

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 8 December 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  
MR. JOHN HENRY BREMRIDGE, O.B.E.

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

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

THE HONOURABLE DAVID WYLIE McDONALD, C.M.G., J.P.  
SECRETARY FOR LANDS AND WORKS

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

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

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

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

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

THE HONOURABLE PETER C. WONG, O.B.E., J.P.

THE HONOURABLE WONG LAM, O.B.E., J.P.

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 CHARLES YEUNG SIU-CHO, O.B.E., J.P.

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

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

THE HONOURABLE ALLEN LEE PENG-FEI, O.B.E., J.P.

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

THE HONOURABLE GERALD PAUL NAZARETH, O.B.E., Q.C., J.P.  
LAW DRAFTSMAN

THE HONOURABLE HU FA-KUANG, J.P.

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

THE HONOURABLE WILLIAM DORWARD, O.B.E., J.P.  
SECRETARY FOR TRADE AND INDUSTRY

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 WILLIAM CHARLES LANGDON BROWN, 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 SELWYN EUGENE ALLEYNE, J.P.  
DIRECTOR OF SOCIAL WELFARE

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING

THE HONOURABLE PIERS JACOBS, O.B.E., J.P.  
SECRETARY FOR ECONOMIC SERVICES

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

#### **ABSENT**

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

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

THE HONOURABLE GRAHAM BARNES, J.P.  
REGIONAL SECRETARY (HONG KONG AND KOWLOON), CITY AND NEW TERRITORIES  
ADMINISTRATION

#### **IN ATTENDANCE**

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

**Papers**

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

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Cremation and Gardens of Remembrance (New Territories) (Amendment) Regulations 1982.....	407
Tax Reserve Certificates (Fourth Series) Rules.	
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Public Health and Urban Services (Amendment of Fifth Schedule) (No. 2) Order 1982.....	409
Metrication Ordinance.	
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Sessional Paper 1982-83:

No. 18—Supplementary Provisions approved by the Urban Council during the second quarter of the financial year 1982-83.

### **Report on the Overall Review of the Hong Kong Education System**

1. REVD. JOYCE M. BENNETT asked:—*In view of the promise made that we would receive the report on the Overall Review of the Hong Kong Education System in November, can this Council be informed the reasons for the delay in receiving it, the date when we may expect to read it and when it will be published for the public?*

SECRETARY FOR EDUCATION:—Sir, the Report from the Panel of Visitors conducting an overall review of our education system was received last week. I propose to seek, at the earliest opportunity, the advice of the Executive Council on its publication.

REVD. JOYCE M. BENNETT:—*Sir, but what are the reasons for the delay? When will the Members of this Council be able to read it?*

SECRETARY FOR EDUCATION:—Sir, the report was promised in November. It did in fact arrive on the last day of November. That's a serious answer, Sir—I am surprised that Miss BENNETT should think it proper to laugh—it is also truthful. And the second part of her question, it is, I believe, the custom that when the advice of Executive Council is sought, the papers are copied to Members of this Council in all ordinary circumstances.

## Kowloon Bay Vehicle Examination Centre

2. MR. S. L. CHEN asked:—*Since the opening of the Kowloon Bay Vehicle Examination Centre in 1979,*

*(a) how many vehicles have been inspected and tested and what is the failure rate?*

*(b) is the service provided satisfactory from the point of view of supply and demand, and if not, what Government has in mind to improve it?*

SECRETARY FOR TRANSPORT:—Sir, since the opening of the Kowloon Bay Vehicle Examination Centre in September 1979, some 22 000 *vehicles* have been inspected. Depending on the type of vehicle, failure rates vary from 35% to 60%. Thus many vehicles are inspected twice or even more times, and the total number of inspections in the same period was 33 676. Of these 26 848 were of goods vehicles, 7 865 of P.L.Bs. and 963 of private cars.

The Examination Centre has spare capacity, being designed to carry out 41 000 inspections a year. So far in 1982, the demand has been for a total of 20 104 inspections. The waiting time for a re-test is now very reasonable for most categories of vehicle. The waiting time should be further reduced in the short term by recruitment of more staff for the Kowloon Bay Centre, and in the longer term by the development of more examination facilities.

MR. S. L. CHEN:—*Sir, with regard to the future development, instead of having more examination facilities would Government consider entrusting the work of vehicle testing to qualified garages in the private sector as is indeed the case in the United Kingdom for the M.O.T. test?*

SECRETARY FOR TRANSPORT:—Yes, Sir, we are already considering that possibility.

MR. PETER C. WONG:—*Sir, may I ask whether a fee is charged for a second or subsequent test?*

SECRETARY FOR TRANSPORT:—I really should know the answer. I think not, Sir. I think not, but I must confirm that.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

If on first examination a vehicle satisfies the requirements in respect of major items, such as brakes, steering, suspension and tyres, but if for instance its lights or direction indicators were not functioning properly, it would not pass the test but no fee would be charged for the re-test. However, if a vehicle fails on major items such as the steering and brakes, it is put through the *complete* examination when presented for re-test, and accordingly a further vehicle examination fee must be paid.

### Lai Chi Kok Hospital

3. REVD. JOYCE M. BENNETT asked:—

- (a) *What improvements have been made to the Lai Chi Kok Hospital building which was constructed pre-war and which was used as an army barrack and later as a prison?*
- (b) *What redevelopments are currently planned to ensure greater cleanliness, better hygiene and improvements in the nursing and care of those chronically-ill patients presently housed there?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the Lai Chi Kok Hospital consists of old pre-war, chalet-typed buildings constructed on a hillside. Following World War II, the Hospital was used to accommodate infectious diseases and chronic convalescent cases. In 1975, the infectious cases were transferred to Princess Margaret Hospital when facilities for such cases were available there. The Lai Chi Kok Hospital was then used for special skin and chronic psycho-geriatric cases for which there are 384 beds at present.

I am aware that the Hospital is old and thus every attempt is made to maintain and improve it to serve its present functions adequately.

Therefore, in answer to the first part of Miss BENNETT's question, considerable work has been done and other improvements introduced over the years.

At the time of the change of use in 1975, the hospital wards were completely renovated. Subsequently, between 1978 and 1981, further improvements were made to the Hospital which included the installation of additional wash basins, urinals, sluices, water heaters, electric radiators, fans and floor drainage in toilet areas. Power points were relocated and lighting improved. Sickbays have been provided for two wards. Floor tiles have been provided for the special skin unit floors. In addition, improvements have been made to the exterior of the Hospital including the provision of canopies to cover open pathways.

As regards the second part of Miss BENNETT's question, it is the intention to phase out this Hospital but it has not yet been possible to do so because of pressure on hospital beds. Thus, there are plans in the pipeline for the development of facilities for the chronically sick in projects such as the Pok Oi Hospital extension, the Sha Tin Infirmary, the Tsuen Wan Infirmary and the Kowloon Hospital extension.

In the meantime, further improvements are currently planned to ensure better hygiene and cleanliness in the Lai Chi Kok Hospital. These include proposals to redecorate the Hospital, to upgrade the hospital kitchen, to provide tiles to the walls in the washrooms and ward dormitories. Also, renovation work on the roof will be carried out so as to reduce heat on the upper floors.

The Hospital at the moment is adequately staffed and the standard of care is reasonably maintained. It still serves a useful role in providing accommodation for chronic cases which otherwise would occupy much needed acute facilities elsewhere.

REVD. JOYCE M. BENNETT:—*Sir, when were the tiles laid on the floors of the Special Skin Unit, and are there tiles on the floors for the chronic psycho-geriatric cases?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, I am afraid I do not know exactly the timing of the laying of the tiles but I would say it was probably a few years ago.*

REVD. JOYCE M. BENNETT:—*Sir, when will the proposals to redecorate the Hospital, to upgrade the hospital kitchen and to provide tiling to various walls in fact be brought to Finance Committee, and the work carried out?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, it is hoped as soon as possible. Possibly in the next few months, in conjunction with the next Budget.*

REVD. JOYCE M. BENNETT:—*Sir, one final question if I may. Is it possible that these substandard facilities would not have been tolerated for so long by the public for their families and friends if these patients had not been special skin and chronic psycho-geriatric cases and unable to speak out for themselves?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, I am afraid I cannot agree with Miss BENNETT on her line of reasoning because many of the patients can speak. They are ambulant, they can speak out for themselves; and even if they can't, there are always J.P.'s who visit the Hospital who can speak up for them.*

### **Composition and usage instructions of pharmaceutical products in English and Chinese**

4. MR. WONG LAM asked in Cantonese:—

為保障公眾健康，政府是否會考慮規定所有在本港出售之藥物，均須以中英文清楚標明成份及使用法？

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

*Will Government consider, in the interest of public health, requiring the composition and usage instructions to be marked clearly in Chinese and English on all pharmaceutical goods available in local stores?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, at present there are provisions in the Pharmacy and Poisons Regulations which require that the*

composition of all pharmaceutical products be marked on the label in English *or* Chinese but not the usage instructions which are normally available in a separate leaflet attached to the product.

For controlled medicines, i.e., Part I Poisons and Antibiotics, which are not available in medicine companies, labelling in Chinese is not necessary because they can only be distributed through registered pharmacists or registered medical practitioners who are conversant with the English descriptions.

In regard to medicines which are freely obtainable in medicine companies over the counter, usage instructions in both English *and* Chinese are already available in a number of these drugs. But I would agree with Mr. WONG that it is desirable for usage instructions in both English and Chinese to be attached to all such products in order to enable the users to understand how these medicines should be taken.

In this connection, my Department will put forward a proposal to the Pharmacy and Poisons Board for its consideration.

As for the composition of such products to be labelled in Chinese, this is considered neither practicable nor necessary as there is no standard nomenclature for all drug chemicals in Chinese and in any case knowledge of the chemicals by themselves is of little value to the public.

