

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 16 June 1982****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR EDWARD YOUDE, K.C.M.G., M.B.E.

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 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 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 MRS. ANSON CHAN, J.P.
DIRECTOR OF SOCIAL WELFARE (*Acting*)

THE HONOURABLE CHAN NAI-KEONG, J.P.
SECRETARY FOR LANDS AND WORKS (*Acting*)

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 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, O.B.E., 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 GRAHAM BARNES, J.P.
REGIONAL SECRETARY (HONG KONG AND KOWLOON), CITY AND NEW TERRITORIES
ADMINISTRATION

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

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, O.B.E., J.P.

IN ATTENDANCE

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

Papers

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Sessional Papers 1981-82:

- No. 54—Prisons Department Welfare Fund—Income and Expenditure Account with Balance Sheet and Certificate of the Director of Audit for the year ended 31 March 1981.
- No. 55—Report of the Pneumoconiosis Compensation Fund Board for the period from 7 November 1980 to 31 December 1981.
- No. 56—Report by the Trustee of the Police Children's Education Trust and Police Education and Welfare Trust for the period 1 April 1980-31 March 1981.

Oral answers to questions

Defederalization of the Trade Industry and Customs Department

1. MISS DUNN:—*What is the state of play regarding the defederalization of the Trade Industry and Customs Department announced by the Chief Secretary in this Council on 15 April 1982?*

THE CHIEF SECRETARY:—Sir, the defederalization of the Trade Industry and Customs Department is proceeding on schedule. Detailed proposals to implement the decision I announced during the budget debate have been developed and considered and all major decisions have been taken.

There will be three separate departments: an Industry Department, a Trade Department and a Customs and Excise Department, with staff and responsibilities approximately matching those of the three sub-departments in the existing federal department. There will be a policy branch within the Government Secretariat, with a small staff drawn from the Economic Services

Branch and from the headquarters, as it were, of the existing Trade Industry and Customs Department. That branch will be known as the Trade and Industry Branch and will have policy responsibility for the Industry Department and the Trade Department and for the Customs and Excise Department's duties in respect of trade controls and the enforcement of trade obligations. The new branch will, in addition, be the housekeeping or parent branch for the Trade Department and the Industry Department and for the Customs and Excise Department which, of course, will remain answerable to Finance Branch and Security Branch for particular functions performed by those branches. Responsibility for the overseas offices in Washington, Brussels and Geneva will be assumed by the Councils and Administration Branch of the Government Secretariat as an initial step in translating them from departmental sub-offices overseas into Hong Kong Government offices comparable in status, if not in range of functions, with our London Office, whose parent department is the Government Secretariat.

The new departments will remain in their present accommodation in Ocean Centre, although consideration is being given to moving the Commissioner of Customs and Excise and his immediate staff to the headquarters of the Customs and Excise Service in the Sun Hung Kai Centre. In keeping with the general policy that all Secretaries and their branches should be accommodated together, the Trade and Industry Branch will eventually be located with the rest of the Government Secretariat in the Central Government Offices. But suitable accommodation cannot be made available until early 1983. In the meantime, the Secretary for Trade and Industry and his branch will operate from Ocean Centre.

There are a few details still to be settled, but it is intended formally to establish the new branch and separate departments on 1 August next. There will be no net increase in staff, and there will be a review, in say 12 months' time, to see how defederalization has worked in practice and what adjustments need to be made.

MISS DUNN:—*What subjects are being transferred from Economic Services Branch to the new Branch?*

THE CHIEF SECRETARY:—The main subjects for transfer, trade and industry, are of course quite easy to identify. Others, such as consumer protection, or subjects connected with the general subject of consumer protection, were considered individually and allocated to one branch or the other according to the extent to which they were trade oriented or consumer oriented. Thus, for example, trade marks and weights and measures have gone to the Trade and Industry Branch, whereas, say, pyramid selling or that very popular subject, travel agents, have remained with the Economic Services Branch.

MISS DUNN:—*Sir, why are the overseas offices being transferred to the Councils and Administration Branch?*

THE CHIEF SECRETARY:—Well, the transfer is obviously designed to underline the decision that these offices should be regarded as overseas offices of the Hong Kong Government. The Councils and Administration Branch has responsibility for other departments and agencies which provide services to Government branches and departments generally, and it is thought that that Branch is the most appropriate house-keeping branch for overseas offices and, of course, it will provide a clearing house function as well.

MISS DUNN:—*What further steps still need to be taken to give effect to defederalization?*

THE CHIEF SECRETARY:—I presume Miss DUNN means what formal steps need to be taken in order to bring about the creation of these three independent departments and the new branch in the Government Secretariat by the new target date of 1 August. Obviously, an E.S.C. paper has to be drafted and submitted to the Establishment Sub-Committee and, if approved, subsequently approved by the Finance Committee. There will have to be an Estimates exercise, that is to say, new heads of expenditure for the Departments concerned will have to be created, but the provision required for those new heads will, of course, be found, as it were, by freezing the existing provision in Head 182 Trade Industry and Customs Department, from the same date. I am afraid also that we will have to introduce into this Council a Resolution, I hope on 28 July which is the last meeting of this Council this session, but if not, we will have to have an extra meeting a fortnight later in order to do this; that Resolution will need to cover the transfer of certain statutory functions. And in addition, we have a rather complicated exercise in hand revising delegated authorities from the Governor and/or Chief Secretary downwards.

MR. STEPHEN CHEONG:—*Sir, will the Chief Secretary assure this Council that in view of the transfer of the functions of the overseas offices to the Councils Branch, there will be no let up in efforts being conducted by the overseas offices in conjunction with our trade relations, bi-lateral and multi-lateral ones.*

THE CHIEF SECRETARY:—Yes, Sir.

MR. NEWBIGGING:—*Sir, reference has been made to the three overseas branches as part of the defederalization process. Are there any plans to open any further overseas branches?*

THE CHIEF SECRETARY:—Overseas *offices*? No, Sir ... Perhaps, Sir, I could amend that answer with your permission. There are no plans in hand to open offices in other countries, but the future of our existing offices in the countries in which they are located is another matter.

Offences under the Pyramid Selling Prohibition Ordinance

2. MR. SO asked in Cantonese:—

自從制定一九八〇年禁止層壓式推銷法條例以來：

- (甲) 有多少人因觸犯該法例而遭檢控及定罪？
- (乙) 判處的罰款或刑期幅度和平均數字怎樣？
- (丙) 政府認為法例是否奏效，若不然，將會採取何種措施去堵塞漏洞？

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

Since enactment of the Pyramid Selling Prohibition Ordinance in 1980,

- (a) how many persons have been charged and convicted for offences under the Ordinance;*
- (b) what are the range and average fines or sentences imposed; and,*
- (c) is Government satisfied with the effectiveness of the legislation and, if not, what steps are being taken to plug the loopholes?*

THE ATTORNEY GENERAL:—Sir, there have been no charges preferred since the enactment of the Ordinance. Consequently, no fines or sentences have been imposed either. There have been approximately 80 complaints made which have been investigated by the Royal Hong Kong Police Crime Bureau, and the majority, or at any rate a representative number of these, have been referred to the Commercial Crime Unit of my Chambers for advice. Recently, as Members may have seen in the press, there have been further complaints made and these are currently under investigation. The question as to whether or not there exists a loophole in the legislation and, if so, whether and what amending legislation is required is now being examined by that Unit in the light of those complaints and also by consideration of comparative legislation in other jurisdictions. Having taken into account the investigations having taken place so far and the fresh complaints, it is the intention of that Unit to put a paper with recommendations to the next meeting of the Standard Liaison Committee on Commercial Crime which will, I hope, take place on about 20 July 1982.

MR. PETER C. WONG:—*Will the Attorney General explain why there have been no charges preferred although more than 80 complaints have been received and investigated?*

THE ATTORNEY GENERAL:—Because the opinion of those advising was that the complaints did not fall within the terms of the legislation; whether they fell within the spirit of the legislation is a matter that will be debated by the Commercial Crime Liaison Committee in July.

Filipina women working as domestic helpers in Hong Kong

3. REVD. JOYCE M. BENNETT asked:—*How many Filipina women are now permitted to live and work in Hong Kong on work permits? Will Government*

change its present policy of allowing Filipina women to enter Hong Kong for domestic service?

SECRETARY FOR SECURITY:—Sir, before I reply I would like to declare an interest—I am an employer of a Filipina woman (*laughter*).

Sir, although I cannot provide Miss BENNETT with the total figure of all Filipina women permitted to live and work in Hong Kong on work permits, at 30 April 1982, 16 130 workers from the Philippines were employed as domestic helpers. Of these all but a very small number were female.

The Administration is currently reviewing the policies and procedures relating to the admission of domestic helpers from overseas. It is too early to say what changes, if any, will result from this review.

Fee concession for Hong Kong students attending universities in the U.K.

4. MR. ALEX WU asked:—*Will the Government say whether H.M.G. has given any indication that it is prepared to make some concession on fees to Hong Kong and other Commonwealth students attending universities in the United Kingdom?*

SECRETARY FOR EDUCATION:—Sir, Mr. WU is probably aware that the Overseas Students Trust, a British educational charity, has, with the co-operation of Her Majesty's Government, recently embarked on a study leading to proposals for an overseas student policy.

The Trust published its report on 6 June this year. One of the recommendations made is that Hong Kong being a British Dependent Territory, its students on entering a U.K. university should pay the home level of fee, that is, they should have home status, with Her Majesty's Government and the Hong Kong Government jointly contributing towards the difference between this fee level and that for overseas students.

Her Majesty's Government has stated that it will consider the Report very carefully and give further study to the joint-funding proposal.

MR. ALEX WU:—*Will the Secretary inform the Council what steps this Government is or will be taking to capitalize on the report and to obtain home student status for Hong Kong students in respect of university fees?*

SECRETARY FOR EDUCATION:—Sir, the Government is now studying all the details of the report and will, unless we hit some terrible snag which I do not anticipate, take up with the British Government the detailed arrangements which should be made in order to carry out the proposal which is in the report.

REVD. JOYCE M. BENNETT:—*Is it possible that students taking up their university places this October can benefit from this new scheme?*

SECRETARY FOR EDUCATION:—I cannot say that it is impossible but I would not like, in view of the shortness of time, to put too much weight of hope upon it.

Fleet availability at the franchised Bus Companies

5. MR. STEPHEN CHEONG asked:—*One of the franchised Bus Companies has been reported to be unable to meet the requirements of the agreed route programme due to poor fleet availability. Will Government inform this Council:*

(a) the reasons in full for such poor fleet availability;

(b) what immediate and longer term actions Government can, and intends to, take to remedy the situation?

SECRETARY FOR TRANSPORT:—Sir, Mr. CHEONG has confirmed to me that he is referring to the China Motor Bus Company. The report of a Review Committee working through five sub-groups, on both the franchised bus companies is being finalized and will soon be considered by the Transport Advisory Committee before submission to the Governor in Council.

Poor fleet availability at C.M.B. is due to several factors which the Maintenance Sub-Group of the Review Committee has identified. It found that for the calendar year 1981 the level of non-availability of buses due to planned maintenance was 11.2% of the Company's fleet of 1 006 buses. More significantly, non-availability due to the need for running repairs, that is unscheduled maintenance, was 27.9%. Fleet availability was therefore 60.9%, which is a very low figure. Members will not need to be reminded that buses breaking down on-street add to congestion problems.

Several areas for improvement have been identified on the maintenance side of the Company's operations. These include:

First, to reduce the unsatisfactory high turnover of key engineering staff and to remedy the shortage of properly qualified and experienced staff in the top and middle rank engineering categories.

Second, to extend and improve maintenance facilities at depots, which are congested and lack sufficient specialized testing equipment. Such equipment reduces the amount of testing which would otherwise have to be done on road.

Third, to improve some maintenance procedures which are unsatisfactory, for example, documentation and routine checks, where lack of systems and control contribute to the high breakdown rate. More attention must be given to training.

