equal instalments, the first by December 1982 and the second by December 1983.

Sir, I beg to move.

MR. LOBO:—Sir, in rising to support the Secretary for Home Affairs I would like to add, on behalf of my Unofficial Colleagues, that we believe a permanent fund of this nature is a most appropriate way to commemorate Sir Murray's distinguished term of office. Whilst U.M.E.L.C.O. was privileged to launch the idea, I would like to take this opportunity to acknowledge the generous support given to the Fund by its distinguished Fund Raising Committee and by the general public at large. With these remarks, Sir, I support the motion.

Question put and agreed to.

Bill read the second time.

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

BUILDINGS (AMENDMENT) BILL 1982

THE SECRETARY FOR LANDS AND WORKS moved the second reading of:—‘A bill to amend the Buildings Ordinance’.

He said:—Sir, I move that the Buildings (Amendment) Bill, 1982 be read a second time.

Building development in the Mid-levels area of Hong Kong Island is at present restricted by virtue of the Temporary Restriction of Building

Development (Mid-levels) Ordinance, which was enacted in May 1979, and which I shall refer to as the statutory moratorium. This statutory moratorium was enacted for a period up to 31 December 1981 for a detailed geotechnical study to be carried out to establish what restrictions and controls were needed for future building works in the Mid-levels. It was subsequently extended until 31 July 1982 to enable the present Bill to be prepared, together with subsidiary legislation.

I will not repeat the explanation of the provisions of the Bill given in the draftsman's Explanatory Memorandum nor the reasons for this legislation which were explained to this Council on 9 December 1981.

The amending legislation is designed to improve control of building operations in the Mid-levels area to safeguard the stability of the slopes. In particular, it enables the Building Authority to do the following things:—

- To impose requirements for ground investigation.
- To limit the amount of excavation during the carrying out of building works.
- To require that building works be carried out in a particular sequence.
- To enable due consideration to be given to the effect on ground stability of the foundation system adopted.
- To impose requirements for groundwater drainage works.
- To require buildings to be designed to resist landslip debris where the Building Authority considers it necessary.
- To require a performance review to show that the geotechnical design assumptions upon which the building works have been based are valid.

Clause 8 of the Bill concerns groundwater drainage works. Groundwater conditions have a most important effect on the stability of a slope. The Building Authority should therefore be able to require that for any new construction adequate drainage is provided to ensure that the slopes concerned have an adequate margin of safety. In some circumstances and in the interests of the stability of the neighbourhood the drainage works may need to extend into adjoining land, for example, by drilling some small diameter horizontal drains beneath the adjoining property. In order to safeguard the interests of owners of adjoining property into which such drainage works encroach, the clause provides for giving them notice, for the making of objections and for compensation for loss or damage.

Unrestricted bulk excavation for basements and cuttings generally lead to an excessive reduction in the support of a slope. So, to minimize the cumulative adverse effects in a series of adjoining sites on the stability of a hillside, a limit will be imposed on the permitted depth of bulk excavation. This will be done by amending the Building (Construction) Regulations to provide that bulk excavation is not to be carried out in the Mid-levels area below levels to be determined by the Building Authority.

Demolition and excavation works in the Mid-levels which may impair stability will need to be designed by engineers, and detailed plans for such works will have to be submitted by the authorized person to the Building Authority for approval. For this purpose a demolition works plan will be prescribed under the Building (Administration) Regulations.

Owners of lots within the scheduled area under the Bill but outside the area of the statutory moratorium will be subject to the new geotechnical controls provided for in the Bill and regulations. *Clause 13* of the Bill accordingly provides that plans for building works in the scheduled area not approved before the Ordinance comes into force, even if submitted for approval before then, are not to be approved unless they comply with the new requirements.

As the Bill and the amending regulations will constitute the whole package of legislation to enable the Building Authority to implement the proposed controls, it is intended that the Regulations should come into force at the same time as the Bill. And at the same time as the Bill comes into force, the statutory moratorium will be repealed.

Sir, I move that the debate be adjourned.

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

Question put and agreed to.