### **Civil Servants' Refinancing Scheme**

5. MR. SO asked in Cantonese:—

請問政府在去年三月為協助公務員償還債項而實施的公務員再貸款計劃，目前情況如何？

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

*What is the position in regard to the scheme introduced in March last year to assist the refinancing of debts incurred by civil servants?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, since its inception in March 1981, the Civil Servants' Refinancing Scheme has helped to refinance 2 802 civil servants who were in debt for various reasons. A further 400 civil servants received advice and assistance on their personal finances. The total loans made by the 15 banks and deposit-taking companies which took part in the Scheme amounted so far to \$50 million.

When the Scheme was introduced it was made clear that it would operate for a limited period only, set at six months initially, and that it would apply only to debts incurred before 12 March 1981. The Scheme was extended for a further six months until 11 March 1982 on the advice of the Working Group chaired by the Honourable Li Fook-wo.

The civil service staff who were brought together to operate the Scheme have now been redeployed to other duties, except for a small nucleus who are assisting with the administration of repayments to the banks and deposit-taking companies.

Sir, a report evaluating the effectiveness of the Scheme will shortly be put to the Executive Council.

### **Legislation on Conveyancing and Law of Property**

6. MR. PETER C. WONG asked:—*When will the legislation on Conveyancing and Law of Property, which has been the subject of discussion in this Chamber on several occasions, be ready to be introduced into this Council?*

LAW DRAFTSMAN:—Sir, the Conveyancing and Law of Property Bill was last discussed in this Council a year ago when I reported that the Law Society had almost completed its detailed if protracted study of the Bill. The Society's comments were received in February this year. The substantial amendments required to meet those comments were promptly prepared and circulated in March. Those consulted, including the Law Society, felt that the amendments, certain other related matters and generally the final settling of the provisions of the Bill involved complex and important considerations that could best be resolved by a Working Group. To facilitate and expedite the process it was agreed that the draftsman would serve as a member of the Group. The other members are the Registrar General, the President of the Law Society and two practising experts in conveyancing. The Group has held several meetings. The last meeting was on the 1st of this month and the next is set for the 20th of this month. Good progress has been made and if no unexpected difficulties are encountered, the Bill should be ready for presentation to this Council in about four months time. That, it should be carefully noted, Sir, is an estimate and not in any way an undertaking.

### **Truancy among students in junior secondary schools**

7. DR. HO asked:—*What action is Government taking to tackle the problem of truancy among students in junior secondary schools?*

DIRECTOR OF EDUCATION:—Sir, my Department defines truancy as the unexplained absence of a pupil from school for three days in succession and heads of schools have been instructed to contact the parents or guardians of pupils to explain any such absence. If this is unsuccessful, or the explanation is unsatisfactory, the head of the school must report to the Education Department and the case is taken up by one of my Student Guidance Officers. Most cases so

referred are straightforward, but where there is a complex emotional or social problem the Student Guidance Officer must refer the case to one of my specialists in the Special Education Section, or to a trained Social Worker in the Social Welfare Department.

Our approach to the problem of truancy has three main components: early detection, treatment and prevention.

Early detection must rest with those directly concerned—the school authorities, and we rely on heads of schools and teachers to help us monitor this problem.

Treatment, as indicated, lies in the follow-up of reported cases of truancy, and, here again, our first line of defence must be in the schools. Teachers and the heads of schools have the close daily contact required for the knowledge of individual problems and needs of pupils. They can effectively turn to parents for information and assistance, and only when this fails do we come into the picture through Student Guidance Officers, counselling and guidance in the Special Education Section of the Department and through Social Workers in the Social Welfare Department.

But, as may be expected, it is in the area of prevention of truancy that we spend most of our time and effort. If we can make our schools happier places fewer children will wish to play truant. This is why we have concentrated in recent years on making the content of school curricula more fitted to the needs of pupils. This has been done through syllabus revision, the provision of a wider range of subjects, changes in teaching methods, more remedial assistance and pupil guidance, and as varied a programme of extra-curricular activities as can be managed. We have long been aware of the need to adopt a child-centered approach in curriculum planning, particularly since the implementation of free and compulsory education from Primary I to Form III. Our policy papers make this quite clear but we know that it is one thing to define policy and quite another to ensure its implementation. This was why we took positive steps to permit schools to employ more teachers for remedial teaching in the basic languages of instruction and why schools will be able to employ other additional teachers for guidance, counselling and the supervision of extra-curricular activities. We have also tried to bring more variety into our classrooms through an expansion of educational television and audio-visual aids for schools. Our efforts have been matched by impressive work in the schools and by the enthusiastic cooperation of heads of schools and their teachers. Just how enthusiastic I shall shortly be able to judge at the Annual Conference of heads of schools next week, when the theme is fittingly 'Towards a Happier Life in School'.

DR. HO:—*The English language being used as a medium of instruction in the Anglo Chinese junior secondary schools has been considered as one of the major factors for causing students to lose interest in their studies, resulting in truancy.*

*Can the Director of Education comment on this language problem in relation to truancy?*

DIRECTOR OF EDUCATION:—I think my first comment, Sir, must be: considered by whom? I certainly don't consider the use of English in junior secondary education as being a major contributory factor to truancy. It is perhaps one of many factors. Most of our teachers are pragmatic and sensible and they adapt their medium of instruction to the linguistic needs of pupils. There are many, many other factors in truancy. In straight forward cases it might be a simple matter of distance from the school, convenience; it might involve fishermen's children who are not land based. In rather more complex cases, the boredom can stem from slow learning, from emotional disturbance, from home circumstance and, perhaps, from ill health. As I say, it is far too easy to generalize in this manner. I think I can re-assure Dr. Ho that teaching in English is not a major cause for the truancy that he is so worried about.

REVD. JOYCE M. BENNETT:—*Sir, since many children who are future truants are known at first to stay away for the odd day or two, is there a weakness in the Director's definition of truancy, by saying 'absence for three days in succession', as one of your components is also early detection?*

DIRECTOR OF EDUCATION:—I think a definition has to start somewhere, Sir, and three days has struck us as being a fairly sensible mean in this area. Of course occasional truancy, the occasional day, if this is habitual, then becomes a matter of concern and the head of the school or the teacher concerned can indeed refer such cases to us and, of course, we will look into them.

### **Tuen Mun Highway**

8. MR. WONG LAM asked in Cantonese:—

政府是否會設法勸阻公眾不要將屯門公路視作高速公路？

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

*Will Government take steps to discourage the public from viewing the Tuen Mun Highway as a high-speed motorway?*

SECRETARY FOR TRANSPORT:—Sir, the Government already firmly discourages drivers from regarding the Tuen Mun Highway as a high-speed motorway by imposing a speed limit of 40 m.p.h. and taking enforcement action against offenders. The number of prosecutions for speeding in the past three years has been:

1980 — 2 519

1981 — 3 069

1982(up to 21 November) —11 197

There are prosecutions by fixed penalty tickets and summons together.

As Members who use the road will have noticed, there is a large number of signs and warnings on entry to the highway and along it.

MR. WONG LAM asked in Cantonese:—

閣下，由於每年檢控數字越來越多，政府會否將這些數字刊登出來，作為阻嚇作用呢？

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

*Sir, as the number of prosecutions are increasing year by year, will Government publish these figures so that they could act as a deterrent?*

SECRETARY FOR TRANSPORT:—Yes, Sir, I hope that the media will give due attention to the proceedings in this Council and we shall give them every assistance in so doing.

MISS DUNN:—*Sir, in an answer to this Council at the last sitting the Secretary for Lands and Works said that he felt that the present campaign to educate drivers in the proper use of this Highway should be stepped up. Does the Secretary for Transport share this view?*

SECRETARY FOR TRANSPORT:—As you might expect, Sir, the Secretary for Lands and Works and I did consult each other before this matter was raised at the last sitting. Indeed, I do.

MISS DUNN:—*Sir, in that case, what does the Secretary for Transport intend to do?*

SECRETARY FOR TRANSPORT:—Sir, in consultation with the Secretary for Home Affairs who handles publicity and related matters, we shall be stepping up the road safety campaign, which, of course, is a general campaign including speeding and the Tuen Mun Highway.

MR. S. L. CHEN:—*Sir, in view of the tremendous increase in the number of prosecutions, may I know whether the maximum penalty has ever been imposed?*

SECRETARY FOR TRANSPORT:—Sir, I should think the answer to that is ‘no’ but I would have to get the data.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

Most speeding offences, including those on the Tuen Mun Highway, are dealt with through the fixed penalty system with fines set at \$100 for exceeding the speed limit by under 10 m.p.h. and \$200 for exceeding the speed limit by over 10 m.p.h. Some cases are dealt with in the courts, and at the beginning of this year (when a review of the range of fines was conducted) the highest fine for a speeding offence convicted in a court was \$700.

Compared with this \$700 fine, you may be interested to note that the highest fine recorded for a dangerous driving convicted was \$800, with the average fine being \$426.

REVD. JOYCE M. BENNETT:—*Sir, are there any signs on this road saying 'Radar is in operation on this road'?*

SECRETARY FOR TRANSPORT:—*Sir, I think when the Police operate a radar system they do put a sign up but not on every occasion. I may add that I do not myself believe it is necessary or reasonable to put a sign up. The purpose of putting up such a sign is in fact to deter people, not to warn them they are going to be caught.*

### **Rats in Queen Elizabeth Hospital**

9. MISS DUNN asked:—*Will the Government make a statement on reports of rats in Queen Elizabeth Hospital and state whether this is due to design faults and/or inadequate arrangements for the disposal of waste (including food taken into the Hospital by visiting relatives)?*

SECRETARY FOR SOCIAL SERVICES:—*Sir, I assume that the reference to rats in this question includes mice. On this basis there have been isolated complaints of rats from patients in Q.E.H.*

Rats are found in most of the world where there is human settlement. They are cunning and hardy animals with an omnivorous diet and great fecundity. So it will be unfair to attribute the presence of rats at Q.E.H. wholly, or even largely, to design faults although technical standards have been tightened since the completion of the Hospital some 20 years ago.