Government has already taken action in several ways. Mr. CHEONG himself was a member of the Depot Sub-Group of the Review, with the task of assessing the likely size of the C.M.B. fleet up to 1991, of developing standards of depot accommodation for parking and maintenance, and costing the additional

facilities recommended. The main constraints on the development of depots for maintenance and parking are the cost of land and the shortage of land for new depots. In the course of the Review, a significant advance was made when it was agreed that a number of off-street termini could be used for overnight parking, which would enable the provision of 700 parking spaces by 1985-86. The Company's fleet is projected to reach 1 200 buses by that date. Together with some 70 spaces at Chai Wan, Wong Chuk Hang and a new depot site this would enable all buses to be parked off-street by 1985-86.

If all suitable termini can be used for overnight parking, one further major multi-storey depot will be needed. The Lands Department has been in consultation with the Company on this point for three months, and a site in Wah Fu is a distinct possibility. A temporary depot for refuelling and minor servicing on the Western reclamation is also under discussion; this would reduce the need for buses to return to Chai Wan.

Other important matters, Sir, which have been and will continue to be discussed between the Company and the Commissioner for Transport include the Company's organization, the recruitment of qualified engineering staff, the training of technicians, and continuing efforts to improve their maintenance standards.

MR. STEPHEN CHEONG:—*Sir, since giving notice for the question, recently the management of C.M.B. has claimed improvements on her fleet availability. Will the Secretary share with us his latest assessment of the situation?*

SECRETARY FOR TRANSPORT:—Yes, Sir, it is correct that in the first week of this month there was a distinct improvement in the number of buses on the road each day, put on the road by China Motor Bus. The fact is that you cannot come to a judgment after a week of this. If it goes on for two or three months I think there might be reason to be encouraged.

MISS DUNN:—*Sir, does the C.M.B. agree with the Government about the three areas for improvement identified and what actions will they take to implement these improvements?*

SECRETARY FOR TRANSPORT:—Sir, the Review Committee report I have just referred to includes those recommendations. It will go to the Transport Advisory Committee, then on to the Governor in Council. It will then be a question for us to deal with the C.M.B. on those recommendations. So far they are somewhat reluctant to accept—and I think this is natural—our criticisms of their management capacity. I hope they will become a little more susceptible to those criticisms.

MR. LO:—*Sir, roughly on the same lines as the last question, as all the three areas identified are matters of internal management of the Company, in the final analysis what can the Government do?*

SECRETARY FOR TRANSPORT:—In the final analysis of course, Sir, the franchise can be withdrawn, but I am sure that the Chairman of T.A.C. does not actually imply that that is what we ought to do at this stage.

MR. F. K. HU:—*Will the Secretary for Transport advise what is considered to be acceptable rate for fleet availability?*

SECRETARY FOR TRANSPORT:—There is no generally accepted figure, so by comparison Kowloon Motor Bus Company has been running at 82% over the same period of 12 months as the 60.9% I mentioned for C.M.B. We would say that 75% would be good enough.

Additional personnel mobilized at the Caritas Medical Centre on 3 June 1982

6. DR. FANG asked:—*How many off duty and additional personnel had to be mobilized at the Caritas Medical Centre to cope with the tragic incident that happened on 3 June?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, according to information from the Caritas Medical Centre (C.M.C.), appropriate staff within the hospital were mobilized to assist in the essential areas of services, viz., the emergency department, the operation theatres and the wards. The figures are as follows:—

Emergency Department

Doctors—20

Nurses—19

Operation Theatres

Doctors—17

Nurses—9

Wards

Doctors—10

Nurses—43

These areas of services were ably supported by the para-medical staff in the laboratories, the X-ray department, and the medical social services of the C.M.C. which amounted to 24.

Senior staff from my Department were also on hand to assist in any way they can immediately after the tragedy. In the event, two anaesthetists and some supply of blood and equipment were made available from the major Government hospitals, i.e., the Princess Margaret and Queen Elizabeth Hospitals. Arrangements were also made for emergency cases to be diverted away from the C.M.C. for four days following the incident in order to allow the hospital to concentrate on the management of the cases admitted resulting from it.

I should like to put on record that the administration and staff of the C.M.C. were able to cope with the extreme pressures resulting from this crisis in a most efficient and effective manner.

I should also like to take this opportunity of paying tribute to all those in the Hong Kong Red Cross and other relevant Government departments who have responded so magnificently to render help on this tragic occasion.

Finally, Sir, I think I am only expressing the sentiments of all concerned when I say that this incident is most regrettable and our utmost sympathies and condolences go to the unfortunate victims and their relatives.

REVD. JOYCE M. BENNETT:—*Sir, what is the usual number of doctors in the emergency department in this subvented Hospital and how do those figures compare with Government hospitals?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, subject to checking with the C.M.C. authorities, my information was that normally an emergency unit carries a complement of one consultant, one S.M.O. and anything up to nine M.O.'s in the casualty services. I think the C.M.C. compares quite favourably with the Government.

REVD. JOYCE M. BENNETT:—*Can we be told how many would be on duty at any one time during the day hours?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—There were normally four to five casualty officers in the day shifts and who would be quite capable of coping with the normal number of cases that were being seen during the daylight hours.

Training given to officers in the Trade, Industry and Labour Departments

7. MR. WONG PO-YAN asked:—*What training was given to officers in the Trade Officer Grade and grades dealing with industrial safety during 1980-81 and 1981-82, and what are the training plans for these grades during 1982-83, with particular reference to any local or overseas liaison courses?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, although many departments exercise some responsibility in relation to Hong Kong's trade and industrial safety matters, the three departments most directly concerned are the Trade, Industry and Labour Departments.

Total expenditure on the training of departmental grades in these three departments, that is excluding Executive, Clerical and other support staff, amounted to about \$2.4 million in 1980-81 and to \$4.3 million in 1981-82: estimated expenditure for 1982-83 is about \$4.1 million. These figures are equivalent to roughly one per cent of total civil service training expenditure in each of these three years. The total number of departmental staff in these three departments has also remained steady at roughly one per cent of the total civil service establishment.

The training programmes for the staff of the three departments include local and overseas courses and attachments. They cover commercial policy, industrial management, occupational health and safety, and general management. Industrial safety features as a key element in the training courses for members of the Labour Department's Factory Inspectorate.

Much additional effort goes into on-the-job training, aided by in-house familiarization programmes, as well as by departmental standing instructions and procedural manuals. Staff of the three departments regularly attend overseas conferences and seminars at which matters of importance to Hong Kong's trade and industry, including industrial safety, are discussed.

Sir, the Government does attach importance to the training of its staff who deal directly with trade and industry matters. Training arrangements are kept under regular review and improvements will be made whenever necessary.

MR. ALEX WU:—*What arrangements have been made for the knowledge acquired by such officers to be imparted to the industrialists and their staff?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, I think this really goes outside the subject of civil service training but I will certainly ask the Heads of Departments concerned to supply Mr. Wu with the answer to that question.

(The following written reply was provided subsequently.)

It is the constant concern of the Trade Industry and Customs Department and the Labour Department to sustain and improve their contacts with industry, so that the expertise gained by departmental officers from local and overseas training courses can be shared with or imparted to industrialists and their staff where this would be useful and appropriate.

There are several channels through which this takes place. The main focus is the Industrial Safety Training Centre run by the Labour Department. The Centre conducts industrial safety training courses for personnel from all sections of industry, and is active in relaying information about industrial safety through talks and seminars given to schools, trade unions and employers' associations. The Labour Inspectorate also provides lecturers for the Industrial Safety Officers' course jointly organized by the Labour Department and the Hong Kong Polytechnic, which leads to the award of a Certificate of Proficiency in Industry Safety.

In addition to the activities of ISTC, officers of the Factory Inspectorate produce codes of safe practice, guides and pamphlets on various aspects of industrial safety for distribution to the public as part of the Labour Department's on-going industrial safety publicity campaign.

Finally, through the daily contact with industrialists during factory inspections, and through various advisory boards, such as the Industry Advisory

Board, the Labour Advisory Board, and the Industrial Development Board, officers of the two departments have regular opportunities to exchange views with industrialists on various matters of common concern and to offer practical advice on industrial safety and other issues.

Grants to New Territories farmers from the Emergency Relief Fund

8. MR. CHEUNG YAN-LUNG. asked:—*What amount has been paid from the Emergency Relief Fund to individual farmers in the New Territories who lost livestock and crops in the recent rainstorms?*

DIRECTOR OF AGRICULTURE AND FISHERIES:—Sir, up to and including the 15 June 1982, 6720 applications for aid from the Emergency Relief Fund have been received from New Territories farmers, including pond fish farmers, affected by the recent heavy rains. These claims have all been investigated and 6 453 grants amounting to \$2.915 million have been paid out. 231 applications were rejected and 36 are still pending approval.

I would stress that these grants are not compensation for losses sustained but are based on re-establishment costs and are intended to assist small farmers to resume production as soon as possible. This contributes to an early return to normal supplies and prices of fresh foodstuffs.

MR. CHEUNG YAN-LUNG:—*Sir, apart from the Emergency Relief Fund, does Government provide any ready relief to farmers who lose livestock or crops as a result of natural disasters like the recent rainstorms?*

DIRECTOR OF AGRICULTURE AND FISHERIES:—Yes, Sir. Special loans from loans administered by the Agriculture and Fisheries Department are immediately made available at preferential rates of interest and extended periods of loan to farmers who suffer extensive losses. A number of these loans have already been issued. In addition, Agriculture and Fisheries Department staff visit all farms seriously affected by natural disasters with a view to providing any technical advice and assistance that may be necessary.

Squatters living on slopes that are vulnerable to landslides

9. MISS DUNN asked:—*What is the estimated number of squatters living on slopes considered to be vulnerable to landslides and are there any contingency plans to evacuate them in the event of the approach of severe typhoons and rainstorms?*

SECRETARY FOR HOUSING:—Sir, the recent rainstorms have again demonstrated the dangers of squatting on natural slopes. In extreme weather conditions, most

of these slopes are to some extent vulnerable to landslides. There are over 200 000 squatters living in huts on the fringes of the main urban areas. These huts, generally built on slopes, are therefore at risk.

As an indication of this situation, during the rainstorms at the end of May, which were the worst for many years, some 2 500 squatter huts were identified as being at risk and were temporarily evacuated. All the areas affected have now been inspected by engineers from the Geotechnical Control Office; over 1 000 huts must be permanently evacuated and some 5 000 persons rehoused.

There are contingency plans to evacuate squatters living on slopes in the event of a heavy rainstorm or typhoon warning. Notices are permanently displayed in each squatter area advising residents who they should contact for assistance on such occasions. In addition, at the beginning of the rainy season each year, announcements are made reminding residents of the potential risk and giving the location of temporary shelters where they should seek refuge in the event of heavy rain or a typhoon warning. During a rainstorm or typhoon, staff of the City and New Territories Administration, the Police, and the Housing Department visit vulnerable squatter areas, and repeat these warnings by various means, including posting of notices. As a result, during the downpour at the end of last month, 9 500 people evacuated their huts; of this number about 2 000 moved to temporary shelters and the remainder stayed temporarily with friends or relatives.

MISS DUNN:—*Sir, what is the Government's long term solution to this problem?*

SECRETARY FOR HOUSING:—*Sir, the long-term solution to this problem is clearance and re-housing. Because of the very large numbers involved, wholesale clearance of all squatter huts is not practicable in the short term. However, any areas or individual huts which are identified as being in immediate and continuing danger are cleared. Since 1978, on the advice of the Geotechnical Control Office, the Housing Department has cleared some 2 500 huts with over 10 000 people, in order to permit slope remedial work to be carried out. In addition, it has been necessary to strengthen controls in respect of new squatting. In this regard, a Crown Land (Amendment) Bill proposing substantially heavier penalties for racketeer hut builders will shortly be published and will be put to this Council later this month.*

MRS. CHOW:—*Sir, of the five thousand people who are to be re-housed, how are they going to be re-housed?*

SECRETARY FOR HOUSING:—*Sir, broadly speaking, the current eligibility rules for the re-housing of occupants of squatter structures affected either by clearance or disasters, are that those who are occupying structures surveyed in 1976 and have lived in Hong Kong for more than ten years are offered permanent housing, while those occupying structures built more recently or those who have shorter residential qualifications are offered temporary housing in the vacated units of*

old Mark I resettlement units, urban or New Territories temporary housing. Space in transit centres is also offered if necessary while awaiting the processing of the eligibility of those affected.