INSURANCE COMPANIES BILL 1982

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to regulate the carrying on of insurance business, to provide for the appointment of an Insurance Authority, to confer powers of authorization and intervention on the Insurance Authority in respect of insurers and to require insurers to furnish financial statements and other information to the Insurance Authority; and for matters incidental thereto or connected therewith’.

He said:—Sir, I move the second reading of the Insurance Companies Bill 1982.

Reasons for regulating insurance

The Government’s basic attitude towards consumer protection is that consumers must protect themselves. Only when circumstances are such that they clearly can *not* do so, does the Government intervene to assist them.

For some time now, the Government has accepted that holders of insurance policies fall into this latter category. Unlike most consumers, they are not buying something tangible for immediate delivery. They are paying for an advantage invisible at the time of purchase and for delivery at some time in the

future, in some instances beyond their own life time. What are for them fairly large sums of money may be involved. They need to be able to satisfy themselves that the companies with which they insure *are* likely to be in a position to deliver when the time comes. The only sensible way this end can be achieved is for the Government, to a certain extent, to regulate the industry. And the Government's obligations in this respect are increased by the fact that some policyholders take out policies because they are obliged to do so under Hong Kong law.

While the main argument for the Government regulating the insurance industry is to protect policyholders, there is a second reason for it. The Advisory Committee on Diversification noted as follows:

‘One area in which Hong Kong has been criticized and which would tend to limit its potential as an insurance and reinsurance centre is the relatively low level of regulation of the Hong Kong insurance market. Although a low level of government direction is considered desirable by potential participants, a certain level of prudential supervision is obviously necessary. Further, as prudential regulation in the field of banking, deposit-taking and the stock market has increased, it is feared that unscrupulous financial operators may be tempted to move into the insurance field.’

The Advisory Committee then recognized that the Government was working to the end that (paragraph 348 of the Report):

‘the regulation of the insurance business should be improved to the benefit of those insured and of reputable insurance companies without stifling competition and initiative in the insurance market.’

Accordingly the Committee recommend

‘that the Government bring forward its proposed legislation as soon as practical’.

Present position

There is of course some regulation already, in particular for fire, marine, life and motor insurance. But it is contained in piecemeal legislation. The requirements differ in respect of each type of insurance in a way that is no longer rational. The only common factor of significance is that under legislation Members enacted last year, all companies carrying on these types of insurance have to have a minimum paid up capital of \$5 million. Substantial areas of insurance (see Schedule 1 of the Bill) remain unregulated altogether.

Review of the legislation

So we decided we should take a fresh look at our insurance laws. We concluded that there was a need for *continuous prudential supervision* aimed at protecting policyholders in all types of insurance by preventing serious problems from occurring and by ensuring that, if it became necessary to wind up a company, policyholders' rights would be safeguarded. But, we also concluded, such supervision should *not* impose a heavy burden on individual companies,

particularly in relation to the form of the reports and information which they would have to supply in order for the continuous supervision to be effective. Nevertheless there would have to be some burden on what are well established and reputable insurance companies in order that we could get ourselves into a position where we could recognize the more dubious companies that constitute the real danger for policyholders.

In June 1977, the Registrar General established a Working Group of representatives from the insurance industry. In the following five years he constantly and in detail consulted the Working Group. The Bill now before Members reflects these consultations. Many of its proposals come directly from the Working Group itself. Nevertheless areas of difficulty remain. We have been informed that the Working Group was in unanimous agreement that there had been valuable and positive acceptance of many of the more important recommendations made by the Working Group on the industry's behalf; and that in the Working Group's opinion the proposed legislation was close to the point where it would be acceptable to the industry both within Hong Kong and internationally. The Working Group also considered that much had been achieved which could bring credit to Hong Kong's standing in international financial circles.

The Bill

Thus, although it is designed primarily to protect policyholders, the Bill now before this Council has a large measure of support from the insurance industry itself. I would like to pay particular tribute, in this context, to the members of the Working Group.