With a view to facilitating improved maintenance, a detailed inspection was carried out in 1980 to identify possible design or structural deficiencies in the light of experience of vermin infestation. Following this inspection various rat-proofing measures such as the sealing of pipe ducts, and the fitting of screen meshes to doors and wall apertures have been put in hand. But the existence of false ceilings, air ducts and concealed piping means that constant vigilance is needed to ensure that these possible harbourages remain sealed off.

The other main contributor to rat infestation is food left by visiting relatives. Here it must be borne in mind that during daily visiting hours, Q.E.H. receives up to 5 000 visitors. In this connection, notices are prominently displayed in every ward discouraging visitors from bringing food, while patients are advised to keep any food they may have in sealed containers. Hospital staff also ensure that left-overs are not left lying around at night.

A further factor which adds to the problems of this hospital and to the risk of rat infestation is the sheer pressure on the institution. Originally planned for 1 300 beds there are now nearly 2 000. New treatment methods also generate extra waste materials, like plaster casts and moulds from the radiotherapy department. All these result in overflows from the refuse holding centre, pending collection. However, the position here should improve when the Urban Services Department is able to increase the frequency of their refuse and junk collections.

Finally trapping is carried out continuously. Systematic poisoning programmes are also mounted from time to time.

MISS DUNN:—*Sir, are steps in fact taken to ensure constant vigilance in sealing up possible harbourages and what is the reason of the inadequacy in refuse collection which is implied in the answer?*

SECRETARY FOR SOCIAL SERVICES:—To the first part of this supplementary, Sir, the answer is yes. As regards the second, the tendency was to look for a larger holding area pending the normal collection and the more obvious step, that of increasing the collections, had been overlooked; but this is being seen to and I expect the increased collections to have started or, if not, they will be starting shortly.

MISS DUNN:—*Sir, is the Government aware of the damage that is done to its image among ordinary people who suffer discomfort and sometimes even fear as a result of the inadequate provision of those little heralded but very vital basic services such as rodent control?*

SECRETARY FOR SOCIAL SERVICES:—Sir, I am afraid I cannot accept that our measures for rodent control are inadequate.

REVD. JOYCE M. BENNETT:—*Sir, I would like further clarification. How often does the Urban Services Department now collect refuse and junk and when will they improve the frequency of their collections?*

SECRETARY FOR SOCIAL SERVICES:—Sir, hitherto the refuse collection was daily and the junk collection was periodic. It is proposed that the refuse collection should be twice a day and the junk collection three times a week.

### **Frontier Closed Area arrangements**

10. MR. CHARLES YEUNG asked:—

(a) *Has the Government any intention to review the restrictions regarding the frontier closed area?*

- (b) *Is the Government aware of the hardship which the restrictions of this area cause to residents and proprietors concerned?*
- (c) *What is the Government doing to alleviate this hardship and to compensate such persons for their losses?*

REGIONAL SECRETARY (NEW TERRITORIES):—Sir, the Government has, in fact, recently concluded a review of the Frontier Closed Area arrangements to determine whether they are still needed in their present form. The conclusion was that they must be retained. There may be a feeling that, now the level of illegal immigration is much lower than it once was, restrictions can be lifted. I am afraid that this cannot be considered—illegal immigration remains a cause for concern and this of itself is a good reason for maintaining a secure area along the border.

As regards the second and third parts of Mr. YEUNG's question, the Government is aware that people who live within the Frontier Closed Area experience some inconvenience in their lives—although I think 'hardship' may be too strong a word. When specific complaints are received by the Police of the Frontier Division or by the District Offices concerned, they are always investigated carefully. In addition, the Police try to be as helpful as possible when issuing passes and in their general dealings with the residents of the Closed Area.

MR. CHARLES YEUNG:—*Sir, would the Regional Secretary, New Territories, think the situation grave enough to regard as hardship when a person in an area which was subsequently declared to be a closed area finds that he cannot freely obtain permits for his employees or friends to come to his factories or residence in the closed area. If so, would he consider the situation from this overall angle but not to deal with each case individually on an ad hoc basis?*

REGIONAL SECRETARY (NEW TERRITORIES):—Sir, I think I would prefer to answer the question by saying that if Mr. YEUNG has specific cases of complaint, I will be very happy to investigate them with the District Police Commander, Frontier Division.

### **Kindergarten children travelling in licensed minibuses**

11. DR. IP asked:—*Will the Government take steps to protect young children travelling unsupervised and unrestrained to and from kindergartens in licensed minibuses?*

SECRETARY FOR TRANSPORT:—Sir, the advantages of young children being supervised in school buses seem generally recognized by parents and kindergartens. A recent sample survey showed that three quarters of the

kindergartens sampled do provide supervision for the children when in transit. This seems reasonable enough, but as I said on the 24 November in this Council, Government is deeply concerned about safety on the roads. Regular lectures are given to kindergarten students by the Royal Hong Kong Police Force, with emphasis on children's behaviour on the roads themselves. The aspect of behaviour in vehicles in particular school buses, i.e. passenger safety, will in future be given somewhat greater emphasis. Kindergarten supervisors will also be advised of their responsibilities in this connection.

There are technical difficulties in providing proper anchors for seat belts or child restraint systems in minibuses, and so there are no plans to require children to be thus restrained in minibuses.

DR. IP:—*Sir, can the technical difficulties in providing proper anchors for seat belts for child restraint systems in minibuses be worked out, if it is felt necessary, and if it is felt not necessary, how does the Government propose one adult to adequately supervise 14 unrestrained four-year-old children in a moving minibus?*

SECRETARY FOR TRANSPORT:—On the first part of that supplementary, Sir, the coach work of light buses and minibuses is not designed for fitting seat belts or child restraint systems, simply because these require firmly mounted anchorages. It is true that in some minibuses there are such anchorage points in the front seat. However, in the rear part of the buses, it would not be practicable or effective to fit anchorages to any unstressed roof support, e.g. poles from the roof to the floor, or to the floor itself, or to door pillars, because experience has shown these would not be satisfactory and would not prove effective in accidents. It is technically possible to design a system but to include the frameworks which would be necessary would require a completely different design of vehicle and I am advised that manufacturers would be unlikely to be interested in doing this because it would be a relatively small market.

On the second part of the supplementary, Sir, we are concerned about this and it is obviously rather a nasty possibility for one adult supervising 14 bouncing small children. But I think we should look at the accident figures just to get a bit of perspective. There are just under 900 such minibuses, school service buses, registered and in the first nine months of this year. There were six accidents involving passengers in such vehicles, resulting in six casualties of children six years or less of age.

DR. IP:—*How many kindergartens were included in this small survey, were they randomized and does 'supervision in transit' mean any person other than the driver?*

SECRETARY FOR TRANSPORT:—Sir, fifty; yes; yes.

REVD. JOYCE M. BENNETT:—*Sir, how often do the Police stop these minibuses to check that they are not carrying too many children and that each child does in fact have a seat to sit on?*

SECRETARY FOR TRANSPORT:—*Sir, you would expect me to give a written answer to that question, and I will.*

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

The Commissioner of Police has assured me that in the usual course of duty Police officers in uniform stop vehicles including school minibuses which appear to be carrying too many passengers, and take appropriate action when necessary. No separate record is kept of Police action taken against school minibuses, but the overall number of prosecutions in respect of overloading suggests that the problem is not significant.

DR. IP:—*Sir, will the Government strongly advise and ensure that the rest of the kindergartens also provide supervision for children when in transit?*

SECRETARY FOR TRANSPORT:—*Sir, we will look into this but I think there may be difficulties in requiring it. As I explained, we have an education programme, let's see how that gets on first.*

### **Village lighting in the New Territories**

12. MR. CHARLES YEUNG asked:—*Since my last question in this Council on 15 March 1978 will Government inform this Council the progress made and the future programme on the installation of village lighting in the New Territories?*

REGIONAL SECRETARY (NEW TERRITORIES):—*Sir, one thousand eight hundred and sixteen village lights have been installed since Mr. YEUNG asked his question in 1978. This is a bit behind the scheduled programme. However a major effort is now being made and on present evidence it looks as though fairly comprehensive coverage with at least 4 000 street lights will have been achieved in about three years' time.*

MR. CHARLES YEUNG:—*Sir, may I ask how many villages are actually being served by these 1 816 lights and how many villages will be served by the proposed 4 000 lights and how many villages will not be served at all and how in that case Government will try to improve their situation?*

REGIONAL SECRETARY (NEW TERRITORIES):—*Sir, if I can take the last part first, it was never the intention that this programme would cover the more remote villages which are out of reach of road access and so on. I think the Secretary for*

the New Territories did say that in his reply in 1978. As to the number of villages involved in the 1 816 and 4 000 I will prefer to answer that in writing if I may.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

Under the village lighting programme, Government plans to put lights in about 400 established villages in the New Territories. As you are aware, the programme does not include villages which will be affected by potential development or which are very small and remote. So far, lights have been provided to over 120 villages and plans are in hand to provide lights in the next two years to the remaining villages covered by the Village Lighting Programme.

## **Government Business**

### **First reading of bills**

#### **KOWLOON-CANTON RAILWAY CORPORATION BILL 1982**

#### **ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1982**

#### **HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1982**

#### **IMMIGRATION (AMENDMENT) (NO. 2) BILL 1982**

#### **IMMIGRATION (AMENDMENT) (NO. 3) BILL 1982**

#### **BRITISH NATIONALITY ACT 1981 (CONSEQUENTIAL AMENDMENTS) BILL 1982**

#### **BRITISH NATIONALITY (MISCELLANEOUS PROVISIONS) (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**

#### **KOWLOON-CANTON RAILWAY CORPORATION BILL 1982**

THE SECRETARY FOR TRANSPORT moved the second reading of:—‘A bill to establish a corporation to operate the Kowloon-Canton Railway, to vest in that corporation the assets of that railway, to make certain provision as to the safe operation of the railway, including provision for inspection and the investigation of accidents, and for connected purposes’.