MR. STEPHEN CHEONG:—*Sir, I understand the Secretary says heavier penalties are going to be imposed on the sites to be evacuated, but in the meantime what other measures are going to be taken to prevent the erection of illegal huts?*

SECRETARY FOR HOUSING:—*Sir, since last year we have strengthened the Squatter Control Force and we have been able to contain the increase in squatter huts in the urban area.*

MISS TAM:—*Sir, may I ask what plans are being made or carried out at the moment to minimize or reduce the risk of landslips in the identified danger zones?*

SECRETARY FOR HOUSING:—*Sir, I believe the Secretary for Lands and Works will be answering a question similar to that later.*

MISS TAM:—*I am grateful!*

Annual quantities of water supply from China

10. MR. S. L. CHEN asked:—*Will the Administration state the quantity of water that will be purchased from China in each of the next three years and say whether this supply will be adequate to prevent the reactivation of the Lok On Pai desalter?*

SECRETARY FOR LANDS AND WORKS:—*Sir, the annual quantities of water supply from China under the present agreement for the years 1983-84, 1984-85 and 1985-86 are 220, 255 and 290 million cubic metres respectively. However, a recent approach has been made to China for an extra supply of 35 million cubic metres for each of these years. The proposal has been accepted by China and subsequently approved by ExCo. Formal agreement will be made with China in this regard on approval of the necessary funds by Finance Committee. Taking into account the extra supply, the annual quantities will become 255, 290 and 325 million cubic metres respectively in the next three years.*

Although the above supply of water from China cannot ensure in absolute terms that reactivation of the Lok On Pai desalter will be unnecessary, it serves to keep the probability of having to operate it over the next three years to a very low figure. In other words the chance of having to reactivate the desalter is not high.

MR. S. L. CHEN:—*Sir, is the Secretary for Lands and Works in a position to tell us, if not, please inform us by writing, the total cost of operating the desalter during the period between June 1981 when the desalter was brought into operation*

and May 1982 when its operation was suspended and how much water was produced in the said period?

SECRETARY FOR LANDS AND WORKS:—Sir, an approximate amount of \$270 million was expended and the amount of water produced was approximately 40 million cubic metres.

MR. S. L. CHEN:—*Sir, may I ask, therefore, what is the order of costs for keeping the desalter in serviceable condition, in other words, mothballing?*

SECRETARY FOR LANDS AND WORKS:—Sir, at the moment, we have only shut down the desalter recently. It is, of course, in serviceable condition but we are anticipating not needing to activate it for some time to come, i.e. we have to mothball it, that means we have to clean it, oil it and seal it and do maintenance running of the plant. The approximate cost of doing that is \$4 million a year.

Public warnings issued prior to rainstorms

11. MR. CHEUNG YAN-LUNG asked:—*Is the Government satisfied that adequate public warnings were issued prior to the recent rainstorms which resulted in some 25 dead, 115 injured and 2 800 homeless, in addition to loss of livestock, crops and other property?*

SECRETARY FOR SECURITY:—Sir, no firm conclusion has yet been reached on the adequacy of the public warnings issued before and during the tragic incidents involving loss of life and homes, injury and loss of livestock and crops in the recent rainstorms. It is the practice after unfortunate events of this sort for an urgent examination to be made to see the extent to which existing procedures were followed, to identify any shortcomings and decide what, if any, improvements and changes can be made. This is now being done.

During the period leading up to the heavy rains thunderstorm warnings were issued and regular weather forecasts were made. These warnings were disseminated in the usual way to the news media through the Government Information Services. An announcement was also made that persons who wished to leave their homes for safety reasons because of heavy rain could go to shelters which had been opened.

With the benefit of hindsight including the knowledge that 653 mm of rain fell in the four-day period (which was the fifth highest on record) we are looking again at our systems and procedures which are designed to try and assist the public in situations of this sort.

MR. CHEUNG YAN-LUNG:—*Sir, is the public warning system to be further improved?*

SECRETARY FOR SECURITY:—Sir, this is a much more complicated matter than may be expected. We have, perhaps, got used to the idea that typhoon warnings, which can be given many hours in advance, could, perhaps, be modified in some form for rainstorms, but I am told that rainstorms of the type experienced can form and develop within a very short time and can dissipate equally rapidly. So far a system to identify those storms which are going to be particularly damaging in time for steps to be taken effectively on the ground has not been found.

Farmers to protect themselves from natural disasters and insure against losses

12. DR. HO asked:—*Will Government consider the advisability of encouraging farmers, livestock breeders, and fish-pond operators, who are repeatedly awarded relief as victims of natural disasters, to introduce safeguards to protect themselves against or to compensate themselves for damage?*

DIRECTOR OF AGRICULTURE AND FISHERIES:—Sir, during the past five years there have been only two major typhoons necessitating large-scale agricultural rehabilitation operations. A severe hailstorm in 1980 caused localized damage to farms and a heavy rainstorm in 1981 resulted in relatively minor damage. The damage caused by the recent rainstorms was unusually severe.

Government does, however, encourage all farmers to take all possible precautions to protect themselves from natural disasters and their aftermath. To this end livestock farmers who operate in low-lying areas or on the banks of rivers liable to flood are advised to re-locate their stock houses on higher, safer ground wherever this is possible. Pond fish farmers are advised to lower water levels in ponds if flooding threatens and to take steps to avoid loss of fish. Crop farmers are encouraged to make use of protective devices such as plastic net houses to minimize storm damage and in areas susceptible to flooding they are advised to grow crops which are relatively resistant to water.

The feasibility of farmers insuring themselves against losses and damage due to natural disasters has been investigated but it was not possible, at that time, to find an acceptable scheme suitable for small-scale farmers in Hong Kong. I am, however, re-examining this approach but there are problems as small-scale farmers are particularly susceptible to the effects of random freak storms which are difficult to foresee and when affected they lose not only their existing livestock and crops but are also deprived of earnings until their replacement stocks are mature enough for sale.

The unusually high losses suffered by livestock and pond fish farmers in the recent rainstorms were due mainly to flash flooding and only some 10% of these applicants had made any previous claim on the Emergency Relief Fund.

DR. HO:—*Sir, has the Director of Agriculture and Fisheries considered the possibility of other forms of collective insurance schemes, possibly run by such self-help, non-profit-making bodies as the co-operative societies or the vegetable marketing organizations?*

DIRECTOR OF AGRICULTURE AND FISHERIES:—*Sir, this is certainly one of the channels which I shall investigate in my approach to a solution to this problem.*

Locations of landslip danger areas and preventive works

13. MR. WONG LAM asked in Cantonese:—

爲公眾安全計，政府可否公佈：

- (甲) 遇到豪雨時可能發生山泥傾瀉或排水問題之主要地區，及
- (乙) 政府如何減輕這些地區所面臨各種問題的危險程度？

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

In the interest of public safety, will Government make a statement on

- (a) *the location of the main landslip and drainage danger areas, which may be affected by heavy rains; and*
- (b) *what special attention is being given to minimizing the dangers arising in these areas?*

SECRETARY FOR LANDS AND WORKS:—*Sir, the soil conditions in Hong Kong and the steep nature of most of its terrain are such that a large number of man-made slopes could be subject to danger of failure at times of heavy rain. As previously reported to this Council, preliminary geotechnical inspections have been carried out on more than 10 000 slopes throughout the Territory which were thought might affect public safety and property. The information from these inspections was used to rank the slopes in priority order for detailed geotechnical study of their stability; those slopes which would affect large numbers of people if they failed being ranked highest in priority. Where the detailed study has shown that the stability was inadequate, the slope has been put into a programme of landslide preventive works.*

Since 1976, Government has carried out major preventive works on 252 slopes and small scale preventive works on over 1 100 slopes. The priority given in this programme to fill slopes has proved to be fully justified by the fact that no significant fill slope failures were reported in housing areas in the recent rainstorms.

While concentrating our efforts on those slopes which might affect large numbers of people if they failed it has only been possible to make preliminary surveys of other slopes and to inspect specific problem areas brought to the attention of the Geotechnical Control Office by other Government departments.

Sir, the most unsatisfactory areas from a slope stability point of view continue to be the squatter areas. A majority of these are sited on slopes that could become unstable locally during times of rain due to the disturbance of the slope by the squatters.

Other squatter slopes require improvements to the overall stability of the hillside. This necessitates the undertaking of extensive preventive works and these cannot be carried out without large scale clearance and rehousing. This solution is therefore long-term and must be tackled in the context of our overall housing programme.

It is recognized that slope failures in squatter areas cannot be eliminated whilst squatters occupy the hillsides the way they do. In dealing with this situation the Geotechnical Control Office will continue to provide Housing Department with advice when requested and will explore with them the possibility of carrying out minor slope improvement works and drainage works as part of their squatter area improvement schemes so as to reduce the risk of landslips in the future.

MR. WONG LAM asked in Cantonese:—

閣下，在發覺有危險山坡之時，請問當局用甚麼方法來防止居民蓋搭木屋在這些危險山坡之上呢？

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

Sir, when a dangerous slope is found, how can the Government stop people building squatter huts on those slopes?

SECRETARY FOR LANDS AND WORKS:—Sir, that will depend on the squatter control teams of the Housing Department, to keep the slope which has been identified as dangerous from again being squatted on.

MISS TAM:—*Sir, I apologize for pre-empting Mr. WONG earlier on. Can I request for some particulars as to the activities carried out during the improvement scheme that has been described in the answer?*

SECRETARY FOR LANDS AND WORKS:—Sir, I take it that Miss TAM means the works, major preventive works, that have been carried out since 1976?

MISS TAM:—Yes, I am obliged!

SECRETARY FOR LANDS AND WORKS:—From the list or catalogue of 10 000 slopes we had compiled, a ranking system was devised, those slopes which, if they failed, would affect a large number of people being given the highest ranking. From that we carried out detailed geotechnical studies of those slopes and as soon as we found a slope to have an inadequate factor of safety, we put work

into the works programme for preventive measures, and as a result, 250 major preventive slope works have been carried out and 1 100 minor preventive works have been carried out. Major works means re-structuring the whole slope in general; minor works means patching up, putting on sealing layers and improving the drainage. Have I answered the question?

MISS TAM:—Yes, thank you.

Statement

Report of the Pneumoconiosis Compensation Fund Board for the period from 7 November 1980 to 31 December 1981

COMMISSIONER FOR LABOUR:—Sir, laid before this Council today is the first report of the Pneumoconiosis Compensation Fund Board for the period from 7 November 1980 to 31 December 1981, thus covering its first year of operation.

The Pneumoconiosis Compensation Fund Board was established under the Pneumoconiosis Compensation Ordinance. The main functions of the Board are to administer the statutory Pneumoconiosis Fund financed by levy from the construction and quarry industries, and to pay compensation from this Fund to persons suffering from Pneumoconiotic disease.

The establishment of the Fund Board resulted from some years of effort to devise a comprehensive scheme for the provision of compensation for Pneumoconiosis. This is an occupational disease which takes a long period to develop, rendering it impracticable to hold individual employers responsible for compensation payments. The compensation scheme devised for this disease introduced a completely new concept of work-injury compensation in this field in Hong Kong. It takes the form of collective liability by way of imposing a levy on the construction and quarry industries, the two main undertakings in which the disease is contracted.

On behalf of the Chairman of the Fund Board, Mr. HO Sai-chu, and its members, I am pleased to report that the Board has been functioning smoothly and effectively in its first year of operation. During the period, a total of \$7 million has been paid in compensation to 162 applicants, whereas income from the levy amounted at this stage only to \$3.2 million. The deficit, which was within the Board's estimate, was met by loans from the Government. It is expected that, with the continuing increased income from the levy, the Board should be able to balance its income and expenditure in a year or two.

Sir, the achievement of the Fund Board is not only the direct result of the devotion of the Chairman and the Board members, but also of the support of the construction and quarry industries, to all of whom I should like to extend my thanks and Government's appreciation of their efforts.