Its aims

The purpose of the Bill is:

- (a) to restrict the carrying on of insurance business to
 - (i) authorized companies,
 - (ii) Lloyd's, and
 - (iii) certain underwriters approved by the Governor in Council;
- (b) to fix the minimum financial standards required of insurance companies before they can be considered for authorization;
- (c) to improve the security of long term policyholders, and these are principally life policyholders;
- (d) to require all insurance companies to submit financial statements and other relevant information to the Insurance Authority on an annual basis;
- (e) to empower the Insurance Authority to intervene in the conduct of the business of insurance companies in certain circumstances; and
- (f) to provide that any person who the Insurance Authority considers not to be a fit and proper person to be associated with an authorized insurance company, will not acquire a position of influence in relation to such a company.

It is thus proposed that for the first time all types of insurance business be regulated (clause 3). Generally speaking, insurers will fall within the scope of the legislation if they are incorporated here, have a place of business here or are represented here by agents (clause 2(3)). All companies will require authorization if they are to be allowed to trade in or from Hong Kong (clause 6). They will have to make application to the Insurance Authority and satisfy him that they have met certain minimum standards (clause 8). Insurance is not a business which can be run on a shoe-string. All companies must be properly financed both in terms of capital and in terms of their overall financial position. With regard to capital, as part of the minimum standards it is proposed to maintain the existing requirement that companies should possess a minimum of \$5 million paid up capital or its equivalent. But on the suggestion of the Working Group, we are proposing higher standards *first* for companies writing 'statutory business', that is insurance which policyholders are required to have by law. For this type of business the minimum paid up capital has been doubled to \$10 million. *Second*, companies carrying on both general and long term business will also be required to have a paid up capital of \$10 million.

Capital is not inviolate. As time goes on it can be whittled away by unprofitable trading. The Bill (clause 10) continues therefore to require insurance companies to maintain solvency margins. But there are some changes from the present requirement of \$2 million. For general business it is proposed that the solvency margin should be based on a proportion of premium income but with a minimum of \$2 million for non-statutory business. For long term business (see again the First Schedule) the liabilities are usually much more clearly definable and the industry has argued that a margin increasing in absolute terms progressively with premium income is not so necessary as with general business where claims can fluctuate erratically. So for the time being it is proposed the solvency margin for long term business should remain at \$2 million regardless of premium income. But we will keep a close eye on how the provision works in practice.

There is one other authorization requirement to which I should draw the attention of Members. So far our insurance legislation has *not* concerned itself at all with the quality of management. But we are now proposing, again with the welcome and responsible support of the industry, to incorporate a provision that all directors, controllers and main agents of a company should be suitable for the job. If they are not, the Insurance Authority will not be able to authorize the company. And if the Authority finds at a later stage these people are unsuitable he will be able to take statutory action subject to safeguards which, I believe, will fully protect the individual against the incorrect or oppressive use of that power.

Controversial provisions

What I have just described is the guts of the legislation now proposed. The rest of the Bill is, I think, clearly described in the Explanatory Memorandum. But I

would like to consider now some of the provisions that we know are controversial.

Accounts (Part III of the Bill)

One of these is the requirements in respect of reporting. While the authorization process should ensure that only sound, well managed companies are allowed to enter the market, for there to be the continuous prudential supervision to which I have referred, the Insurance Authority will need regular financial information from insurers. It is proposed (clauses 17 and 18) that under normal circumstances such information be submitted annually in accordance with the requirements set out in the Third Schedule. This Third Schedule seeks more detailed information than is required at present. The reason is that experience both here and overseas has shown that simple accounts are insufficient to enable the standing of a company to be assessed adequately.

The theme of the opposition from a minority within the industry has been that the requirements we were developing were too onerous. In response, we have gone as far as we think we can to reduce the burden without seriously effecting the ability of the Insurance Authority to carry out his continuous supervision. For example, unlike insurance authorities elsewhere, our proposed legislation allows insurers a great deal of freedom in presentation so that the requirements can be satisfied at minimum cost. Most jurisdictions require that accounts be presented in a certain form and stipulate the currency, the accounting policies and often the method of valuation. We have not included such requirements in our Bill. It may well be in consequence that companies already preparing accounts for foreign supervisors or for their own internal use, will find that these will satisfy most if not all of our requirements. We have tried to help further by providing that information can be presented by notes or schedules so that companies can avoid the cost of completely re-drafting accounts.