He said:—Sir, I rise to move the second reading of the Kowloon-Canton Railway Corporation Bill 1982, which provides for the creation of a statutory corporation to operate the Kowloon-Canton Railway (British Section) at present operated by a Government department, and repeals the Kowloon-Canton Railway Ordinance 1982.

The suggestion of hiving-off selected Government departments to the private sector has been raised a number of times in this Council, for example on the 22 October 1980 when Miss DUNN stated that ‘the range of activities now covered by the public sector is such that I think it is high time the Government seriously considered suggestions, which have been made in this Council in the past, to hive-off some of them to the private sector’. I might say, Sir, that several better brains than mine have so far without success, tried to coin a more apt and brief term for the process of ‘hiving-off’ suggesting as it does some sort of medical problem or apiarian process.

On 15 September 1981, the Governor in Council approved in principle the hiving-off from Government of the Kowloon-Canton Railway. In November 1981, a Kowloon-Canton Railway Corporation Transitional Board was appointed by the Governor to oversee the preparation of draft legislation, to provide for the creation of a corporation, and to make recommendations relating to personnel, finance and the transfer of assets. Government is most grateful to the members of the Transitional Board, for they have given generously of their time and valuable experience to a complex task. This is the first time that this Government has undertaken it, and much has been learnt in the process.

The main arguments advanced for hiving-off are that a corporation can provide a more flexible organization than a department which is part of the public service; that a corporation can maximize commercial opportunities with regard to land use, control of assets, development, and marketing techniques; and that it will have a less trammelled hand in the recruitment and management of staff and in the deployment and use of assets. Not every one would accept these arguments unreservedly; but let there be no doubt that all concerned in this project are determined to make a success of it.

And now, Sir, to the main points of the Bill.

Part II of the Bill deals with the establishment, powers and duties of the Corporation. Clause 3 and the First Schedule establish the Corporation as a body corporate and provide for a managing board of a Chairman, a Managing Director and between four and eight members. The Managing Director will be appointed by the Board, subject to the approval of the Governor. The Chairman and the other members will be appointed by the Governor.

Clause 4 empowers the Corporation to operate the existing railway and to extend and improve it, although any extension beyond the existing railway boundary will require the approval of the Governor in Council. Certain powers

are specified, such as the determination of fares and charges, and the operation of bus services to and from railway premises. The Corporation is also empowered to improve or develop for non-railway purposes the railway land vested in it, or any other land it may acquire.

The duties of the Corporation are contained in clause 5, including the requirement to exercise its powers having regard to the reasonable requirements of the transport system of Hong Kong. Thus, although the Corporation is expected to make a surplus, it is effectively precluded from maximizing the return on assets employed by for example, seeking to obtain more revenue by charging higher fares while carrying fewer passengers.

Clause 6 includes an important provision enabling the Governor in Council to give general and specific directions to the Corporation in the public interest. If any direction, however, requires the Corporation to act contrary to prudent commercial principles, it will be entitled to reasonable compensation from Government.

Clause 7 provides for the transfer of the existing railway land to the Corporation, together with the existing property, assets and liabilities. The Second Schedule sets out the detailed arrangements for the land transfer and provides for the residual rights and responsibilities of the Corporation and of the Government upon transfer. The Third Schedule sets out the procedures for dealing with disputes and the assignment of contracts.

Part III deals with the financial side of the operations of the Corporation. Clause 8(1) requires the Corporation to make distributable profits on the premise that the benefits of hiving-off will be best achieved by subjecting the Corporation's management to the discipline of the profit and loss account; nevertheless, and importantly, the first priority is to provide an efficient service.

Clause 8(2) gives the Financial Secretary the discretionary power to determine a target rate of return, if he considers that the Corporation is not meeting the 'ordinary commercial criteria' stipulated in clause 8(1). The Financial Secretary may also give directions as to the manner of the Corporation's investment.

Clause 9, recognizing again that the Corporation is required to make profits, provides that the Financial Secretary, after consultation with the Corporation, may direct that any excess profit shall be paid to Government.

Clause 10 provides for the initial capital of the Corporation, but not in the form of share capital. This would be appropriate only if the Corporation were to be a distributable profit-making organization run for the benefit of shareholders. In such a case it would be incorporated under the Companies Ordinance. The Corporation will however be wholly Government owned, initially; but this does not preclude the possibility of selling shares to the public at some future date; if so, amending legislation would be required. Until and if that occurs, any excess profits derived will be returnable to Government.

Clause 10(1) itemizes the content of the initial capital of the Corporation, with the exact amount to be quantified after vesting day. A final calculation cannot be made at the moment because the exact cost of continuing electrification and building works cannot be stated until they have been completed. The initial capital is estimated at \$4.2 billion, most of which apart from a relatively small amount of working capital, comprises the transferred assets of railway land, buildings and stock and the cost of the modernization and electrification programme.

Clauses 10(2) and (3) create an interest bearing debt due to Government of \$1 billion. The ratio proposed (75% initial capital, 25% loan capital) was recommended by the Transitional Board and accepted by the Administration as the basis of a financial structure which will allow the Corporation, with efficient management, to become a commercially viable organization in a reasonable period of time. The amount derives from detailed forecasts of patronage and revenue and the effects of various equity/loan ratios. The proposed \$1 billion debt out of the estimated \$4.2 billion total capital should have the effect of making 1989 the estimated first year of profitability, with the loan capital being fully repaid by 1992.

Clause 10(3) provides for the rate of interest on the debt and the repayment arrangements to be determined by the Financial Secretary, after consultation with the Corporation. This will provide the necessary flexibility over time, in the light of the Corporation's performance.

Clause 11 authorizes the Corporation to borrow for various necessary purposes, subject to the limitation by clause 12, up to a debt of \$1.5 billion (that is, including the \$1 billion debt to Government) or such greater sum as the Financial Secretary may approve.

Clause 13 provides for a Government guarantee in respect of Corporation debt up to \$500 million, which may be increased by resolution of this Council. This debt is not expected to be exceeded in the foreseeable future.

Part IV is short but very important. It deals with safety on the railway providing for the appointment and powers of safety inspectors, and it creates various offences by railway employees and other persons.

Part V deals with the construction of extensions to the railway and follows the provisions of the present K.C.R. Ordinance. Under the Second Schedule, the Corporation may not develop land for other than railway purposes without the consent of the Director of Lands, who may impose such conditions as he thinks fit including the payment of a reasonable premium to Government. Part VI empowers the Governor in Council to make regulations concerning safety and accidents, and the Corporation to make by-laws concerning railway operations. Necessary by-laws and regulations will require to be brought into force on vesting day and so clause 39(3) deems the existing K.C.R. regulations to be the by-laws of the Corporation. Clause 39(1) repeals the K.C.R. Ordinance 1982.

All this, Sir, is dry but necessary stuff; however railways do not run by themselves, even in this day and age; and this particular railway has been run for 71 years by the staff of the K.C.R. Department. Transforming the department into a statutory corporation will result in the retirement of some 1 500 civil servants on abolition of office terms as prescribed by the Pensions Ordinance. Appropriate *ex-gratia* compensation arrangements will shortly be considered by the Governor in Council, for presentation to the Finance Committee of this Council. All existing K.C.R. staff will be offered appointment by the new Corporation.

The hiving-off process has in fact been accomplished quite quickly, having regard to the unique problems involved, but the staff have understandably been anxious about their future employment. They are to be commended for their loyalty, devotion and continuing efficiency while necessary but complicated negotiations have been going on. The new Corporation will, I am sure, quickly recognize these qualities as its most valuable asset.

Railwaymen, Sir, are generally recognized as a special breed; railways command a particular sort of dedication, and railwaymen typically devote their whole careers to the profession. The retiring General Manager, Mr. WONG U-lam who joined the K.C.R. in 1953 as an Assistant Mechanical Engineer, and has seen the railway develop from a diesel service carrying 10 500 passengers a day, to a modern railway with a potential capacity of half a million passengers a day, exemplifies the professionalism and dedication I speak of.

The Corporation's new management, including the Chief Executive and his four supporting Directors are in place, and ready to take over the management of this modern railway system.

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

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

*Question put and agreed to.*

## **ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1982**

THE SECRETARY FOR TRANSPORT moved the second reading of:—‘A bill to amend the Road Traffic Ordinance’.

He said:—Sir, I rise to move the second reading of the Road Traffic (Amendment) (No. 2) Bill 1982.

The purpose of this Bill is to allow the early phasing in of new, larger light buses. This is required now in view of the fact that over half of Hong Kong's existing public light buses are nine or more years old.

Larger and heavier public light buses would be permitted under the Road Traffic Bill now under consideration by Council, and its regulations; but these provisions cannot in any case be implemented until April 1984. Under the existing legislation the Road Traffic Ordinance (Chapter 220), the Commissioner for Transport can permit the introduction of larger public light buses, save for the obstacle of the definition in section 2(1) which restricts a light bus to an 'unladen weight not exceeding two tons'. The Bill which I now move proposes to delete that restriction. A consequential amendment to the definition of 'omnibus' is also necessary.

The Commissioner for Transport intends to approve the registration of light buses up to four tons in gross vehicle weight and up to seven metres in length, three metres in height and 2.3 metres in width, if this Bill is approved. These are the dimensions and weight for light buses as defined in the Road Traffic legislation now under consideration by this Council.

The amendments would come into effect immediately upon publication.

Sir, I move that the debate be now adjourned.

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

*Question put and agreed to.*

## **HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1982**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—'A bill to amend the Hong Kong Tourist Association Ordinance'.

He said:—Sir, I move that the Hong Kong Tourist Association (Amendment) Bill 1982 be read the second time.

### *Introduction*

The Hong Kong Tourist Association was established in 1957. With the development of Hong Kong as a tourist destination, and in the light of experience gained, it has become apparent that some changes to the principal Ordinance are now required. The two most important changes proposed concern the composition of the Board of Management and the protection of the Tourist Association badge or emblem.