Government business**Motion****SCHEDULE OF WRITE-OFFS FOR THE FINANCIAL YEAR 1981-82**

THE FINANCIAL SECRETARY moved the following motion:—That the write-offs for the financial year 1981-82, as set out in the Schedule, be approved.

Schedule of write-offs authorized by Finance Committee in the financial year 1981-1982

<i>Amount</i> \$	<i>Date of meeting</i>	<i>Category</i>	<i>Remarks</i>
23,723.59	8.4.81	Acting pay	Write-off of acting pay overpaid to 23 constables serving in the Special Duty Unit of the Police Tactical Unit during 1 September 1979 to 30 April 1980.
507,639.15	13.5.81	Contracts	Write-off of a sum due from a former Public Works Department contractor who has gone into liquidation.
10,270,000.00	8.7.81	Subventions	Waiver of over-payment of social welfare subventions made to the Po Leung Kuk during the five years 1975-76 to 1979-80.
152,325.44	22.7.81	Contract	Write-off of an amount which was overpaid to a contractor under contract number 332 of 1972.
132,618.00	11.11.81	Costs of providing basic facilities	Waiver of an outstanding amount which it is proposed not to collect from squatter industrial undertakings which were temporarily relocated in North Tsuen Wan in 1978 and 1979.

THE FINANCIAL SECRETARY:—Sir, I move the motion standing in my name in the Order Paper.

The purpose of this motion is to seek the covering approval of this Council for the write-offs made during the financial year 1981-82 as listed in the schedule. These write-offs, amounting to some \$11 million, have individually already been authorized by the Finance Committee of this Council.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

AIR POLLUTION CONTROL BILL 1982

SUPREME COURT (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

AIR POLLUTION CONTROL BILL 1982

THE SECRETARY FOR HOME AFFAIRS moved the second reading of:—‘A bill to make provision for abating, prohibiting and controlling pollution of the atmosphere with particular reference to stationary sources and for matters connected therewith.’

He said:—Sir, I move the second reading of the Air Pollution Control Bill 1982.

In August 1979 this Council enacted the Waste Disposal Ordinance and in July 1980 the Water Pollution Control Ordinance. These were the first two of five pieces of environmental legislation proposed by a consultant’s study of the measures necessary for environmental protection in Hong Kong. The Air Pollution Control Bill 1982 is the third of these.

Air pollution in Hong Kong is not generally at an unsatisfactory level. In fact over the last few days honourable Members will have noticed that we have been enjoying a brilliantly clear atmosphere. I am afraid this is due to a special combination of climatic phenomena rather than the introduction of this Bill (*laughter*). There are gaps in existing legislation partly filled at present by consultation and advice. With the diversification of industry which has begun to take place, and which is likely to take place in the future, comes the advent of new pollutants which are not subject to any form of control. The Air Pollution Control Bill aims to fill in gaps in existing legislation and to create a comprehensive framework for the control of the generation of existing and new air pollutants for the future.

Let me first explain our understanding of the causes and dangers of air pollution. I then hope to show how it is proposed that new law will prevent things from getting worse and how it can secure improvements.

Pollution of the atmosphere imposes risks and costs, eroding public health, damaging flora, fauna and property and it is just plain unpleasant. The

physiological effects of air pollutants range from nuisances such as irritation, bad smells and allergies, to the inception or aggravation of respiratory and cardiovascular diseases. There is also some evidence which links ambient air pollution with the exacerbation of cancer risks. Besides being unpleasant, the harmful and corrosive properties of bad air pollution can result in financial losses to the individual and economic losses to the community as a whole.

Different measures are required to deal with emissions from large and from small undertakings. Examples of large plants are coal or oil burning power stations and refuse incinerators each one of which can have a major impact on ambient air quality. At the other end of the scale are small undertakings such as restaurants and small factories whose individual effect may be small but which collectively have a significant impact on air quality.

Mobile emissions, that is mainly from motor vehicles, require different measures again. I digress to explain how pollution from vehicles is dealt with as the Air Pollution Control Bill is concerned almost entirely with stationary sources. Mobile sources have not been included although there are powers to control the quality of fuel and these powers may be applied to vehicle fuels. Legislative control of vehicle emissions is found under road traffic legislation. All new vehicles manufactured after 1 November, 1974 are required to meet emission standards comparable with the regulations of the Economic Commission for Europe. The emission of excessive smoke is an offence, and enforcement action is taken by the Police who use smoke-meter teams to examine suspected vehicles. In 1981, there were over 13 000 prosecutions for emitting excessive smoke. Even so, smoky exhausts are still a nuisance in some areas and further steps are being taken to tackle the problem. The offence has now been programmed into a Police computer to make it possible to use fixed penalty tickets. It is also necessary to do more monitoring studies of air pollution from vehicles and these are in hand.

To revert to pollution from factories and so forth, we have had since 1959 the Clean Air Ordinance to control the emission of smoke and grit. All of Hong Kong has been a smoke control area under this Ordinance since December 1974 and the law is enforced by the Commissioner for Labour. Under him, the Air Pollution Control Officer is authorized to issue smoke abatement notices and to approve plans for furnaces, ovens, chimneys and flues. Honourable Members will note even in this legislation the two pronged attack—suppression of unexpected nuisances on the one hand and thought in design to avoid nuisance on the other.

Since the introduction of the Clean Air Ordinance, industry in Hong Kong has diversified and expanded. Today we must be concerned not just with smoke and grit but with the wider use of more chemicals—with a greater variety as well as a greater quantity of pollutants. The Clean Air Ordinance deals only with smoke and grit and the prior approval of plants. This is not enough to maintain a balance between the capacity of the atmosphere to absorb and disperse pollutants, and the volume and diversity of pollutants being generated, in particular by massive localized discharges.

With this background, I ask honourable Members to consider the legislation proposed.

The Bill contains both an emergency Abatement Notice procedure and a more detailed framework for overall air quality management. The Commissioner for Labour will be the Authority under the Bill in both cases.

Under the Abatement Notice section (Part III of the Bill) the powers of control over smoke and grit under the Clean Air Ordinance will be retained and extended to cover all types of air pollutant. Clause 9(1) of the Bill empowers the Authority to serve an abatement notice if he considers an air pollutant nuisance exists or is imminent. If the trouble is just a nuisance, the abatement notice will require the emitter to reduce the level of his emissions. If it poses a threat to health or to the safety of aircraft, then the emission must be stopped.

These powers are needed to deal with sudden emergencies or blackspots. They are an unsophisticated method of coping with problems which have already occurred. They must be swift and effective at stopping bad pollution but are rough on the industrialists. They do not constitute a comprehensive, planned approach to the management and improvement of air quality and so cannot stand alone.

It is Parts II and IV of the Bill which comprise a more systematic and balanced approach to the problem. Part II provides for the declaration of Air Control Zones and the drawing-up of Air Quality Objectives which the Control Authority will try to achieve through his planning and management of the Zones. The Air Quality Objectives will be over-all guidelines: they will not have the direct force of law and so are not something which industrialists will have to struggle to understand in relation to their own individual operations within the Zones. The relationship between Air Quality Objectives and Air Control Zones will be for the Authority to work out and translate into the detailed controls to be made over individual plants which will be of direct concern to the industrialist and which will have the force of law.

Part IV introduces the concept of 'Specified Processes'. In all the myriad industrial processes there are fortunately comparatively few really smelly ones. These need careful control for they have immense pollution potential. So that everyone may know which the processes are, they are all listed. They are mainly large-scale industry. New plants will require a licence, and through the licence conditions imposed by the Authority the overall aims of the air quality objectives will be pursued.

Existing plants using these 'specified processes' will be allowed to carry on and will be specifically exempted—as has been done in the case of water pollution. This recognizes the fact that existing industries were set up before the controls which this Bill introduces were conceived. Our policy is first to stabilize the existing position and prevent things getting worse, and then provide for gradual improvement. The rights of exemption accorded to existing plants are however limited. Any change in the registered particulars, which existing

emitters are required to supply to the Authority at the same time of claiming exemption, will render them liable to licensing. So the natural expansion of existing industry will be properly controlled. In any case, the exemption will be lost if the Authority can prove that the emission is prejudicial to health.

While this Bill was being drafted, a great deal of consultation took place with firms building plants of major pollution potential. These existing processes are listed in the second schedule to the Bill, and licensing arrangements will apply to them. Their owners have accepted that they will be subject to licensing and have included appropriate features in their design and construction to enable them to be licensed in due course.

Provision exists for exemptions. Licences may also be cancelled or varied, on grounds either of prejudice to health or in the public interest. If however the process is already licensed, and is being carried on in accordance with the licence, compensation is payable if the authority needs to change the condition of the licence for any reason other than because of a danger to health. Even if a licence is cancelled or varied on health grounds, and that prejudice to health could have reasonably been foreseen at the time of the licence being granted or if it arises because of the cumulative effect of many such licences, then again compensation would be payable. These provisions are analogous to those already in force under the Water Pollution Control Ordinance. I believe that they strike the correct balance between public and private rights.

Part V of the Bill provides the Authority with the necessary powers of entry, inspection and so on to carry out his duties under the Bill.

Part VI establishes an Appeals procedure as a safeguard against arbitrary actions by the Authority. I would especially draw Members' attention to clause 31 which contains an impressive list of matters on which Appeals may be presented, and which, I think, illustrates the Government's anxiety to see that this legislation will be enforced fairly.

The levels of penalties are designed to be commensurate with the severity of the offences. Punishment is by fine but not by imprisonment.

Part VII of the Bill includes the powers to make regulations. This power is vested in the Governor in Council after consultation with the Environmental Protection Advisory Committee—or E.P.C.O.M. as we usually call it. As the present Bill is merely enabling, apart from the Abatement Notice procedure, these regulations will contain detailed controls over modification, replacement and operation of plant, the keeping of records and statistics, and the use of fuels or other materials which may generate air pollutants. In due course consideration will also be given to regulations to control difficult nuisance problems like an open burning on construction sites and clouds of cement dust caused by carelessness during loading, unloading or storage. Regulations will be made to include the existing provisions of the Clean Air Ordinance dealing with smoke and grit.

In common with the other environmental protection ordinances, this Bill will be binding on the Crown which will adopt the same pollution controls as it imposes on the private sector.

Sir, I should like to emphasize that this Bill has been the subject of the most exhaustive consultation both within and outside Government. This is why it has taken so long to get here. In particular the Bill's provisions have been extensively debated in E.P.C.O.M. and its Special Committee on Air Pollution. I should like to record our thanks to the Chairman of E.P.C.O.M., Mr. FORSGATE and of the Special Committee, Mr. Walter SULKE for the work they put into this, and also the Legislation Committee Chairman, Mr. LITTON. The views of industry and business have been represented through the Federation of Hong Kong Industries, the Hong Kong General Chamber of Commerce and the Chinese Manufacturers' Association and those of the environmentalists through the Conservancy Association. All these are represented on E.P.C.O.M. I should remind Members, too that the declaration of Air Control Zones; the establishment of Air Quality Objectives; the declaration of Specified Processes; the drafting of appropriate Codes of Practice and the making of Regulations will all be subject to the same E.P.C.O.M. consultative procedure so that the interests of all can be welded into a consensus.

Sir, I commend this Bill as an essential and carefully constructed measure, balancing the needs of the community with the interests of the economy. I move that the debate on this motion be now adjourned.

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

Question put and agreed to.

SUPREME COURT (AMENDMENT) BILL 1982

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

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

Members will recall that in March this year they passed the Arbitration (Amendment) Bill. This gave legislative effect to certain recommendations of the Law Reform Commission on the subject of commercial arbitration. However, before the Arbitration (Amendment) Ordinance can be brought into operation, and related recommendations of the Commission implemented, consequential and enabling amendments have to be made to the Supreme Court Rules.

One of the recommendations of the Commission is that a payment-into-court procedure be provided in arbitration proceedings. This is a standard procedure which enables a defendant in legal proceedings to make a payment into court. It is for obvious reasons a strict rule that a judge cannot be informed of even the fact of such a payment until after judgment. If the plaintiff accepts the amount in satisfaction of his claim, he is also entitled to legal costs and that is the end of the matter. The expense and delays of a trial are avoided. But if the plaintiff proceeds to trial in the hope of recovering more, and he fails to do so, he will only be entitled to costs up to the date of the payment into court, and he will have to pay the defendant's costs after that date.