In many parts of the world the attitude of the authorities is quite rigid and regardless of cost, companies simply have to do what they are told to do. We have been more realistic. And I cannot over-emphasize the importance of clause 17(2) which provides that any insurer may approach the Insurance Authority with a request that the accounting provisions be modified in his particular case. The Authority will certainly be very ready to consider a concession where the insurer is able to prepare equivalent or better information or where the submission of information would involve inordinate expense in relation to the benefit to be obtained. By these means the Authority should be able to accommodate the vast majority of insurers' genuine difficulties and to a very large extent the accounting requirements can be tailored to suit individual companies.

We have gone even further than this. Recognizing that there might be cases where a concession is called for which would be outside any reasonable

discretion that could be included specifically in the Bill, it is proposed (clause 53) that the Governor in Council may exempt a company from all or any of the terms of the Ordinance.

Another area of contention in this context is clause 21, which requires that a copy of the accounts be placed on a file which is available to the public. There are some who say that making such information public will damage a company's interests. The fact is that similar provisions exist in other jurisdictions and, as far as we are aware, individual companies in no way appear to have suffered. This publication of information is important. Unlike many other jurisdictions, what we are now proposing in sum allows insurers a great deal of freedom. For example we are *not* proposing to interfere with management. Investment will be left to the companies as will be their reinsurance arrangements. There is *no* provision for the Insurance Authority to fix premium rates or the terms and conditions of policies. Provided companies are in good health, the Bill does *not* require deposits or assets to be localized or kept in custody except in very limited circumstance. But, the price for this freedom must be that policyholders, upon whom the insurance industry already imposes a duty of absolute disclosure, should be able to make *their* that is, the policyholder's, choices in respect of insurance on the basis of adequate information. They can do so only if the information insurers provide to the Insurance Authority is then made available to them.

Power of Intervention (Part V of the Bill)

If it appears to the Insurance Authority that a company is likely to be in difficulties, the Bill provides (clauses 27 to 35) for various measures the Authority can take in the interests of policyholders. There has been some criticism that we have dealt with this aspect in too much detail. Our answer is that, so that all concerned know where they stand, powers of intervention and the circumstances in which they can be used, need to be clearly spelt out. The powers have been carefully structured and range from warning shots across the bows of wayward companies to closure of those in serious difficulties.

Transitional Provisions

Concern has also been expressed that companies already writing business will be subjected to a second authorization process within 18 months. This is so. But it will *not* be onerous. Companies currently authorized or exempted will be able to obtain full authorization for the classes of business they were writing before the publication of the Bill without going through anything like the full procedures. Other companies, which are presently completely unregulated, will have up to 12 months to obtain authorization. But they will naturally have to undergo the full normal authorization process.

Brokers and Intermediaries

Another criticism is that the Bill does not deal with brokers. This is valid. The Bill tackles only the basic problem of the insurance market, the financial

strength of the insurers themselves. It does not directly regulate brokers or intermediaries which we see as a separate problem. But it does at least provide (clause 56) that it is an offence for *anyone*—and that will include the brokers—to make misleading or deceptive statements to potential policyholders. Probably this does not go far enough to keep brokers under control. But a sub-committee of the Law Reform Committee is looking into the whole question of brokers. We await the outcome of their deliberations.

Insurance Advisory Committee

Sir, with any piece of legislation that involves balancing conflicting interests, there will be dissatisfaction. Undoubtedly the way in which we have tried to balance the interests of policyholders and of insurers in the Insurance Companies Bill will come in for its share of criticism. One message I have tried to get across is the way in which the Registrar General and his staff (to whom I would also like to pay tribute) have consulted the insurance industry at great length and gone as far as they can to accommodate the wishes of the industry while preserving the basic aim of the Bill which is to protect policyholders.