Tourists in Hong Kong are inveterate shoppers. But so far retailers, with whom tourists spend substantial amounts of money, have not had an effective role in the Association in that they have had no voting powers, nor have they been represented on the Board of Management.

In order to ensure that the interests of retailers are represented, it is therefore proposed that retail trade members should be entitled to vote at meetings of the Association, and this is achieved by the repeal of section 5 of the principal Ordinance, in which the restriction on voting is contained. And it is also proposed that retail trade members be given a voice on the Board of Management.

*Composition of the Board of Management*

At present the Board of Management consists of 11 members. Six are selected and appointed by Your Excellency. Each of the remaining five members is a member of the travel industry, and these members on the Board are nominated by members of the Association for appointment. There is no provision for representation of associate members (now by *clauses 3 and 5* to be re-designated 'ordinary' members). And it is these members who, by and large, represent the retail trade. So, *clause 7* of the Bill repeals section 9 of the principal Ordinance and includes provision in a new section 9(1)(c) for their representation by one ordinary member, who will speak for the retail trade.

The opportunity has been taken to rationalize the representation on the Board of carriers by sea and by air. These carriers together account for only a modest proportion of the total membership of the Association. But under the Ordinance as it stands they are entitled to have two members on the Board. If the proposals contained in *clause 7* are accepted, these carriers will in future be allowed to nominate between them only one Board member. Thus, although retailers will be represented on the Board in future, the total size of the Board of Management will remain the same as before.

*Clause 7* also provides that travel industry members (and these are defined in *clause 5* as carriers, hotel proprietors, recognized travel agents or tour operators) should be represented on the Board by persons who are engaged in the day to day activities of each class of travel industry membership. The intention is that members should be represented by persons with a real working knowledge of the business of each particular class. So, in the case of hotel proprietors the class will be represented not by a hotel owner but by a hotelier.

*Protection of the Hong Kong Tourist Association badge or emblem*

The junk logo, which is the principal badge or emblem of the Hong Kong Tourist Association, has become very well-known. It is established as a mark of quality, to which much goodwill is attached. Sections 24 and 25 of the principal Ordinance prohibit the use or possession of the Association's various badges or emblems, including the junk logo, and the unauthorized use of the title of the Association. A penalty is imposed on any person who contravenes the sections. There have been a large number of infringements and it appears that the penalty has not proved to be a sufficient deterrent. It is therefore proposed that the present fine should be considerably increased. So *clauses 10 and 11* tighten the existing provisions and substantially increase the fine from \$1,000 to \$50,000.

*Miscellaneous amendments*

The opportunity has been taken to incorporate various other minor amendments. *Clause 2* deletes the definition of ‘person engaged in the tourist industry’ because this definition does not appear in the Ordinance. *Clauses 6 and 9* change the titles of the senior executives of the Association to the ‘Executive Director’ and the ‘Deputy Executive Director’ to accord with practice. *Clause 3* deletes the provision that persons appointed to the Board shall be ex-officio members of the Association, partly because the provision is unnecessary and partly because it runs counter to the proposal that membership of the Association should be open only to corporations and groups. And *clause 4*, which repeals and replaces section 5 of the principal Ordinance, provides for the exclusion of individuals from eligibility for membership of the Association to accord with the Association’s past and present practice in admitting members.

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*—SECRETARY FOR ECONOMIC SERVICES.

*Question put and agreed to.*

**IMMIGRATION (AMENDMENT) (NO. 2) BILL 1982**

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

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

This Bill stems from the British Nationality Act 1981 which will come into force on 1 January 1983.

H.M.G. first mooted a new British Nationality Act in 1977 when it proposed that citizenship of the United Kingdom and Colonies be replaced by two separate citizenships.

British citizenship was to be limited to those who had close personal connection with the U.K. and was to be equated with the right of abode there. Other citizens of the United Kingdom and Colonies who had derived their citizenship from birth, naturalization or registration in Hong Kong and other British dependencies were to become British Overseas citizens in the same way as citizens associated with former British dependencies which had become independent.

Very strong representations by Hong Kong and particularly by Members of the Executive and Legislative Councils resulted in this proposal being modified so that the British Nationality Act 1981 provides for British Dependent Territories citizenship.

Thus, British Dependent Territories citizenship is one of three new separate citizenships created by the British Nationality Act to replace the existing citizenship of the United Kingdom and Colonies, the other two being British Citizenship and British Overseas Citizenship. The Act determines who becomes a citizen of a particular kind on 1 January next, and how a person qualifies for one citizenship or another from that date.

Sir, the Bill now before this Council has two main objectives. *First*, it provides for these changes in nomenclature.

*Second*, we are taking the opportunity to tighten the definition of Hong Kong belonger. Belongers have an absolute right of abode in Hong Kong and cannot be removed or deported.

Currently, with the exception of children born to accredited diplomats, everyone born here is a belonger. The status of belonger is also acquired automatically by any Commonwealth citizen who marries a belonger.

Sir, important changes are now proposed to the present definition. From 1 January 1983, subject to enactment of this Bill, no one will become a belonger unless he is or becomes a British Dependent Territories citizen by connection with Hong Kong. This means that children born in Hong Kong from 1 January 1983 will not be belongers unless at least one parent is a belonger or is settled here, and in this context 'settled' means ordinarily resident and not subject to any restriction on the period for which he or she may remain in Hong Kong.

It also means that Commonwealth citizens marrying belongers on or after 1 January 1983 will not be belongers automatically unless they are British Dependent Territories citizens in their own right.

The rationale for these proposals is that, particularly having regard to Hong Kong's already over-crowded state, it is entirely logical to limit belongership and thus the absolute right of abode in Hong Kong to those persons who will be British Dependent Territories citizens by connection with Hong Kong. Consistent with this logic, the Bill provides that anyone becoming a British Dependent Territories citizen by connection with Hong Kong, for example by birth to a belonger or a settled parent, or by registration or naturalization in Hong Kong, will automatically acquire the status of belonger.

The overall effect of these provisions will be that fewer people will qualify as belongers from 1 January 1983. But no one who is a belonger at 31 December this year will lose that status.

Other provisions of this Bill will mean that the foreign wives and foreign children of British citizens will not be accorded the status of British citizen under the Immigration Ordinance unless they themselves have been naturalized or registered as British citizens.

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*—SECRETARY FOR SECURITY.

*Question put and agreed to.*

### **IMMIGRATION (AMENDMENT) (NO. 3) BILL 1982**

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

He said:—Sir, I move the second reading of the Immigration (Amendment) (No. 3) Bill 1982.

Subject to the enactment of the Immigration (Amendment) (No. 2) Bill 1982, a child born in Hong Kong after 31 December 1982 will be a believer by birth only if at least one parent is either a British Dependent Territories citizen by connection with Hong Kong or is settled in Hong Kong.

This Bill now before Council has one main object which is to make provision for the Immigration control of such non-believer children born in Hong Kong.

The combined effect of this Bill and the existing provisions of the Immigration Ordinance will be to accord the children concerned, including, for example, the children of Vietnamese refugees, the same immigration status as that of their parents.

In practical terms, a child born here, who does not have a parent who is a Hong Kong believer, will be treated in exactly the same way as his parents and will normally be required to leave when his parents do so.

The proposed provisions are in line with the philosophy behind the principal Ordinance that those who are not believers should be subject to conditions of stay.

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*—SECRETARY FOR SECURITY.

*Question put and agreed to.*

### **BRITISH NATIONALITY ACT 1981 (CONSEQUENTIAL AMENDMENTS) BILL 1982**

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend certain Ordinances and instruments relating to British Nationality consequential upon the enactment of the British Nationality Act 1981’.

He said:—Sir, I move the second reading of the British Nationality Act 1981 (Consequential Amendments) Bill 1982.

Proposed amendments to the Immigration Ordinance and the British Nationality (Miscellaneous Provisions) Ordinance stemming from the British Nationality Act 1981 are the subject of separate Bills now before this Council.

The British Nationality Act 1981 (Consequential Amendments) Bill 1982 seeks to amend other Hong Kong legislation, where necessary, as a consequence of the enactment of the British Nationality Act 1981.

- First*, by introducing definitions of the new terminology laid down in the British Nationality Act 1981 into the Interpretation and General Clauses Ordinance, and
- Second*, by substituting references to existing citizenship terminology by the appropriate new terminology.

It is simpler to achieve this comprehensively in one Bill than by a whole series of individual items of legislation.

No substantive changes to the legislation listed in the two Schedules to the Bill are proposed.

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*—SECRETARY FOR SECURITY.

*Question put and agreed to.*

## **BRITISH NATIONALITY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 1982**

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend the British Nationality (Miscellaneous Provisions) Ordinance’.

He said:—Sir, I move the second reading of the British Nationality (Miscellaneous Provisions) (Amendment) Bill 1982.

In general, the need for this Bill also derives from the coming into force on 1 January next of the British Nationality Act 1981.

The Bill’s main purpose is to amend the principal Ordinance

- by substituting a new Schedule of *fees* for applications for registration and naturalization as a British Dependent Territories citizen and renunciation of citizenship, and
- by revising the two *penalties* for offences connected with applications for citizenship.

The present Schedule prescribes the *fees* payable in Hong Kong by applicants for citizenship of the United Kingdom and Colonies, a citizenship that will be abolished under the British Nationality Act 1981 with effect from 1 January 1983. There is now a need to provide for fees payable by persons applying for or renouncing the new British Dependent Territories citizenship, which becomes the applicable citizenship for Hong Kong at the beginning of next month.

The *fees* in the new Schedule are, in the main, the same as those currently charged for similar services.

As to the proposed amendments to the two *penalties*, the penalties have not been changed since 1949; and it is clearly appropriate to bring them up-to-date in one case by adding a fine as an alternative to a prison sentence and in the other by increasing the fine.