Rules to provide this procedure have been drafted. They will have to be made under the Supreme Court Ordinance, but there is some doubt whether the existing powers in that Ordinance are wide enough for the purpose. What this Bill therefore seeks to do, is simply to extend those powers so as to put the matter beyond doubt. If this Bill is passed, the Rules will be made without delay, with a view to early introduction of the additional advantages Hong Kong will be able to offer as an international arbitration centre.

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

Motion made. That the debate on the second reading of the Bill be adjourned— THE LAW DRAFTSMAN.

Question put and agreed to.

COMMODITIES TRADING (AMENDMENT) BILL 1982

Resumption of debate on second reading (2 June 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).

SOCIETIES (AMENDMENT) BILL 1982

Resumption of debate on second reading (19 May 1982)

Question proposed.

MR. PETER C. WONG:—Sir, the main purpose of this Bill is to provide for stricter control over the activities of societies registered or exempted from registration under the Societies Ordinance.

These proposed measures are considered necessary because, as pointed out by the Attorney General, triad infiltration of some martial arts associations has, for some time, caused concern amongst both the Police and public at large.

The ad hoc group of Unofficial Members examining the proposed legislation, while accepting the general principles of the Bill and need to tighten up control on martial arts associations, was however concerned at the wide discretionary powers granted to the Registrar of Societies and the revision of the appeals procedure.

The group held lengthy discussions with Government representatives and I am pleased to say that broad agreements have been reached and they are as follows—

1. Government will in about six months' time give consideration to the question of separate legislation for better control of martial arts associations.
2. Government will in about six months' time also give consideration to the activities of non-members of martial arts associations e.g. employees.
3. New sub-section (2A)(b), which enables the Registrar to direct a society to amend its rules or constitution, will be amended so as to be confined to societies registered before 21 July 1961. Societies registered after that date are already subject to rule 5 of the Societies Rules made under the principal Ordinance.
4. Clause 6(a) will be amended to substitute 'criminal' for 'arrestable' in paragraph(ee). This is to ensure consistency, having regard to paragraph (ec).
5. The proposed increased level of fines in clauses 10 and 11 will be scaled upwards to \$20,000. The proposed fines of \$5,000 were considered to be unrealistic.
6. New section 12 will be amended so that any person aggrieved by a decision of the Registrar or a decision of the Secretary for City and New Territories Administration may appeal to the Governor in Council.

The Bill, if enacted, will give the Registrar improved powers of control. The Administration has assured us that important decisions will be taken at very high levels and that the wide powers will be exercised with care and caution and in the best interests of the community.

Sir, subject to the agreed amendments, I support the motion.

MR. F. K. HU:—Sir, in moving the second reading of the Societies (Amendment) Bill 1982 on 19 May 1982, the Attorney General expressed his concern over triad infiltration of some martial arts associations and sought to improve control over the activities of martial arts associations through enactment of Societies (Amendment) Bill 1982. Martial arts are popular and acceptable recreational activities and many martial arts associations are properly organized to provide healthy and worthwhile training and competitions for their members. Establishment of such associations should be more actively encouraged.

Any registered Society is required to keep a register of members of the society which shall be available for inspection on demand. There is no provision in the Bill for the Society to keep record of its employees, including instructors, and non-members who may be enrolled to take part as trainees in classes and activities organized by the Society. These employees and non-members may be undesirable elements with triad background and connection and the Society is not required to keep record of these employees and non-members. This is a possible loophole which may make the proposed provisions less effective.

This Bill will give wider power to the Registrar to control all societies, many of which are established for useful purposes and are not subject to triad infiltration. For these societies, such wider power is not justified and the Registrar must ensure that it is used with discretion. On the other hand, it is my view that the Bill does not give the Registrar sufficient power to control martial arts associations and other societies which may be subject to triad infiltration. Therefore I would suggest that Government should closely monitor the activities of martial arts associations. If the situation deteriorates in future, consideration should be given to enacting separate legislation for better control of martial arts associations.

Sir, with these remarks, I support the Bill.

THE ATTORNEY GENERAL:—Sir, I'd first like to thank the Members of the Ad Hoc Group of Unofficials who have spent much time considering the details of this Bill, and thank them for the improvements which they have put forward and which in a moment I shall be moving in committee. I am particularly grateful for the suggestion for quadruple of the level of penalties in the Bill which is at present one to be supported. Sir, secondly, the Government will, over the next six months, keep a very careful eye on the implementation of the aspects of the Bill concerned with its work and practice, if loopholes such as those feared by my honourable Friend Mr. F. K. Hu appear, then we will certainly come back to this Council and seek to close them.

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).

ANTIQUITIES AND MONUMENTS (AMENDMENT) BILL 1982

Resumption of debate on second reading (2 June 1982)

Question proposed.

MR. CHEUNG YAN-LUNG:—Sir, I support the Bill before the Council, but in doing so, may I say a few words to qualify my support.

Preservation is not new to Hong Kong. We do care about our cultural heritage, and have for a long time.

At Lei Cheng Uk, a 2000-year-old Han Dynasty tomb has been preserved since 1955 when it was discovered by workmen who were levelling a hill. In the late 19th Century, steps were taken to preserve the Sung Wong Toi Rock because it was threatened by quarrying. The Rock is said to commemorate the flight of the last Sung Emperor from the Mongols in 1279. Did the Emperor really pass this way? No one knows for sure, but we accept the Rock as a monument to him anyway.

During World War Two, the original Rock was blasted to enlarge our airfield. But one piece of it with an inscription, was preserved. The historical moment represented by the Rock is remembered, and preserved, and perhaps that is most important of all.

The few potential monuments that remain in Hong Kong need constant protection from vandalism and decay, and the Bill will provide such protection. But in deciding what should be declared a monument, let us not be carried away by sentiment for the past, at the expense of the future.

Human nature being what it is, we cling to physical possessions. Family heirlooms are handed from generation to generation as symbols of our past. So it is in the New Territories, where ancestral halls and other old buildings stand for our past. But let us be practical and face facts. Although we respect our heritage and our history, can we live on them? Can we eat them? Can we earn a living from them?

Hong Kong people are often criticized as insensitive to history. We are told to look at the better examples of preservation in other cities. We are accused of destroying our heritage for profit.

If that were true, we would not be discussing this Bill.

Our practical approach should not be confused with insensitivity. We do take pride in our heritage, but not at the expense of local prosperity.

In the New Territories, not only do we have historical buildings and places, but 'historical' people. The Tangs are descendants of Royalty, and the Mans of San Tin are descendants of the Prime Minister to the last Sung Emperor. Our concern must be for these and other people of the New Territories, as well as their historical properties.

In some cases, historical monuments have been preserved through endowments from tracts of land set aside for this revenue-earning purpose. Yet a number of these land lots have been resumed by the Government, reducing the endowments which would make preservation possible.

May I propose therefore, that the Government should consider resuming land for the purpose of preserving historical buildings and places?

I understand that when the Bill before the Council was at the drafting stage, the Heung Yee Kuk's views were sought. In principle, the Kuk made no objection to the amendment proposals except to emphasize that *before* declaration of a proposed monument is made, the land owners (including trustees) and rural committees of the area should be consulted to avoid unnecessary disputes.

However the Bill now before the Council makes no reference to such consultation prior to the declaration of a proposed monument. May I, therefore, take this opportunity to recommend strongly that the Director of Urban Services, as the redesignated authority carefully consider the views of the Heung Yee Kuk and the local community before making such a declaration.

In the event that a building or structure or place is declared a proposed monument, let us do all we can, not only to preserve its physical form, but also to preserve its dignity.

Preservation often implies restoration, and this in turn implies high cost. Does the Government plan such a financial commitment to cover the needs of restoration work once a proposed monument has been declared?

With these remarks, Sir, I support the motion.

SECRETARY FOR HOME AFFAIRS:—Sir, I am most grateful for the support given by my honourable Friend to the Bill.

He has asked for an assurance that there will be consultation prior to the declaration of a proposed monument on private land.

This is covered under the new section 2 which sets out the procedure to be followed for declaration of a proposed monument; I should emphasize that this is a *proposed* monument which is a sort of freezing process which can only last for a year. This may be made after consultation with the Antiquities Advisory Board. If the proposed monument is located on private land, a notice of declaration together with a copy of the plan will be served on the owner and any lawful occupier and another set to be affixed onto the private land. The owner

may apply for withdrawal of the declaration and in the event that his application is rejected, he may appeal to the Governor who may refer the appeal to the Governor in Council. Thus there is ample opportunity for extensive consultation before and in the process of proceeding with the declaration.

The Government recognizes the need for the restoration of monuments and here we are talking about the actual monuments, not proposed monuments. The Urban Services Department has been allocated for the current year a block vote of \$650,000 for the restoration of monuments with an allowance of a 50% over-commitment and another vote of \$100,000 for maintenance. We don't consider it is appropriate to spend public money on restoration of *proposed* monuments, which are only temporary, and may never be declared monuments in the end. Of course the Authority will make every effort to arrive at a decision to declare a proposed monument as a monument within the twelve month period prescribed so that early restoration work can be effected, if the decision is taken to turn a proposed monument into a monument.

With these remarks, Sir, I beg to move.

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).

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1982

Resumption of debate on second reading (2 June 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).

DANGEROUS DRUGS (AMENDMENT) BILL 1982

Resumption of debate on second reading (28 April 1982)

Question proposed.

MR. PETER C. WONG:—Sir, it has been seven weeks since the Secretary for Security introduced this Bill on 28 April 1982. Perhaps it may be desirable if I now recap the main objects of the Bill—

1. To allow prosecution of persons engaged in ‘diluting’ or ‘cutting’ dangerous drugs, by re-defining ‘manufacture’ of dangerous drugs under the Ordinance.
2. To ensure that any quantities of dangerous drugs however small are regarded as dangerous drugs for the purposes of the Ordinance.
3. To permit a search of body cavities of a suspected drug carrier with or without consent and to extend the legal protection to a medical practitioner in conducting such a search.

The Legislation Scrutiny Group of the Unofficial Members examining the provisions of this Bill agrees with the Secretary for Security that drug trafficking and abuse still represent a great threat to the social health of the community. The proposed amendments are part of Government’s continuing efforts to protect the community, especially young people, from such criminal activities and to bring offenders to justice.

The Group received strong representations from the Bar Committee both in writing and in person. The Bar Committee takes the view—

1. That the Bill constitutes a serious violation of Human Rights.
2. That the proposed powers can only be justified if they are absolutely necessary.
3. That there must be a more efficient safeguard before such powers are exercised.
4. That the proposed section 52A is not justified as it seeks to give blanket immunity to the doctor concerned from a claim for damages even if he should cause serious personal injury or damage to a victim of the search arising out of his negligent act in the performance of the proposed statutory duty.
5. That a search of body cavities should be conducted by a person of the same sex.

The Group shares the concern of the Bar Committee and several lengthy meetings were held in an attempt to resolve the various points at issue and to reach an acceptable compromise with the Administration. Our efforts proved fruitful and the following amendments will be moved at the committee stage—

1. Only a Police officer or a member of the Customs and Excise Service of or above the rank of inspector may request a search of body cavities.
2. The proposed section 52A which gives blanket immunity to a doctor in performing his statutory duty will be deleted.

3. Body cavity searches will be conducted by a person of the same sex, unless the suspect otherwise consents.
4. Some technical and consequential amendments.

A point at issue was whether the right to conduct a search of body cavities carried with it the right to authorize surgery on the suspected person. The Legal Department has now confirmed that the accepted view which is shared by the Medical and Health Department is that a person may not be surgically operated upon without his consent, save in exceptional cases e.g. to save life or under a court order. Accordingly, Government has given an assurance that the power of search under section 52 does not authorize surgery of any kind.

Some Members of the Group have reservations as to the propriety of the amendment in clause 2—

‘Any quantity of a dangerous drug shall be a dangerous drug for the purposes of this Ordinance notwithstanding that the quantity is insufficient to be measured or used.’

My Unofficial Colleague Mr. SWAINE will be speaking on this controversial amendment.