The arguments will continue. But may I conclude by drawing Member's attention to clause 54 which provides for an Insurance Advisory Committee with the terms of reference 'to advise the Governor on such matters relating to the administration of this Ordinance or the carrying on of insurance business as the Governor may refer to the Committee or as the Committee may consider to be in the interests of the insurance industry in Hong Kong'.

It is in this forum that the effectiveness and the fairness of this legislation in practice can be considered.

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 SECRETARY FOR ECONOMIC SERVICES.

Question put and agreed to.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1982

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

He said:—Sir, I move that the Dutiable Commodities (Amendment) Bill 1982 be read the second time.

Consistent with the Government's declared policy of promoting use of the metric system of weights and measures, it is proposed to amend the Dutiable Commodities Ordinance (Chapter 109).

The majority of the amendments required in this respect relate to the conversion of non-metric to broadly equivalent metric units and may be effected by the Governor by an order under section 3(1) of the Metrication Ordinance (Chapter 214).

This Bill however relates to amendments which fall outside the scope of the provisions of the Metrication Ordinance. It proposes the replacement of the rather archaic Sikes proof system of determining alcoholic strength with that recommended by the International Organization of Legal Metrology or O.I.M.L. (the initials since then have been determined by the French translation of the title of the body). The O.I.M.L. system, which is more precise than the Sikes system, expresses alcoholic strength in terms of volume of alcohol in percentage proportion to the volume of the alcoholic mixture at a standard temperature of 20 degrees Celsius. The system has been adopted by many of our trading partners, including the United States of America and the E.E.C. countries.

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

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

Question put and agreed to.

HONG KONG ASSOCIATION OF BANKS (AMENDMENT) BILL 1982

Resumption of debate on second reading (5 May 1982)

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).

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1982

Resumption of debate on second reading (28 April 1982)

Question proposed.

MR. LO:—Sir, the Attorney General gave in effect the following reasons for increasing the maximum penalty for kidnapping from 14 years to life imprisonment:

First, that it was in response to what was said, *obiter dicta*, by two High Court Judges in cases where the actual sentences imposed by them fell far short of the maximum.

Second, that it was to comply with what the Attorney General has recently discovered as a coherent underlying philosophy which this legislature is thought to have adopted for the last hundred odd years as a basis of enacting maximum penalty for major crime.

Third, that it was to be a signal to the Judiciary to increase the sentences imposed on the average kidnapping case.

These, in my view, are inadequate reasons to increase the penalty of any crime, as I shall endeavour to explain later.

I entirely agree with the sentiment that the crime of kidnapping is abhorrent. The victim is put through abject fear. His family suffers excruciating anguish. It is indeed a heinous crime.

There are, however, other considerations and I would respectfully urge Members of Council not to lose sight of them.

In the first place, the proper reason for the increase of the maximum penalty for any crime should be that the existing maximum penalty is inadequate. It would be inadequate if the Judiciary were frequently imposing the maximum sentence. It would be inadequate if there were a growing incidence of the crime. It would also be inadequate if the level of sophistication in committing the crime had heightened. None of these has happened. In not a single case in recent years has the Court given the maximum sentence and indeed this is not surprising as there has been no evidence of growing numbers of such crimes or heightened sophistication.

In the second place, there is a positive danger in our passing the Bill before Council. We all know that there is now in Hong Kong in practice no death penalty. All death sentences are commuted to life sentences or less. It is true that a life sentence that is a commuted death sentence is never reduced and is thus more severe than the form of life sentence proposed by this Bill. The difference, however, is subtle and not substantial.

Sir, I believe that it makes good sense for the law to distinguish and punish differently a kidnapper who releases his victim without injury and a kidnapper who kills his victim. In this connection we must not forget that the maximum penalty proposed today relates to cases of kidnapping pure and simple. It does not relate to cases where the victim is killed, for in such cases the criminal is charged with both kidnapping and murder. Under the existing law, there is a difference in punishment—14 years in cases where the victim is released and life imprisonment in cases where the victim is killed. This difference will practically disappear if this Bill becomes law.