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*—SECRETARY FOR SECURITY.

*Question put and agreed to.*

## **ROAD TRAFFIC BILL 1982**

### **Resumption of debate on second reading (28 July 1982)**

*Question proposed.*

MR. S. L. CHEN:—Sir, since the Secretary for Transport introduced the Road Traffic Bill into this Council on 28 July this year Members of the Community Services Working Group have spent many hours in examining its provisions and those of its attendant regulations. We have met nine times amongst ourselves on the main Bill itself and twice with the Administration. We have also met representatives of professional drivers' associations twice and have considered the views they expressed both personally and by written petition.

As you will no doubt understand, Sir, from this, the Group has gone through the Bill with a fine toothcomb and has attempted to ensure that the Bill's provisions are fair to all sections of our community, we have attempted to balance the rights of our professional drivers to a secure livelihood with the rights of our pedestrians, cyclists and other motorists to a safe travelling environment.

As a result both of our scrutiny of the Bill and also of that carried out by the Administration, a package of over 30 amendments will be proposed in the committee stage of the Bill.

One of our main concerns has been on the question of 'reckless driving'. The concept of 'reckless driving' is a new one for Hong Kong. While we have much sympathy with those who would like to see 'reckless driving' formally defined in the law, having studied the matter carefully we have come somewhat reluctantly to the view that a definition of the term would not be in the interests of either the defendant in court or the community at large.

We have accepted the Administration's legal advice that it is not possible effectively to define 'reckless' and indeed that while 'recklessness' can be described, any attempt at definition will almost certainly be found wanting. We accepted the fact on the basis that while it is not possible or even desirable to define reckless for the layman's benefit, those responsible for charging and prosecution should be clear as to what constitutes such offences.

We are therefore reassured by the undertakings which we have obtained from the Administration as to the procedure for the charging and prosecution of offences of reckless driving, these will no doubt be described by my Official Colleagues later in this debate. Suffice it to say for the moment, that we are satisfied that reasonable safeguards are in place to ensure that charges of 'reckless driving' will be properly laid by the Police and fairly dealt with in the Courts.

While these concerns have been somewhat allayed we are firmly of the view that a considerable amount of unnecessary anxiety in the public mind over this Bill has been induced by the woefully inadequate and misleading Chinese translation of the term 'reckless driving' (魯莽駕駛). We are firmly of the view, and many of my colleagues will no doubt further expound on this later in this debate, that the present translation gives a false impression. It does not carry with it the concept of *disregard of consequences* which is fundamental to the meaning of the English term, instead it implies a lack of care more akin to carelessness. It is therefore not surprising that many sections of the community have protested that such apparently 'light' offences should carry such heavy penalties.

I strongly urge the Administration to look closely into the matter to produce a form of words which will accurately reflect the true and real meaning of the English term. Until this is done the widespread and understandable fear of our professional drivers that this Bill is a draconian one will not be diminished and opposition to it will probably persist.

Our next major concern was the level of penalties prescribed in the Bill especially those which relate to the offences of 'causing death by reckless driving' and 'reckless driving'. These penalties have been the subject of representations by the professional drivers' associations, who have been alarmed by the steep increase (in some cases ten-fold) particularly as they relate to the newly-introduced offences of 'reckless driving', which replace those of 'dangerous driving' under the existing legislation.

We have looked at the proposed levels of fine under the Bill and also at the sentencing level which has been imposed recently by the Courts under the existing Ordinance. We noted that the average fine awarded for 'dangerous driving causing death' in the last two years has been less than \$900. In view of this fact we considered that the increase from the present level of \$5,000 to \$50,000 for 'causing death by reckless driving' was too high and have accordingly recommended that the new level should be set lower, say, \$25,000.

Under the proposed Bill sufficiently serious penalties, both financial and custodial, would be imposed for conduct which would endanger and even destroy life and limb. These are serious offences and it is imperative that those who drive on the roads with such disregard of the effect which their behaviour can and does have on other road users, should be firmly dealt with, and that by noting these penalties other drivers will be encouraged to drive safely and with care. It is after all only the reckless, disregarding driver who will fall foul of this Bill, and the safe one would have nothing to fear. The aim of the Bill is to achieve a greater degree of safety on the roads.

My Colleagues in the Community Services Working Group and I would like to take this opportunity to urge the Courts to impose sentences which appropriately reflect the seriousness with which the community regards an act of driving resulting in the death or injury of another road user. I would therefore ask the Judiciary to assist, by ensuring that the sentences they impose provide an incentive to Hong Kong's drivers to act safely.

The Bill as published provides for compulsory disqualification for a first offence of 'reckless driving' or 'causing death by reckless driving'. We noted the views of professional drivers that disqualification for at least two years on a first conviction of the new offence of 'reckless driving' constituted an unacceptable threat to their livelihood. We have secured the Administration's agreement to remove this provision for a first offence while approving the Courts' discretionary power to disqualify in cases where it is considered appropriate. Compulsory disqualification for a second or subsequent offence remains.

Having dealt with the major issues raised by the Bill and by representations on its provisions I would like to turn to another less serious matter which has occupied our thoughts.

Clause 20 of the Bill relates to the classification of vehicles in accordance with the First Schedule. Members took the view that it was unfair to subject all those holders of Goods Vehicle driving licences presently driving heavy goods vehicle to retesting on the enactment of the Bill. We have however agreed, taking into account the special nature of these particular vehicles, that drivers of articulated vehicles should be tested within three years of the Bill's enactment. The Administration has agreed that drivers who are currently driving conventional types of heavy goods vehicles will not need to be re-examined.

My Colleagues in the Community Services Working Group will be speaking on these and other issues which have occupied our minds during our scrutiny of the Bill. It only falls to me therefore to extend a public vote of appreciation to the Administration for assisting us in our consideration of this very lengthy and important Bill and for providing the answers to the many questions we raised. This co-operation has enabled us to agree the contents of the Bill subject to the amendments to be proposed in the committee stage.

Sir, with these remarks, I support the motion.

MR. WONG LAM delivered his speech in Cantonese:—

督憲閣下：雖然本人乃一名巴士從業員，但在討論此法案時，僅從市民一份子着眼。

新的法案除了重新整理原有的道路交通條例以符合新的需求外，主要在於提高不顧本身或他人危險的駕駛者的刑罰。在目前人多、車多的環境下，以更重的刑罰來收阻嚇作用，以減少交通意外，其基本精神是值得支持的。

不過，任何法案除了要有良好、正確的基本精神外，也應該有明確和公平的特點。這新法案在有關不顧本身或他人危險駕駛問題方面，其定義卻明顯地具有不明確、甚至不公平的特色。新法案放棄了原有「dangerous driving」的字眼而引用「reckless driving」，在英文方面，此新名辭是否明確可能是值得商榷的問題，但在中文方面，引用「魯莽駕駛」此名辭之絕不明確卻是不用商榷的問題。本港大部份駕駛人士（尤其是職業司機）都是中國人；對他們來說，新的名辭代表了一種遠較過往為重的罪名，但其實際含義卻較過往更難捉摸。這是很難令駕駛人士信服的做法，也可以說是不公平的做法。把「Reckless」譯作「魯莽」實在是一種魯莽的譯法。在中國人一般用法中「魯莽」是指不經考慮、粗心大意的行為，與新法案中「reckless」的意思剛好相反。依據運輸司公開的解釋，所謂「reckless driving」包括了一種明知會引致危險但仍不顧後果地不正當駕駛的做法，與粗心大意無大關係。以本人的看法，魯莽駕駛與不小心駕駛並無分別，政府有責任重新找出一個更為妥當的譯名，以釋一般駕駛人士的疑慮。

在新法案中，政府並未為「reckless driving」一名辭作簡明的解釋，而把駕駛者是否犯了此罪名的責任留待法庭決定。雖然從法律界人士的眼中來看，這種做法有其優點，但在一般人眼中這是令人更無所適從的做法，甚至無意中賦與警察更大權力的做法。新的法案雖然並無增加警察的權力，但因為新的刑罰遠較過往為重，所以警務人員濫用權力與否對駕駛人士的影響亦遠較過往為大。目前警隊雖然紀律較過往為佳，但不少警員經驗仍淺，所以無意或有意濫用權力的可能性是存在的。雖然政府在立法初期可能不會由一般警員決定某一個案是否屬於「reckless driving」，但這仍然是令人擔心的，因為一般警員可能為了向上級證明其判斷正確，從而在報告中用上較激烈的字眼。這對駕駛人士明顯是不利的。從另一角度來看，即使所有警員均正直無私，但因為「reckless driving」此一罪名並無簡單明確的定義，所以也有可能判斷錯誤，從而引致駕駛人士的諸多不便。基於上述原因，本人認為政府有重新考慮為「reckless driving」下一定義（即使較長的）的必要。

閣下，造成交通意外的原因，很多時不單是駕駛人士的不小心或魯莽，行人的魯莽及不適當的路標和道路情況等也是很多交通意外的成因。本人希望新法例祇是政府改善道路安全的一部份工作，而很快能夠看到政府在減少其他引致交通意外的成因工作方面也有更大的改善。

閣下，本人謹此陳辭，支持此項動議。

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

Your Excellency, though I am a bus company employee, I should like to discuss this Bill simply as a member of the public.

Apart from rearranging provisions of the present Road Traffic Ordinance to meet new requirements, the Bill aims mainly at imposing heavier penalties on drivers who drive recklessly. Its basic principle, to minimize the occurrence of traffic accidents by introducing heavier penalties and giving a deterrent effect, is sound and worthy of support now that Hong Kong abounds with people and vehicles using the roads.