Finally, Sir, the new definition of ‘manufacture’ is so sweeping that even a patient diluting a dangerous drug prescribed by his doctor would technically be committing an offence. I am glad that commonsense has prevailed and Government has given an assurance that no prosecution will be taken in such cases.

Sir, subject to the assurances and agreed amendments, I support the motion.

MR. SWAINE:—Sir, when the Secretary for Security moved the second reading of this Bill on 28 April 1982, he spoke of the grave threats posed by drug traffickers and the need to protect the community from these criminal activities. I think it goes without saying that the Government’s efforts are fully supported, but these must be subject, of course, to legitimate safeguards to protect the innocent and also to prevent abuse. The amendments which will be moved at the committee stage will, I think, achieve a fair balance.

These amendments have come about following consultation with the Government after receipt of representations made by the Bar Association and separate meetings of the Unofficial group with their representatives and with the Government side. Of course, this is how so much of our legislation is enacted, after consultation and the taking of public opinion, although not always accepting it in full, but aiming to strike the right balance. Such consultation is an essential part of our legislative process and the proceedings in this chamber are their end product.

I will not go over the ground which Mr. Peter WONG has already covered, but will instead take up one provision of the Bill which continues to cause me

concern. This relates to the proposed section 2(3) by which any quantity of a dangerous drug shall be a dangerous drug for the purposes of the Ordinance notwithstanding that the quantity is insufficient to be measured or used. In paragraph 6 of his speech, the Secretary for Security explained that the amendment was necessary as, following a Court of Appeal ruling in 1979, a charge of possessing drugs must be supported by evidence that the drugs found are usable, which could be difficult if the quantity involved was very small.

That ruling would have justified amending the Ordinance to provide that usability was not the test. However, as it happens, the House of Lords in England, in a case reported in the Times on 23 April 1982, ruled that the 'usability' test was incorrect in law and the question was not usability but possession. Accordingly such amendment would no longer have been necessary in my view, but its enactment would, of course, serve to declare the law beyond doubt.

However, my concern arises from our also enacting that it doesn't matter if the quantity is insufficient to be *measured*. We have been told by the Government Chief Chemist that the minimum amount of dangerous drug which is measurable is 5 micro-grams or .000005 of a gram! When, therefore, we talk of a quantity which is insufficient to be measured, we are entering the realm of the microscope. I am sure the Attorney General will wish to avoid the absurdity of charging someone with possessing a microscopic amount of a dangerous drug, when common sense tells us, in the words of the House of Lords, that this cannot in fact amount to anything.

Sir, with these reservations, I support the Motion.

SECRETARY FOR SECURITY:—Sir, I am glad that Members support the main thrust of this Bill and that we are all agreed that we need to provide further legal backing for the continuing efforts of the law enforcement agencies to stem the deadly flow of narcotic drugs into Hong Kong, and to deal more effectively with the criminals who organize this revolting trade. Of course I accept that in pursuing this objective, we need to build safeguards into the law against any possible abuse of the powers being created and to ensure that due regard is given to the dignity and human rights of the individuals who may be affected by them.

As Mr. WONG has said we have discussed the helpful and constructive suggestions which have been put forward by the Legislation Scrutiny Group of U.M.E.L.C.O. They have spent a great deal of time on this Bill, which has enabled us to reach agreement on the precise wording to be included in the Bill to meet their concerns, as well as the need for more effective laws in this important area of public policy. As a result I shall be moving amendments to three clauses in the original Bill.

Mr. Peter WONG has indicated these amendments in his speech and therefore I do not propose to dwell on them at any length.

I accept that it is reasonable for the rank of the officer to request a search of body cavities should be of a particular level. On reconsideration I agree that the provision originally included in clause 4 covering the protection of public officers went further than was appropriate. I further agree that body cavity searches will be carried out by a person of the same sex unless the suspect otherwise consents.

I also give the assurances regarding surgery and the extent of prosecutions for manufacture which Mr. WONG sought.

The Attorney General and I have taken note of the particular concern expressed by Mr. SWAINE. Like Mr. SWAINE I am sure that the Attorney General will wish to avoid charging anyone with possession of microscopic amounts of dangerous drugs when that would be absurd in the particular circumstances. But since it is not possible to foresee every sort of case that might arise, it is important that we do not unduly tie our hands. Besides as regards possession of microscopic quantities of drugs, I am told that there are certain safeguards implicit in the House of Lords' decision referred to by Mr. SWAINE, and that these are not displaced by the 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).

BUILDINGS (AMENDMENT) BILL 1982

Resumption of debate on second reading (19 May 1982)

Question proposed.

MR. PETER C. WONG:—Sir, the Buildings (Amendment) Bill 1982, designed to improve control of building operations in the Mid-levels, merits careful consideration. This task was undertaken by the Legislation Scrutiny Group of the Unofficial Members of this Council.

Members are no doubt aware of the events leading to the enactment of the Temporary Restriction of Building Development (Mid-levels) Ordinance in May 1979, which introduced a temporary moratorium on building works in the Mid-levels area. The restrictions were entirely on geotechnical grounds and were necessary to enable a detailed study of the hillside slopes to be carried out. This temporary moratorium was extended on two occasions and is due to expire on 31 July 1982.

The Geotechnical Advisers' report, completed at the end of last year, was given careful consideration by Government. The present Bill is to implement the recommendations of the report, and, if enacted, the temporary moratorium will not have to be further extended. In other words, after 31 July 1982, building works in the Mid-levels area will be permitted if they comply with the very comprehensive and stringent controls stipulated in the Bill and the Regulations to be made thereunder.

The provisions of the Bill are mostly technical and we are grateful to the many Government officials who discussed with the Group the various aspects of the proposed legislation. Representations received include those from the Hong Kong Institute of Architects. These were considered and discussed and my Unofficial Colleague Miss TAM will speak on the results of our deliberations.

If I may, Sir, I would like to touch briefly on the new sections 28A, 28B, 28C and 28D in clause 8. The Building Authority is empowered to grant authority to a developer to carry out and maintain groundwater drainage works beneath privately owned land outside as well as within the development site. There is provision for the giving of notice to adjoining land owners, for the making of objections and for compensation for loss or damage. Although the Group is not generally in favour of statutory provisions which infringe on private rights, we are reasonably satisfied that in the present case they are necessary in the interests of the stability of the neighbourhood and that safeguards against abuse are adequate. Furthermore, administrative instructions and directives will emphasize the need to carry out encroaching groundwater drainage works on adjoining land with care and attention and that such works should not be required where there is a reasonably satisfactory alternative. This important safeguard will be reflected in the amendments which will be moved by the Secretary for Lands and Works at the committee stage. Members may be interested to know that in the opinion of the Government consultant, only very rarely would it be necessary to go onto adjoining land to carry out or maintain these works. It is envisaged that such works would normally include horizontal drains consisting of an array of small boreholes drilled out from the site into neighbouring ground.

There will be a number of other amendments and I do not propose to go into details. They are mostly technical or for the removal of doubt or ambiguity.

Apart from geotechnical considerations, traffic problems in the Mid-levels area have a direct bearing on the extent to which redevelopment may be considered desirable. Government must continue to monitor these and other related matters closely.

The recent downpour serves as a timely reminder that our vigilance on slope safety cannot be relaxed. With the setting up of a new unit, the improved controls must be vigorously enforced. While reasonable expectations of land owners should not be thwarted, Government will no doubt give prior consideration to the overall safety of the area concerned. Human considerations must take precedence over monetary gains.

Sir, with these observations, I support the motion.

MISS TAM:—Sir, under the Buildings Ordinance, Cap. 123, whereby the laws governing the planning, design, and construction of buildings and associated works and the rendering safe of dangerous buildings and land are provided for, it is stated that every person for whom building works or street works are to be carried out shall appoint an authorized person as the co-ordinator of such building or street works and a registered structural engineer may be appointed as a consultant to the authorized person on the structural elements of such works (section 4(1)).

An authorized person is either an architect or a civil, municipal or structural engineer, or a surveyor registered as such under the Buildings Ordinance. He must, inter alia, supervise the carrying out of the works and notify the Building Authority of any contravention of the regulations which would result from the carrying out of any work shown in any plan approved by the Building Authority and see that the provisions of the Buildings Ordinance are complied with. Otherwise he is subject to prosecutions for negligence or misconduct, and/or disciplinary proceedings against him if he is convicted (section 7).

In a great majority of cases, the authorized person is the architect in charge of the building project.

The Buildings (Amendment) Bill 1982 before this Council to-day is designed to improve controls on Mid-levels building operations to safeguard the stability of not only the building sites but also the adjacent grounds. One of the new provisions is that the Building Authority may (under new section 21(6)(f)) refuse to issue a temporary occupation permit or an occupation permit where:

‘... in the case of a building in the scheduled area any performance review is in any respect not considered by the Building Authority *to be satisfactory* ...’

A ‘performance review’ is ‘a report in respect of building works *submitted* by an authorized person, stating and justifying that the building works have been inspected and monitored in the course of construction and that the *geotechnical design assumptions* upon which the building works have been based are valid’.

The Hong Kong Institute of Architects made representations on this new section 21(6)(f) to the effect that:

- (a) over 90% of authorized persons are architects;
- (b) the authorized persons’ expected role is to co-ordinate the building works only;
- (c) the responsibility of supervising geotechnical works should be placed squarely on the shoulder of a geotechnical engineer so that the public interest would be better served; and
- (d) the wording ‘in any aspect not considered by the Building Authority to be satisfactory’ is too vague.

Discussions between the Unofficials' Legislation Scrutiny Group and the Administration on the H.K.I.A. representations then took place and I am happy to report that the position in respect of the preparation of the performance review is clarified as follows:—

- (a) The report could be signed by the geotechnical consultant and,
- (b) submitted by the authorized person by a covering letter; and
- (c) the authorized person would not be held legally responsible unless something goes wrong and the authorized person knowingly made misrepresentations to the Building Authority.

The Group has also been assured that there is no lack of geotechnical consultants in the private sector to share the workload of preparing the performance reviews. In respect of new section 21(6)(f) it will be amended to narrow down the scope of the Building Authority's consideration to whether the performance review fails to state or justify that the building works have been adequately inspected and monitored in the course of construction or that the geotechnical design assumptions upon which the building works have been based are valid.

Thus we hope both the architects' and the public's interests are protected.

The Hong Kong Land Company Ltd. also made representations on the Bill. They were concerned that property developers might be faced with lengthy and costly delays on projects which might be affected by the new legislation, particularly at the planning submission stage. The Group has been assured by the Administration that, under Building (Administration) regulation 30(3), General Building Plans and other related plans, including those in respect of geotechnical works, must be approved or disapproved within 60 days of their submission or 30 days of their re-submission. Such time limits, however, do not apply to certain other plans such as Master Plans because they are contractual requirements in the lease conditions in certain cases and are therefore outside the scope of the principal Ordinance.

Sir, with all the agreed amendments, I support the motion.

SECRETARY FOR LANDS AND WORKS:—Sir, I would like to thank the Unofficial Members for their careful and constructive scrutiny of this Bill which has led to the amendments referred to by Mr. WONG and Miss TAM, mainly technical amendments which I will move at the committee stage. As Mr. WONG has pointed out, groundwater drainage works which will encroach on adjoining land will only be authorized where it is necessary in the interest of the stability of the neighbourhood, and then only where there is no reasonably satisfactory alternative. The amendment proposed in the new section 28B(4) is to enable the Building Authority to lay down such conditions as he considers necessary in the particular circumstances to ensure that the work will be carried out with due care and attention to the adjoining property.

Mr. WONG pointed out that traffic problems in the Mid-levels have a direct bearing on the extent to which redevelopment may be considered desirable. For this reason the administrative restrictions on lease modifications and new land sales which were imposed in 1973 will be maintained for the time being and a study of Mid-levels traffic conditions will begin later this year. An item has been included in the Public Works Programme for the engagement of Consultants for the study, which will include the investigation of the feasibility of alternative passenger moving systems to connect the Mid-levels with the Central District. It is intended that the consultants will be appointed in the near future with a view to completing the study by September 1983.

I thank my honourable Friends for their support.