Sir, all kidnapers know that the chances of discovery are greater by far if the victim is allowed to go free. This Bill will further increase their reason for killing.

Of course, the difference between a kidnapping where the victim is killed and where he is released would be preserved if we brought back enforcement of the death penalty for murder. In that event, I would support the thrust of this Bill. Until then, I cannot do so.

DR. HO:—Sir, I rise to support the Offences Against the Person (Amendment) Bill 1982.

The motive behind kidnapping is mainly ransom. Holding a human being, be it an adult or a child, as a hostage for a substantial sum of money imposes tremendous anguish, strain and fear on the victim and on his or her family. Therefore, a heavy penalty should rightly be meted out on the perpetrator, both as a deterrent to others and as a reflection of the serious view which society takes of this type of vicious crime.

At present, the maximum penalty for robbery is life imprisonment. From any point of view, kidnapping is far more traumatic than robbery, and it is therefore fitting that the penalty for kidnapping should not be less than that for robbery. I therefore whole-heartedly endorse the proposal to place a maximum sentence of life imprisonment for kidnapping on the statute book.

Although fears have been expressed by some of my Unofficial Colleagues that by making the punishment for kidnapping effectively the same as that for murder, there will be increased danger to the kidnap victim, there is no conclusive evidence available to support this. I believe that the increased penalty will provide a significant deterrent to the would-be kidnapper and will make him think again before committing this abhorrent crime.

The new provision by specifying life imprisonment as the maximum sentence allows the court discretion to decide on a determinate sentence of any term of years in accordance with the circumstances under which the crime is committed. In the case of long-serving criminals who show genuine remorse and who give every indication of being able to lead a law-abiding life, there is, moreover, the opportunity for remission upon the recommendation of a review board. This will, I believe, ensure that the penalties imposed for murder and for kidnapping will continue to be clearly differentiated.

One thing that is beyond doubt is that the general public supports this increase in penalty and welcomes the fact that in future a convicted kidnapper will face the probability of a substantially longer sentence.

With these remarks, Sir, I support the Bill.

MR. CHAN KAM-CHUEN:—Sir, since November 1966 when the death penalty was last imposed, the progressively more affluent society of Hong Kong has been suffering from a steep increase in the incidence of violent crime.

To break the backbone of the trend in violent crime, concerted efforts are required by all parties concerned. If crime is not reported and information is not supplied it is the fault of the public and it is the public who stands to lose. If it has been reported and no offenders are caught, the Police should take a hard look at their crime—detection system. However, if Judges express concern over inadequate maximum penalties, as has happened in the case of the offence of kidnapping, the ball is squarely in our court and it is the duty of this Council to carefully examine the existing legislation.

The legislation relating to kidnapping was enacted in 1865 and it is our duty to examine its provisions and if necessary to alter them in order to impose penalties which are relevant to the present. It is my belief that the proposed increase in the maximum penalty for kidnapping (to life imprisonment) is necessary in our society where violent crime is on the increase, in order to deter criminals from committing such an offence.

Would this stiffer deterrent yield the desired result? Of course I am not a prophet, but it may be helpful to quote an example. During the Great Depression in 1931, there were 279 cases of kidnapping reported in the United States. The kidnapping and murder in the famous Lindberg case led to heavier penalties, including death for those who murdered their victims, being introduced and subsequently kidnapping for ransom in the U.S. declined sharply. It seems that heavy penalty would nip an evil thought in its bud.

Concern for the safety of the victim is certainly a valid point, but we should leave it to the wisdom of those who enforce and administer the law to determine the appropriate sentence having regard to all the circumstances of the crime. Perhaps the unharmed return of the victim may be considered in mitigation against maximum penalty.

Sir, it is important to segregate these cancerous criminal cells from our society for as long as possible. One may wish to be humane to offenders but it is equally important to be humane to those families who have undergone the mental torture of living in suspense until their loved ones are returned and, above all, to those families whose loved ones are never returned.

With these remarks, Sir, I support the motion.