However, a Bill should have precise and fair provisions in addition to being basically sound in principle. This new Bill fails to define clearly or fairly the term 'reckless driving'. Instead of the term 'dangerous driving' originally used in the Ordinance, the Bill adopts the term 'reckless driving'. Whether the term in English is precise or not is open to question. But the Chinese term presently used is undoubtedly far from being precise. The majority of drivers in Hong Kong (particularly professional drivers) are Chinese. To them, the new term signifies a much heavier offence while its meaning is much more unfathomable. In their opinion, it is unconvincing and unfair. To translate 'reckless' as '魯莽' is doing it rashly. In our Chinese usage, '魯莽' means 'unthinking and careless', just the opposite of what 'reckless' means in the new Bill. The Secretary for Transport once interpreted the term 'reckless driving' in public as follows: 'in driving in such a manner, the defendants did so without having given any thought to the possibility of their taking such risk, or having recognized there was such risk involved had nonetheless gone on to take it', which has little or nothing to do with carelessness. As I see it, 魯莽駕駛 is the same as careless driving. It rests with the Government to look for a better translation so as to ease the minds of drivers in general.

In the new Bill, the Government has not defined the term 'reckless driving' simply and clearly. The responsibility of ruling whether a driver is guilty of such an offence rests with the Court. Though from the legal point of view, there are merits in such an arrangement, the general public find it puzzling and are at a loss as to what to do. They think it unintentionally gives the Police greater power. The new Bill does not actually increase the power of the Police but because of the heavier penalties imposed, abuse of power on the part of the Police will have a much greater influence on the drivers than before.

Nowadays, the Police Force is better disciplined but still many policemen are inexperienced. The possibility of abusing power knowingly or unknowingly therefore exists. Though in the early days of implementation of the new law, the Government may not ask the Police to decide if a person is guilty of 'reckless driving', the subject will still cause great concern. A policeman, in order to prove to his superior that his judgment is correct, may use rather strong words in his report and this is obviously unfavourable to the driver. Looking from

another angle, even if all policemen are upright and fair, there may still be misjudgements causing inconvenience to the drivers because the offence 'reckless driving' has not been clearly and simply defined. For the above reasons, I think the Government should reconsider giving a definition (though it may be a long one) of the term 'reckless driving'.

Sir, traffic accidents may not necessarily be due to the carelessness or rashness of drivers, the rashness of pedestrians, inappropriate road-signs and undesirable road conditions may also be the causes of traffic accidents. I hope the new law is only part of the Government's overall plan to improve road safety and that very soon we shall see greater improvement in other areas to reduce traffic accidents.

Sir, with these remarks, I support the motion.

MR. F. K. HU:—Sir, I welcome the introduction of the Road Traffic Bill 1982 and the seven sets of related regulations which will form an updated structure of legislation to deal with the present complicated traffic conditions and problems.

Unofficial Members have had numerous discussions and meetings during their in-depth study of the Bill and Regulations. There have also been many discussions with interested parties, mainly Trade Associations and professional drivers' groups. Our research and study and subsequent discussion with the Administration have resulted in considerable amendment to the Bill and Regulations which we believe will be able to deal more adequately and fairly with present traffic problems.

The main concern of Trade Associations and professional drivers has been the severe level of penalties under the Bill which they believe could deal a heavy blow to their livelihood and force many existing professional drivers out of their jobs, in addition they believe it could further deter potential drivers from joining the transport trade aggravating the present serious shortage of professional drivers. I understand, however, that in the light of these representations, the Administration has reviewed the level of fines with some maximum fines drastically reduced but some fines slightly increased to ensure logical relativities in the level of fines according to the seriousness of the offences. Professional drivers are also concerned with the definition of 'reckless driving' and 'careless driving' and I support all that the Convener of our Group has said on this matter.

All professional and private drivers must drive with care and pay due consideration to other road users. On its part, the Administration should further step up publicity and education on road safety and expedite construction of footbridges and subways at heavy traffic thoroughfares to separate pedestrians from vehicles.

The Administration has made a determined effort to regulate 'Pak Pai' operations which have now been legalized through the issue of hire car permits. There must be proper control of illegal 'Pak Pai' operations with effective

deterrents such as those outlined in clause 51 of the Bill. Under clause 89(2)(b) the Transport Tribunal may suspend the vehicle licence for the period specified in column 3 or 4 of the Fourth Schedule. Unofficial Members considered that vehicle licences should be suspended by the Commissioner for Transport for offences under clause 51 of the Bill rather than by the Transport Tribunal which would then deal only with appeals. Agreement has been reached on this point and I understand that an amendment to this effect will be proposed in the committee stage. Unofficial Members were also concerned with the suspension of a licence on first offence as there could be many cases of drivers soliciting car hire for reward without any knowledge of the owner. However, we accept the explanation that the Transport Tribunal has the power to quash the conviction on appeal and that the vehicle licence would not be suspended until the appeal is heard.

Illegal 'Pak Pai' operations are still a serious problem especially in the New Territories. While I agree that hire car permits should not be issued freely without limit, the Administration must logically determine the number of hire car permits to be issued in each area bearing in mind passenger demands, availability and frequencies of public transport and taxi service.

Sir, with these remarks, I support the Bill.

MR. CHEUNG YAN-LUNG:—Sir, while studying the Road Traffic Bill, Members of the Community Services Working Group have also taken the opportunity of studying the provisions of the draft regulations to be made under it. I would like to speak today on one particular aspect, namely the new system of road signs set out in the Road Traffic (Traffic Control) Regulations. As a matter of fact, this matter has also been the subject of representations made by Professional Drivers' Associations during their recent meeting with U.M.E.L.C.O.

The complex Road Traffic Bill now before us reflects the complex nature of Hong Kong itself. It is unique. We are not Singapore or London or New York, for example. Yet so often, the solutions to our problems seem to originate from faraway places instead of right here in Hong Kong, as they should. The proposed new system of road signs is a case in point.

Hong Kong has not one but two official languages. It has over 1 150 kilometres of roads to serve 300 000 vehicles, and more than 676 000 licensed drivers who are Hong Kong residents. It has a 'problem of people', close to six million, most of whom are Chinese-speaking. These are the people who have to face the consequences of the Road Traffic Bill when it becomes law. They are not just numbers, but real people, who will come into contact with the Bill in some form or another every day, after it is enacted. As they drive to work, or hail a minibus, or go bicycling, or cross the road, their split-second decisions, and the course they take as a result, will enable them to 'ride with the provisions of the Bill, or collide head-on with it'.

Existing road signs lack uniformity. Chinese characters in existing worded signs are often too small to be read at a distance. Existing signs are not metricated. The whole purpose of replacing them is to improve road signs, so that road users will not be confused or misled.

Having said all that, one would expect the new signs to be uniform in design, proportion and use of languages, and more comprehensible to road users. However, a small sampling of motorists I have conducted indicates otherwise.

The system of new signs is composed of 156 road signs. Sixty-six of them are completely new to Hong Kong. The system also includes signs depicting symbols and colours without words and characters. Some of the new signs tested on road users failed to elicit the required response, particularly signs with symbols and colours only. With the help of a professional graphic designer, I tested reaction first to some of the new signs with symbols and colours only, then to modified versions of the same signs with written messages. The reaction was more immediate and positive to written messages than to symbols. This led me to conclude that symbols are less effective than written messages when an instant response is required from road users.

Furthermore, discrepancies between the Chinese and English messages in some of the worded signs, and clumsy phrasing were other stumbling blocks to the road users in the test. Admittedly my tests were small samplings only, but I wonder, do we have any evidence to suggest that the majority of road users will not react in the same way? And if not, why not?

In Hong Kong, the bilingual community is the vast majority of those directly affected by the new road signs. Why then has not much more consideration been given to their problems in the planning and design of new road signs?

For instance, bilingual motorists automatically read both languages on a sign. It is second nature to do so. To alternate the Chinese and English languages on our road signs as we do, is to complicate and slow down the reading process to the point where lives may be endangered on our roads.

Why do we not simply segregate the languages so the message will be easier to digest at first glance?

As if our two languages are not enough, the new sign system incorporates symbols and colours which motorists are expected to decipher. Must we create a third 'language' in a code of symbols and colours? Why not simply say what we mean in plain Chinese and English terms? Do we really need to resort to guessing games on Hong Kong roads?

Colours and symbols are sanctioned by the United Nations, we are told, and they are accepted internationally. But the fact is, Chinese characters derive in part from graphic symbols, so to the Chinese mind, there is no more positive 'picture' than a Chinese character. As I have said before, this is Hong Kong, not anywhere else in the world, and we are perfectly capable of deciding on the format of road signs to suit our own road users. In the area of road safety,

which is of paramount importance to Hong Kong, why do we rely on United Nations guidelines, instead of conducting far more relevant research into our particular needs in Hong Kong?

There is talk of ‘educating’ the Hong Kong public in the use of international sign language. Clearly to do so would require a major campaign, along the lines of the Clean Hong Kong campaign. Like keeping Hong Kong clean, keeping Hong Kong roads safe and road users clear on what they must do, should be of primary concern to everyone in Hong Kong. But constraints of time and money need to be considered, and it seems we do not have much of either in store to spend on the education project before the new signs become a fixed part of our lives.

For years, Hong Kong people have been encouraged to look overseas and to model their thinking and systems after those of other cities and countries. It is high time we woke up to the fact that there are good minds right here in Hong Kong, ready, willing and able to cope with local problems like devising a new system of road signs.

What we need are signs of the times, designed and tested by Hong Kong people, and not signs derived from other countries’ systems, onto which the Chinese language is grafted. This is not realistic, practical or fair to the majority of road users, whose number includes pedestrians as well as drivers.

My own sampling of road users’ reactions makes me think we should be seeking professional advice about our road signs, as we do on other matters of importance to Hong Kong. And for this uniquely Hong Kong matter, the professional advice should come from people here, who speak the language, understand the problems, and possess the expertise. May I reiterate that the time has come for us to stop searching for the proverbial blue bird everywhere but in our own backyards?

Sir, with these remarks, I support the motion.