Question put and agreed to.

Bill read the second time.

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

Committee stage

Council went into committee.

COMMODITIES TRADING (AMENDMENT) BILL 1982

Clauses 1 to 8 were agreed to.

SOCIETIES (AMENDMENT) BILL 1982

Clauses 1 to 3 were agreed to.

Clause 4

THE ATTORNEY GENERAL:—I move that clause 4 be amended as set out in the paper circulated to Members.

The intention of new subsection (2A) of section 8 is to enable the Registrar to monitor the rules or the constitutions of societies which were already in existence when the present Ordinance became law on 21 July 1961. The amendment to clause 4 reflects that intention.

Proposed amendment

Clause 4

That clause 4 be amended in paragraph (b) in proposed new subsection (2A), by deleting ‘by notice served on a registered society or an exempted society’ and substituting the following—

‘in the case of a society registered or exempted from registration before 21 July 1961, by notice served on such society’.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clause 5 was agreed to.

Clause 6

THE ATTORNEY GENERAL:—I move that clause 6 be amended as set out in the paper circulated to Members. This is a technical amendment—the word criminal being a better description of what was intended than arrestable.

Proposed amendment

Clause 6

That clause 6 be amended in paragraph (a)(iv) in proposed new paragraph (ee), by deleting ‘arrestable’ and substituting the following—
‘criminal’.

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7

THE ATTORNEY GENERAL:—I move that clause 7 be amended as set out in the paper circulated to Members. The intention of new section 12 is to enable a society or any person aggrieved by an administrative decision of either the Registrar or of the Secretary for City and New Territories Administration, as the case may be, to appeal against that decision without, initially at least being involved in the formality and expense of an appeal to the Supreme Court. I should point out however that the right of judicial review by the Courts is not affected.

The Government accepts the arguments that have been advanced by the ad hoc group of Unofficial Members that the appellate body might more appropriately be the Governor in Council rather than simply the Governor, and move the proposed amendment accordingly.

*Proposed amendment***Clause 7**

That clause 7 be amended in proposed new section 12 by inserting after ‘Governor’ in each place where it occurs the following—
‘in Council’.

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Clause 8 was agreed to.

Clause 9

THE ATTORNEY GENERAL:—I move that clause 9 be amended as set out in the paper circulated to Members. This amendment and the next succeeding three, increase the maximum fines that may be imposed for the commission of offences under certain sections of the Ordinance. For the reasons given by my honourable and learned Friend Mr. WONG, I accept that Unofficial Members are right in considering that the initial proposed amendment placed these penalties somewhat too low.

*Proposed amendment***Clause 9**

That clause 9 be amended in paragraphs (b)(ii) and (c)(ii) by deleting ‘\$2,000’ and substituting the following—
‘\$10,000’.

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clause 10

THE ATTORNEY GENERAL:—I move that clause 10 be amended as set out in the paper circulated to Members. This amendment raises the proposed penalty to \$20,000.

Proposed amendment

Clause 10

That clause 10 be amended by deleting ‘\$5,000’ and substituting the following—
‘\$20,000’.

The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clause 11

THE ATTORNEY GENERAL:—I move that clause 11 be amended as set out in the paper circulated to Members. This amendment also raises the proposed penalty.

*Proposed amendment***Clause 11**

That clause 11 be amended by deleting ‘\$2,000’ and substituting the following—
‘\$10,000’.

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clause 12

THE ATTORNEY GENERAL:—I move that clause 12 be amended as set out in the paper circulated to Members. This amendment is made for similar reasons to the last three.

*Proposed amendment***Clause 12**

That clause 12 be amended by deleting ‘\$1,000’ and substituting the following—
‘\$5,000’.

The amendment was agreed to.

Clause 12, as amended, was agreed to.

Clause 13

THE ATTORNEY GENERAL:—I move that clause 13 be amended as set out in the paper circulated to Members. The effect of the amendment is that any notice to be served on a society under the Ordinance may be served by being sent by registered post.

Proposed amendment

Clause 13

That clause 13 be amended in proposed new section 36A by deleting ‘post or’.

The amendment was agreed to.

Clause 13, as amended, was agreed to.

Clauses 14 and 15 were agreed to.

The Schedule was agreed to.

ROADS (WORKS, USE AND COMPENSATION) BILL 1982

Clause 1

THE ATTORNEY GENERAL:—Sir, I move the amendment to clause 1 in the paper before Members.

The Bill was originally drafted on the basis that it would come into operation in the ordinary way following enactment. But, following consideration in the Executive Council, it was decided to make the date of publication of the Bill, the date when it should come into operation. The back-dating of the Bill has caused concern to many people and as events have turned out, now serves no useful purpose. At the request of Unofficial Members it has been agreed to revert to the original plan.

Proposed amendment

Clause 1

That clause 1 be amended by deleting ‘and shall be deemed to have come into operation on 19 February 1982’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2

THE ATTORNEY GENERAL:—I move the amendment to clause 2 in the paper before Members.

This amendment introduces a general definition of ‘owner’ in place of specific definitions elsewhere in the Bill. It also extends the meaning of ‘owner’ to cover a person holding land from the Crown other than under a Crown lease; for example, under a prescriptive title. I should say that this definition has little relevance to compensation; in that respect, a person owning a ‘compensatable interest’ is entitled to claim and this concept is, of course, wider than that of ‘owner’.

Proposed amendment

Clause 2

That clause 2 be amended by inserting, immediately after the definition of ‘mortgage’, the following definition—

“owner”, in relation to land, means the person holding that land—

- (a) directly under a Crown lease; or
- (b) under another title directly from the Crown registered in the Land Office;’.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3

THE ATTORNEY GENERAL:—I move the amendment to clause 3 in the paper before Members.

This is a technical amendment to ensure that the power covers power conferred indirectly as well as directly.

Proposed amendment

Clause 3

That clause 3(3) be amended by deleting ‘by’ and substituting the following—
‘under’.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 and 5 were agreed to.

Clause 6

THE ATTORNEY GENERAL:—I move the amendment to clause 6 in the paper circulated.

These are drafting amendments to improve the wording and operation of this clause.

Proposed amendments

Clause 6

That clause 6(1) be amended—

- (a) by inserting, immediately after ‘section 5’, the following— ‘or any amendment or any substitute plan or scheme’;
- (b) in paragraph (a), by inserting, immediately after ‘installation’, the following— ‘or removal’; and
- (c) in paragraph (b), by deleting ‘or’.

The amendments were agreed to.

Clause 6, as amended, was agreed to.

Clause 7 was agreed to

Clause 8

THE ATTORNEY GENERAL:—I move the amendments to clause 8 in the paper before Members.

These amendments achieve improvements to the provisions relating to publicity to be given to the plan and scheme, and its availability for study by those members of the public who wish to see it.

Proposed amendments

Clause 8

That clause 8 be amended—

- (a) in subclause (3), by deleting ‘one issue’ where it appears in paragraphs (a), (b) and (c) and substituting the following— ‘2 issues’;

- (b) in subclause (4), by inserting, immediately after ‘subsection (1)’, the following—
‘and, at the same time, supply that District Board with a copy of the plan and scheme’; and
- (c) by inserting, immediately after subclause (4), the following subclause—
‘(5) A copy of the plan and scheme shall be supplied to any person on application and payment of the reasonable cost of producing that copy.’.

The amendments were agreed to.

Clause 8, as amended, was agreed to.

Clause 9

THE ATTORNEY GENERAL:—I move the amendment to clause 9 in the paper before Members.

This clarifies the meaning of the ‘rights’ referred to.

Proposed amendment

Clause 9

That clause 9 be amended in the proviso by inserting, immediately after ‘rights’, the following—
‘(including rights to compensation)’.

The amendment was agreed to.

Clause 9, as amended, was agreed to

Clause 10

THE ATTORNEY GENERAL:—I move the amendment to clause 10 in the paper before Members.

The amendment (a) is consequential on the amendments to clause 8.

Amendment (b) is to ensure that if the Secretary elects to proceed under this Bill under clause 42(2), an objector may raise the matter and the Governor in Council will then consider and decide if the Secretary has adopted the appropriate clause or whether he should more properly have gone under the existing Ordinance.

Proposed amendment

Clause 10

That clause 10 be amended in subclause (1)—

(a) by inserting, immediately after ‘after’, the following—
‘the first’; and

(b) by inserting, immediately after ‘both’, the following—
‘and may, where relevant, object to the exercise of the power of the Secretary under section 42(2)’.

The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clause 11

THE ATTORNEY GENERAL:—I move the amendments to clause 11 in the paper before Members.

Amendment (a) enables the Governor in Council, if it wishes to do so in a proper case, to refer the plan, the scheme and objections to a public enquiry by the Town Planning Board, even when there is no draft plan covering the district in question.

Amendment (b) is a technical amendment to improve the wording of subsection (6)(c).

*Proposed amendments***Clause 11**

That clause 11 be amended—

- (Cap. 131.)
- (a) by inserting, immediately after subclause (2), the following subclause—
‘(2A) Before exercising the power under subsection (2), the Governor in Council may refer the plan, the scheme and the objections to the Town Planning Board appointed under the Town Planning Ordinance and the Board shall, whether or not the works are shown on any draft plan under that Ordinance—
- (a) exhibit and advertise the plan and scheme under section 5 of that Ordinance as if it were a draft plan;
 - (b) consider the objections lodged under section 10 and any other objections received by the Board; as if all the objections were objections to a draft plan sent to the Board under section 6 of the Ordinance;
 - (c) report to and advise the Governor in Council on the plan, the scheme and the objections as the Board thinks fit.’; and

- (b) by deleting subclause (6)(c) and substituting the following—
‘(c) the condition shall be deemed to have been met if the condition is met in respect of all the persons for whose benefit the condition was imposed other than those who waive compliance in writing.’.

The amendments were agreed to.

Clause 11, as amended, was agreed to.

Clauses 12 to 14 were agreed to.

Clause 15

THE ATTORNEY GENERAL:—I move the amendments to clause 15 in the paper before Members.

Amendment (a) removes the power of the Secretary to enter premises without notice for the purposes of inspection and routine maintenance, but retains his power to enter without notice if an emergency exists.

Amendment (b) provides for notice to be served on the owner as well as the occupier.

Proposed amendments

Clause 15

That clause 15 be amended—

- (a) in subclause (5), by deleting all the words after ‘unless’ and substituting the following—
‘the Secretary is of the opinion that an emergency exists which necessitates immediate entry’; and
(b) in subclause (6), by deleting ‘occupier’ and substituting the following—
‘owner and the occupier of the land’.

The amendments were agreed to.

Clause 15, as amended, was agreed to.

Clauses 16 and 17 were agreed to.

Clause 18

THE ATTORNEY GENERAL:—I move the amendment to clause 18 in the paper before Members.

This corrects a printing error.

*Proposed amendment***Clause 18**

That clause 18(2) be amended in paragraph (a) by deleting 'section 18(1)' and substituting the following—
'section 17(1)'.

The amendment was agreed to.

Clause 18, as amended, was agreed to.

Clause 19

THE ATTORNEY GENERAL:—I move the amendment to clause 19 in the paper before Members.

Amendment (a)(i) removes an ambiguity.

Amendment (a)(ii) makes clear that the operations will be carried out at the cost of the Crown.

Amendment (b) corrects a second printing error.

*Proposed amendments***Clause 19**

That clause 19 be amended—

(a) in subclause (1)—

(i) in paragraphs (a) and (b), by deleting 'or' at the end of both those paragraphs; and

(ii) by inserting, immediately after 'carry out', the following—
'at the cost of the Crown,'; and

(b) in subclause (3), by deleting 'owner and occupier' and substituting the following
—
'the owner and the occupier'.

The amendments were agreed to.

Clause 19, as amended, was agreed to.

Clause 20

THE ATTORNEY GENERAL:—I move the amendment to clause 20.

Amendment (a) restricts the use of the power to unleased Crown land and applies the provision as to the utility owner meeting the expense only to the case where there is no contract to the contrary.

Amendment (b) requires that the period within which the work must be done is as long as is reasonably necessary and requires the Secretary to consult the utility owner before setting the period.

Amendment (c) is consequential upon Amendment (a).