THE ATTORNEY GENERAL—Sir, I would wish to thank my honourable Friends Mr. CHAN and Dr. HO for the support and for the words they have given about this Bill. Sir, it is a healthy thing in any legislature when differing views are expressed and I am grateful, too, for the views expressed by my honourable and as ever learned Friend, Mr. LO, in his lonely voice a moment or two ago. Sir, I would wish to try and set at rest one theory of his, drawing from a different jurisdiction to that Mr. CHAN referred to, namely from Singapore. In Singapore recently, about eight years ago when there was a substantial increase in the crime of kidnapping, the legislature there went through a similar process to that

we have attempted to go through here and which I hope we will successfully consummate in a moment or two. There the penalty for kidnapping at that time was, I think, ten years. Following an outbreak of kidnapping for ransom the legislature altered the penalty to an alternate penalty: the judge could either impose the death sentence; alternatively, he could impose life imprisonment or determine a sentence under that. In point of fact the death sentence has never been imposed in Singapore for kidnapping, but the level of kidnapping following from increased penalties did, as occurred in America, drop in Singapore. Sir, it gives us at least some hope that in Hong Kong a similar result will occur as occurred in Singapore, a not dissimilar community.

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).

FIRE SERVICES (AMENDMENT) BILL 1982

Resumption of debate on second reading (28 April 1982)

Question proposed.

MR. S. L. CHEN:—Sir, I rise in support of the Fire Services (Amendment) Bill 1982.

This Bill proposes a substantial increase in fines for offences relating to storage of goods in common areas and emergency exits especially in industrial buildings. Similar fines for related offences occurring within factory premises were approved by this Council in July 1981 and under the Factories and Industrial Undertakings (Fire Precaution in Registrable Work Place) Regulations 1981. By bringing the penalties under the Fire Services Ordinance up to comparable levels, the risk of common areas and emergency exits being obstructed will be reduced. The increases, while undoubtedly severe, will help to ensure that the lives and property of those involved in industry are safeguarded.

During discussions on the Bill between the Administration and a working group of Unofficial Members concern was expressed that the enactment of clause 3(b) could lead to misuse of the power of a magistrate to issue a closing order on premises where a fire hazard had arisen could lead to the misuse of such authority. This closing order which prohibits such use of premises as is specified in the order, is the severest form of fire hazard order which can be imposed under the Ordinance. It was, furthermore, apparent from the discussions that where the Director of Fire Services believes that, in order to

protect life and property, closure of premises for a particular use is vital on grounds not covered by the provisions of the Ordinance, other avenues of action are available to him.

I am, therefore, pleased to learn that during the committee stage of this Bill, the Secretary for Security intends to move an amendment to delete clause 3(b) from the Bill. This will cause subsection 9(6) of the principal Ordinance, which limits the power to issue a closing order to be retained. The proposal has the full support of my Unofficial Colleagues.

To close my remarks, Sir, I would just like to point out that whilst the Fire Services Ordinance would guard against obstructions in common areas of a factory building, there is also the factories legislations guarding against obstructions inside factory premises. As these laws are under the administration of different Government departments, factory owners and operators are under the surveillance of more than one Government department for offences of similar nature. There is, therefore, a need for proper co-ordination to simplify routine inspection procedures in order to minimize inconveniences to factory operations. Furthermore, when proposing regulations and requirements under several Ordinances which may affect industrial operations, the administration should have regard for the cumulative effect of such regulations and requirements.

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

Question put and agreed to.

Bill read the second time.

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

PENSIONS (AMENDMENT) BILL 1982

Resumption of debate on second reading (5 May 1982)

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).

EMPLOYMENT (AMENDMENT) BILL 1982**Resumption of debate on second reading (5 May 1982)**

Question proposed.

MR. CHAN KAM-CHUEN:—Sir, I rise to support the Employment (Amendment) Bill 1982 which seeks to provide for an additional floating statutory holiday and to streamline existing statutory holidays to a more logical arrangement.

The current disparity between 17 general holidays and ten statutory holidays is one of the obstacles in integrating white-and blue-collar workers. The Bill will, I hope, narrow this disparity.