MRS. CHOW:—Sir, although my Unofficial Colleagues have now come to accept with reluctance the term ‘reckless’ used in clauses 35 and 36 as better known and understood to lawyers and as being more precise in the way it is interpreted by the courts and therefore is better suited to serve as the criterion for criminal liability, a certain degree of concern and reservation still exists, for the following reasons:—

*Firstly*, the definition of ‘reckless’ is not clearly laid down and although the courts and the lawyers may be fully aware of the legal concepts involved, those who stand accused of the offence may not.

*Secondly*, in the enforcement of these clauses, and in the absence of an agreed criterion, the accused may be too much at the mercy of the Police. Professional drivers are particularly concerned since their livelihood may be directly affected.

We are however satisfied that the Attorney General is attaching importance to the above-mentioned reservation, and he has given assurance that initially all 'reckless driving' cases will be given cautious consideration before the decision to prosecute is finally taken.

As my senior colleagues have explained, the Chinese translation of the term 'reckless' is of vital importance, although legally only the English term is taken into account. After all it is only in keeping with the spirit of justice that any accused person understands fully charges that are laid against him. The original proposal of 魯莽駕駛, for all intents and purposes, only carries the meaning of carelessness. It certainly does not reflect *fully* the Law Draftsman's explanation of reckless driving which contains these two elements, namely—

*Firstly*, driving in such a manner as to create an obvious and serious risk of causing physical injury to some other person who might be using the road or of doing some substantial damage to property; and

*Secondly*, that in driving in that manner the accused does so without having given any thought to the possibility of there being any such risk or, having recognized that there was some risk involved had nonetheless gone on to take it.

It is therefore essential that a satisfactory translation which conveys the full meaning above should be arrived at to replace the present proposal.

With your permission, Sir, may I now turn to clauses 44 to 46 and 53, which aim to control cyclists.

Cycling is not a very popular mode of transport in Hong Kong, and therefore there seems to be a tendency to under-estimate the threat that a careless or reckless cyclist may pose to other motorists.

There are two main categories of cyclists who use our busy urban thoroughfares—the youngsters, most of them in their mid-teens, who cycle for recreation, and the delivery men. There are no special requirements they need to fulfil before they could do so. For any person has only to be only 11 years in order to ride a bicycle on any public road unaccompanied, and one does not even have to be 11 to do so if accompanied by an adult.

I feel this may not be adequate, as problems in this area are not caused by children, but rather by riders who are above 11 of age, who might very well have acquired the skills of cycling, but are otherwise unqualified to be responsible road-users as they are not required by law to read and comply with road signs and other regulations. Nor are they trained in matters such as road sense and road courtesy. Clauses 44 to 46 refer to careless and reckless cycling but the penalties are considerably lighter than those for motorists. Besides, as their vehicles are so much lighter they often look like victims while they are in fact the cause of the accident. I have actually seen, more than once, how cyclists breezed away rather nonchalantly from scenes of collision which they themselves have caused.

As yet there is no evidence that cyclists are a substantial contributive factor to road accidents. However I would like to urge the Secretary for Transport to keep a close watch on how often motor accidents are consequential to bad cycling so that tighter control can be introduced if necessary.

Sir, I support the motion.

MISS TAM delivered her speech in Cantonese:—

督憲閣下：香港被稱為「冒險家」的樂園，雖然有時我們因為公共事業加價，過海隧道塞車而對樂園這兩個字產生疑問，但祇要看香港人過馬路和駕駛人任意將汽車轉着，就會完全地接納這裡實在有很多「冒險家」。本年第三季的交通失事報告，四千六百三十二宗案件中，其中一千三百八十四宗，是由於行車太快而起，一千零八十九宗是行人不小心而導致意外，其他的二千一百五十九宗，則是由於車跟得太近、轉着不小心、不遵守交通燈號等等而起。車輛造成的意外，比較行人造成的意外是二與一之比。去年同期的三千八百四十三宗交通意外，其中一千一百九十一宗是行人不小心而起，由此可見，安全駕駛是減少交通意外的最先決條件。

目前香港的駕駛人士，對甚麼是下小心駕駛，甚麼是危險駕駛，都有相當的認識，原因是現有的交通法例（法例第二二〇章）管制這兩種罪行的法律，是從一九五六年已經開始，至今已沿用了二十六年，就算以未被控過犯此等罪案的香港人，耳濡目染聽過別人所犯的案件，也有一種概念了。

因此，當政府提出將「魯莽駕駛導致傷人或殺人」去代替「危險駕駛而導致傷人或殺人」，及以「魯莽駕駛」以替代「危險駕駛」時，駕車者均感不安，因為他們不知道甚麼是魯莽駕駛，同時法案上也沒有寫明「魯莽駕駛」的意思。

其中一個理由，可能是由於英國上議院法庭繼續有新案例的出現，香港是要沿用的。陳壽霖議員已說明替「魯莽駕駛」下定義的困難，我祇能提供案例之一的概念，作為參考。剛才周梁淑儀議員已將案例的英文意思，詳細引述。

「魯莽駕駛」基本的概念就是一個司機在駕駛時，他不顧後果的行動，明顯地造成傷害他人身體，或相當嚴重地毀壞財物的危險。這種不顧後果的行動，可能是由於他根本漠不關心有沒有這種危險，也可能是他故意去造成的。例如他駛車轉着時他打左燈而轉入右着，而因此明顯地造成了和右面的車輛猛烈相撞的危險，這便是「魯莽駕駛」。假如他打左燈而轉入右着，但留有足夠的距離讓右着的車輛煞掣慢下來，那麼，這個情狀是就變成了不小心駕駛。這些例子，雖然可以說是勝枚舉，但本質上構成「魯莽駕駛」的因素，就如上述不顧後果的行動，造成該種傷人毀物的危機。

當然，一種概念是不能用唸定義的方法生吞活剝地吸收的。駕駛人必然要有一段時間去適應這新法例，因此，本人希望律政司能對警方將會如何地給予足夠的指示，給警方執行職務，和如何決定是否起訴駕駛人犯了「魯莽駕駛」，作一詳盡的解釋，因為市民方面所擔憂的事，今天在小組議員的演詞裏，都已一一提出。我相信以往香港的駕駛人，能夠明白到「危險駕駛」這個同樣抽象的概念，現在給予輔導和時間，也必能把握到「魯莽駕駛」的意思。但我可以說，駕駛人不做冒險家，安全至上，那麼就不必太擔心犯錯了。

本人亦同意研討此道路交通法例的小組主席，分析新法案的罰款，監禁或吊銷駕駛執照的觀點及理由。

督憲閣下，本人亦支持此動議。

*(The following is the interpretation of what Miss TAM said.)*

Sir, Hong Kong is sometimes called the 'Paradise of Adventurers'. Sometimes, we have doubt about the word 'paradise' because of the tariff increases of public utilities and the congestion in the Cross-Harbour Tunnel. However, by just looking at people in Hong Kong crossing the roads and drivers changing lanes at will, we shall totally accept that 'adventurers' abound here. The traffic accidents report of the third quarter this year showed that there were a total of 4 632 traffic accidents, of which 1 384 were caused by speeding, 1 089 by carelessness on the part of the pedestrians, and the remaining 2 159 by vehicles following one another too closely, careless changing of lanes, disobeying traffic lights, etc. The ratio of traffic accidents caused by vehicles to those caused by pedestrians is 2 to 1. In the same period last year, there were 3 843 traffic accidents, of which 1 191 were caused by carelessness on the part of the pedestrians. Thus, it can be seen that safe driving is the prerequisite for reducing traffic accidents.

At present, drivers in Hong Kong have considerable knowledge of what constitutes careless driving and dangerous driving. The reason is that the law governing these two offences in the existing Road Traffic Ordinance (Cap. 220) has been in force for 26 years since 1956. Even those people in Hong Kong who have never been charged with these offences would have a general idea of them as they frequently hear or see such offences being committed by others.

Therefore when the Government proposed to replace 'dangerous driving causing injury or death' by 'reckless driving causing death', and 'dangerous driving' by 'reckless driving', the drivers were perturbed, for they did not know what was 'reckless driving', besides, the meaning of 'reckless driving' is not clearly defined in the Bill.

One of the reasons was that in the Court in England, there were continuously new cases cropping up and Hong Kong has to follow suit in this respect. I second Mr. CHEN's opinion that 'reckless driving' is difficult to define and Mrs. Selina CHOW was also explained clearly what 'reckless driving' meant in English.

'Reckless driving' is the action of a driver when he is driving without regard to the consequences, involving danger of injuring other people or causing substantial damage to property. Such action without due regard to the consequences could be due to his indifference to such a danger, or perhaps it is deliberate. For instance, a driver wants to change lane, if he signals to turn left but switches to the right lane, his action obviously courts danger of bumping heavily against cars on the right. This is 'reckless driving'. If he signals to turn left, but switches to the right lane, yet leaves enough distance for the cars on the right lane to brake abruptly to slow down, then it becomes careless driving. Such examples are too numerous to be quoted, but in essence, what constitutes 'reckless driving' is the action regardless of consequences, which incurs the danger of injuring people and damaging property as mentioned above.

Of course, the concept cannot be absorbed raw and whole by memorizing the definition. Drivers must take time to adapt to this new legislation. Hence, I hope the Attorney General will instruct the Police in detail on how to discharge their duties and how decisions will be made as to whether a driver should be charged with 'reckless driving', so that the public can accept and understand implications of this new legislation as well as get hold of its concept. In the past, drivers in Hong Kong could understand the equally abstract concept of 'dangerous driving'. Now, given guidance, they can certainly understand the meaning of 'reckless driving'. However I can only say that drivers need not worry too much about committing offences if they make safety their prime concern and refrain from being an adventurer.

I also share the views and justifications given by the Convener of the Working Group on Road Traffic Bill in his analysis of fines, imprisonment and suspension of driving licences stipulated in the new Bill.

Sir, I, too, support the motion.

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

*Question put and agreed to.*

### **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, 22 December 1982.

*Adjourned accordingly at twenty minutes past four o'clock.*