Proposed amendments

Clause 20

That clause 20 be amended—

- (a) in subclause (1), by deleting ‘requiring him, at his own expense,’ and substituting the following—
 - ‘situated on any unleased Crown land requiring him, at his own expense (subject to any contract between that owner and the Crown),’;
- (b) by inserting, immediately after subclause (2), the following subclause—
 - ‘(2A) The period mentioned in subsection (2)(b) shall be a period which is reasonably necessary for the carrying out of the Secretary’s requirements as mentioned in subsection (2)(a) and, before stipulating a period, the Secretary shall consult the owner of the apparatus to which the notice applies.’; and
- (c) in subclause (3), by inserting immediately after ‘notice and’, the following—
 - ’,subject to any contract between that owner and the Crown,’.

The amendments were agreed to.

Clause 20, as amended, was agreed to.

Clause 21

THE ATTORNEY GENERAL:—I move the amendment to clause 21 in the paper before Members.

Amendment (a) deletes a superfluous ‘may’ and, in view of the new general definition, deletes the definition of ‘owner’.

Proposed amendment

Clause 21

That clause 21 be amended—

- (a) in subclause (5), by deleting ‘may’ where it appears for the first time; and
- (b) by deleting subclause (6).

The amendment was agreed to.

Clause 21, as amended, was agreed to.

Clause 22

THE ATTORNEY GENERAL:—I move the amendment to clause 22 in the paper before Members.

This amendment introduces a right, where the Building Authority delays the building works for any period, for any person having a compensatable interest (not just the owner) to apply to the Governor in Council for an order that the land be resumed.

The amendment also deletes the definition of 'owner'.

Proposed amendments

Clause 22

That clause 22 be amended—

(a) by inserting, immediately after subclause (7), the following subclauses—'(7A)

Where—

- (a) the Building Authority imposes, under subsection (1)(d), a condition delaying building works; and
- (b) he maintains that condition after reviewing his action under the proviso to subsection (3); and
- (c) he advises, under subsection (4), that, for any period specified by him, building works on the land specified by him would be incompatible with the works or the use; and
- (d) the building works and any plan relating thereto are consistent with the Crown lease or other instrument under which the land is held and with any law or requirement under any law,

any person having a compensatable interest in that land may apply to the Governor in Council for an order that the land mentioned in paragraph (c) be resumed under this Ordinance and the Governor in Council may, if he thinks it just and equitable to do so, make such an order.

(7B) Where the Governor in Council makes an order under subsection (7A), the Governor shall make an order under section 13(1) in respect of the land mentioned in paragraph (c) of subsection (7A) not more than 28 days after the order under subsection (7A) and the period of notice specified in the order under section 13(2) shall be not longer than 28 days.'; and

(b) by deleting subclause (8).

The amendments were agreed to.

Clause 22, as amended, was agreed to.

Clauses 23 to 32 were agreed to.

Clause 33

THE ATTORNEY GENERAL:—I move the amendment to clause 33 in the paper before Members.

The amendment ensures that, in resumption cases, the matter of interest is dealt with as in cases of resumption under the Crown Lands Resumption Ordinance.

Proposed amendment

Clause 33

That clause 33 be deleted and the following clause substituted ^{with}

‘Interest. 33. The Lands Tribunal may direct that interest be paid on compensation (but not on costs)—
 (a) in the case of compensation payable under item 1 of Part II of the Schedule, as if the claim were made under the Crown Lands Resumption Ordinance for land resumed under that Ordinance; and
 (b) in any other case, from such date and for such period as it thinks fit and at such rate as it may fix but not below the lowest rate payable during that period by members of the Hong Kong Association of Banks on time deposits.’.

(Cap. 124.)

The amendment was agreed to.

Clause 33, as amended, was agreed to.

Clauses 34 to 36 were agreed to.

Clause 37

THE ATTORNEY GENERAL:—I move the amendment to clause 37 in the paper before Members.

This amendment introduces the request of honourable Members and requires the Crown to give proper consideration to offering surplus land which has been resumed and which is no longer required for Crown use back to the former owner in the first instance.

Proposed amendment

Clause 37

That clause 37 be amended—

- (a) by deleting the full stop and substituting a colon; and
- (b) by inserting, at the end, the following proviso—

‘Provided that, before disposing of any land resumed under this Ordinance to any other person, the Crown shall give proper consideration to offering that land back to the person for whom it was resumed.’.

The amendment was agreed to.

Clause 37, as amended, was agreed to.

Clause 38

THE ATTORNEY GENERAL:—I move the amendment to clause 38 in the paper before Members.

This is consequential upon the amendment to clause 33.

*Proposed amendment***Clause 38**

That clause 38 be amended by deleting ‘the Schedule’ and substituting the following—
‘this Ordinance’.

The amendment was agreed to.

Clause 38, as amended, was agreed to.

Clause 39 and 40 were agreed to.

Clause 41

THE ATTORNEY GENERAL:—I move the amendment to clause 41 in the paper before Members.

This Bill is comprehensive as to road works and section 7A of the Road Traffic Ordinance is therefore no longer needed.

Proposed amendment

Clause 41

That clause 41 be amended by deleting subclause (2) and substituting the following—
'(2) Section 7A of the Road Traffic Ordinance is repealed.'

The amendment was agreed to.

Clause 41, as amended, was agreed to.

Clause 42 was agreed to.

Schedule

THE ATTORNEY GENERAL:—I move the amendments to the *Schedule*.

The amendment of paragraph 2, by replacing 'and' by 'or' cures a defect spotted by the eagle eye of my honourable Friend the Revd. Father MCGOVERN.

The amendments to paragraphs 3 and 8 remove the introduction of betterment from a compensation calculation. I have been persuaded that in comparative cases, unfairness could emerge.

Paragraph 9(b) is amended to spell out exactly how the compensation shall be appropriated where it is recovered by a mortgagee in possession.

The amendment to paragraph 10 ensures that the increase in market value is attributable to an amendment to the plan, not to the plan as a whole.

*Proposed amendments***Schedule**

That the Schedule be amended in Part I—

- (a) in paragraph 2, in the definition of 'disturbance', by deleting 'land and' and substituting the following—
'land or';
- (b) in paragraph 3—
 - (i) in sub-paragraph (1), by deleting 'sub-paragraph (2) and'; and
 - (ii) by deleting sub-paragraph (2);
- (c) in paragraph 8—
 - (i) by deleting 'or, under paragraph 3(2), any compensation has been reduced by any increase in the value of any land';
 - (ii) by deleting 'paragraph 3(1)' and substituting the following—
'paragraph 3'; and
 - (iii) by deleting 'or increase' from the three places where it appears;

- (d) in paragraph 9(b), by deleting ‘as if it were the proceeds of sale of the mortgage security’ and substituting the following—
 ‘firstly, to the settlement or reduction of the debt due under the mortgage and then to the payment of any excess to the mortgagor’; and
- (e) in paragraph 10, by deleting ‘a plan amended’ and substituting the following—
 ‘an amendment required’.

The amendment was agreed to.

The Schedule, as amended, was agreed to.

ANTIQUITIES AND MONUMENTS (AMENDMENT) BILL 1982

Clauses 1 to 15 were agreed to.

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1982

Clauses 1 to 3 were agreed to.

DANGEROUS DRUGS (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. This amendment deals with the rank of the officers requesting a search of the suspect, and also with the rights of the suspect to request that the search be undertaken by a person of the same sex.

Proposed amendments

Clause 3

That clause 3 be deleted and the following substituted—

‘Amend- 3. Section 52 of the principal Ordinance is amended—
 ment of (a) by inserting after subsection (1) the following—
 section 52.

“(1A) For the purposes of enabling a person to be searched under subsection (1)(f)(i), a police officer of or

(Cap. 164.) above the rank of inspector or a member of the Customs and Excise Service of or above the rank of inspector may request a registered medical practitioner or nurse registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance, to examine the body cavities of that person.

(1B) A medical practitioner or nurse requested to examine the body cavities of a person under subsection (1A) may search the rectum, vagina, ears and any other body cavity of that person.

(1C) A medical practitioner or nurse carrying out an examination of a person at the request, under subsection (1A), of a police officer or member of the Customs and Excise Service who appears to be lawfully engaged in the performance of his duty shall not be bound to enquire whether or not the police officer or member is acting lawfully or within the scope of his duty.

(1D) A police officer or member of the Customs and Excise Service may detain a person in respect of whom a request is to be or has been made to a medical practitioner or nurse under subsection (1A) for such time as may reasonably be necessary to permit a medical practitioner or nurse to complete an examination of the body cavities of that person under this section.”; and

(b) by deleting subsection (9) and substituting the following—

“(9)(a)(i) An examination of the body cavities of a person under this section shall, unless that person otherwise consents, be carried out by a medical practitioner or nurse of the same sex as that person.

(ii) Where a female has consented, under subparagraph (i), to an examination of her body cavities by a medical practitioner or nurse of the opposite sex, such examination shall be in the presence of another female.

(b) Subject to paragraph (a), no female shall be searched under this section except by a female.

(c) No person shall be searched under this section in a public place if he objects to being so searched.”“.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4

SECRETARY FOR SECURITY:—I move that clause 4 be deleted for reasons which I explained in the second reading.

The deletion was agreed to.

BUILDINGS (AMENDMENT) BILL 1982

Clauses 1 to 5 were agreed to.

Clause 6

SECRETARY FOR LANDS AND WORKS:—I move that clause 6 be amended as set out in the paper circulated to Members in accordance with the agreement reached with the Legislative Scrutiny Group of U.M.E.L.C.O. and as explained by Mr. WONG and Miss TAM and in my reply earlier.

*Proposed amendment***Clause 6**

That clause 6(a) be amended by deleting paragraph (iii) and substituting the following

—

'(iii) by inserting after paragraph (e) the following—

'(f)in the case of a building in the scheduled area any performance review in the opinion of the Building Authority fails to state or justify that the building works have been adequately inspected and monitored in the course of construction or that the geotechnical design assumptions upon which the building works have been based are valid."; and'.

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7 was agreed to.

Clause 8

SECRETARY FOR LANDS AND WORKS:—I move that clause 8 be amended as set out in the paper circulated to Members for the same reasons as I have given before.

*Proposed amendments***Clause 8**

That clause 8 be amended—

(a) in new section 28B(2) by deleting 'to every person' and substituting the following

—

'on every person';

- (b) in new section 28B(4) by deleting ‘may authorize with or without alteration the carrying out of the works’ and substituting the following—
‘may, subject to such conditions as he considers necessary, authorize with or without alteration the carrying out of the relevant works’;
- (c) by deleting new section 28B(5) and substituting the following—
‘(5) Notice of any authorization under subsection (4) or of any refusal so to authorize shall be served by the Building Authority in the prescribed form on every person required to be served with a notice under subsection (2).’;
- (d) in new section 28B(6) by deleting ‘full power’ and substituting the following—
‘authority’;
- (e) in new section 28D(1) by inserting after ‘section 28B(6)’ the following—
‘or 28C(1)’;
- (f) in new section 28D(2) by inserting after ‘damage to any’ the following—
‘land or’; and
- (g) in new section 28D(3) by inserting after ‘damage to any’ the following—
‘land or’.

The amendments were agreed to.

Clause 8, as amended, was agreed to.

Clauses 9 to 12 were agreed to.

Clause 13

SECRETARY FOR LANDS AND WORKS:—I move that clause 13 be amended as set out in the paper circulated to Members for the same reasons as I have given before.

Proposed amendment

Clause 13

That clause 13 be amended by deleting ‘5’ and substituting the following—
‘19’

The amendment was agreed to.

Clause 13, as amended, was agreed to.

Clause 14 was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

COMMODITIES TRADING (AMENDMENT) BILL

ANTIQUITIES AND MONUMENTS (AMENDMENT) BILL and the

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL

had passed through Committee without amendment and the

SOCIETIES (AMENDMENT) BILL

ROADS (WORKS, USE AND COMPENSATION) BILL

DANGEROUS DRUGS (AMENDMENT) BILL and the

BUILDINGS (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, 30 June 1982.

Adjourned accordingly at fifteen minutes to five o'clock.