Given the existing sluggish local and international business environments, it must be admitted that more holidays, though welcomed by workers, would tend to increase the unit staff costs with a reduction in the number of working days. Higher costs and slower delivery dates are sure ways to erode our competitiveness and would result in losing orders to our foreign competitors, thus creating job insecurity and even unemployment.

I should perhaps mention in passing that, as regards general holidays, Hong Kong appears to lead the way when compared with the rest of the world. My findings are summarized as follows:

Neighbouring Countries: China 6 days; Japan 14 days; Korea 16 days;
Malaysia 17 days; Philippines 10 days; Singapore 8 days; Taiwan 14 days;
Thailand 13 days; Vietnam 6 days.

Western European Countries: 8-12 days.

Eastern European Countries: 6-8 days.

U.S.A. and Canada: 9-10 days.

Whilst the disparity between general holidays and statutory holidays may not be expected to vanish overnight, I urge that all responsible union leaders and workers to accept the gradual increase as proposed in the Bill, which will give us a total of 11 statutory holidays as from next year. There is a lot of wisdom to lag a little behind our competitors in fringe benefits which, after all, are of secondary importance to job security.

With these observations, Sir, I support the motion.

COMMISSIONER FOR LABOUR:—I would like to thank Mr. CHAN and other honourable Members for their support for one additional statutory holiday. I should add, for the record, that I shall be proposing a very minor amendment of committee stage to correct a reference in the draft Bill.

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.

HONG KONG ASSOCIATION OF BANKS (AMENDMENT) BILL 1982

Clauses 1 and 2 were agreed to.

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1982

Clauses 1 and 2 were agreed to.

SIR MURRAY MACLEHOSE TRUST FUND BILL 1982

Clauses 1 to 8 were agreed to.

FIRE SERVICES (AMENDMENT) BILL 1982

Clauses 1 and 2 were agreed to.

Clause 3.

SECRETARY FOR SECURITY:—I move that clause 3 be amended as set out in the paper circulated to Members.

When speaking on the second reading Mr. CHEN referred to discussions which he had with the Administration about the proposal to delete section 9(6) of the Ordinance. The making of a closing order by a Court prohibits a specified use of premises. Under section 9(6) the issue of such an order is restricted to cases where the cause of the fire hazard is the structural or locational nature of the premises concerned.

It has been the Government's view that in the interests of public safety there was a case for extending this restriction so that in considering the issue of a

closing order a Magistrate was not limited to the structural character or the location of the premises alone.

However in the light of the concern expressed by Unofficial Members I have agreed, at least for the time being, not to proceed with this proposal. This will enable us to monitor the situation in the light of experience with the higher level of fines. It would however be only proper for me to say that if future circumstances show that some changes to this provision are needed we shall have to consider this in the light of the situation then obtaining.

Proposed amendment

Clause 3

That clause 3 be amended by deleting paragraph (b).

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 and 5 were agreed to.

PENSIONS (AMENDMENT) BILL 1982

Clauses 1 to 6 were agreed to.

EMPLOYMENT (AMENDMENT) BILL 1982

Clause 1 was agreed to.

Clause 2

THE COMMISSIONER FOR LABOUR:—I move that clause 2 be amended as set out in the paper circulated to Members which simply replaces the word ‘section’ by ‘subsection’ in paragraph 2(d)(ii) of clause 2.

Proposed amendment

Clause 2

That clause 2 be amended in paragraph (d)(ii) by deleting ‘section 5’ wherever it occurs and substituting in each case the following—
‘subsection (5)’.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

HONG KONG ASSOCIATION OF BANKS (AMENDMENT) BILL

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL

SIR MURRAY MACLEHOSE TRUST FUND BILL and the

PENSIONS (AMENDMENT) BILL

had passed through Committee without amendment and the

FIRE SERVICES (AMENDMENT) BILL and the

EMPLOYMENT (AMENDMENT) BILL

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

Question put on each Bill and agreed to.

Bills read the third time and passed.

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, 2 June 1982 when Sir Edward YOUDE will preside over our proceedings.

Adjourned accordingly at twenty minutes to five o'clock.