

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 2 February 1983****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR EDWARD YOUDE, G.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 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 DISTRICT 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 AND MANPOWER

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

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

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

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

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

THE REVD. THE HONOURABLE PATRICK TERENCE McGOVERN, O.B.E., S.J., J.P.

THE HONOURABLE 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 HEALTH AND WELFARE

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

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

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

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.
SECRETARY FOR HOUSING

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

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

THE HONOURABLE HU FA-KUANG, J.P.

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

IN ATTENDANCE

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

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Kowloon-Canton Railway Corporation Ordinance 1982. Kowloon-Canton Railway Corporation Regulations 1983	16
Public Health and Urban Services Ordinance. Bathing Beach (New Territories) (Amendment) Regulations 1983	17
Evidence Ordinance. Evidence (Authorized Persons) Order 1983	20
Shipping and Port Control (Hong Kong—China and Macau Ferry Terminals) Regulations 1982. Hong Kong—Macau Ferry Terminal Boundaries Order 1983	21
Shipping and Port Control (Hong Kong—China and Macau Ferry Terminals) Regulations 1982. Hong Kong—Macau Ferry Terminal Restricted Area Boundaries Notice 1983	22
Road Traffic Ordinance. Taxis (Hong Kong and Kowloon Taxis) (Limitation on Number) Notice 1983	23
Public Health and Urban Services Ordinance. Pleasure Grounds (Amendment) By-law 1983	24
Shipping and Port Control (Hong Kong—China and Macau Ferry Terminals) Regulations 1982. Shipping and Port Control (Hong Kong—China and Macau Ferry Terminals) Regulations 1982 (Commencement) Notice 1983	25
Pneumoconiosis (Compensation) (Amendment) Ordinance 1983. Pneumoconiosis (Compensation) (Amendment) Ordinance 1983 (Commencement) Notice 1983	26
Road Traffic Ordinance. Road Traffic (Public Service Vehicles) (Amendment) Regulations 1983	27
Evidence Ordinance. Evidence (Authorized Persons) (No. 2) Order 1983	28
Ferry Services Ordinance 1982. Ferry Services (Hongkong and Yaumati Ferry Company, Limited) (Determination of Fares) (Amendment) Order 1983	29

<i>Subject</i>	<i>L.N. No.</i>
Kowloon-Canton Railway Corporation Ordinance 1982. Kowloon-Canton Railway Corporation Ordinance 1982 (Appointed Day) Notice 1983	30
Interpretation and General Clauses Ordinance. Declaration of Change of Title (Rediffusion Television Limited to Asia Television Limited) Notice 1983.....	31
Sessional Papers 1982-83:	
No. 35—Samaritan Fund—Income and Expenditure Account with Balance Sheet and Certificate of the Director of Audit for the year ended 31 March 1982.	
No. 36—Trustee's Report on the Administration of the Education Scholarships Fund for the year ended 31 August 1982.	

Oral answers to questions

The Lay Assessor Scheme

1. DR. HO asked:—*Will Government make a statement on the Lay Assessors Scheme operating in the magistracies and say to what extent the Scheme is achieving its object?*

LAW DRAFTSMAN:—Sir, the Lay Assessor Scheme was introduced by amendments to the Magistrates Ordinance, amendments which came into effect in October 1978. The then Solicitor General in moving the second reading of the amending Bill, pointed out that the Scheme was experimental and capable of flexible application.

As explained in the Explanatory Memorandum to the amending Bill, the Scheme was designed to enable a magistrate to have the advice of an assessor when hearing and determining any proceedings. The assessors were to be lay persons fluent in Cantonese and English, knowledgeable about Hong Kong and familiar with Chinese customs and traditions. They were to be involved at all stages of cases coming before the magistrates with whom they were sitting. Their knowledge of the Chinese language, it was envisaged, would help them follow evidence directly. They would be able to assist in assessing the credibility of witnesses and be expected to put forward to magistrates community views about particular offences in the context of sentencing. And that, Sir, is how the Scheme operates. The Assessor's role is, of course, advisory. He has the right to give advice but the Magistrate is not bound to accept that advice.

Assessors to magistrates are, in accordance with the legislation, selected by the Registrar of the Supreme Court from a panel, which is appointed by the

Chief Justice after consultation with the Secretary for Home Affairs. They are attached to newly appointed magistrates from abroad in their first few months of service in Hong Kong. There are at present some 332 persons on the panel of assessors. Since the inception of the Scheme in 1979, 43 new magistrates have sat with assessors.

To be able to express a useful view as to whether the scheme is achieving its object would require a detailed assessment and in fact such an assessment is already in progress. I am told that it is very nearly complete and that the results should be reported to the Secretary for Home Affairs shortly. It will then have to be studied and the conclusions will be communicated to Members.

DR. HO:—*What has Government done to prepare these lay assessors to offer their services effectively to the magistrates before they begin to sit in a Court of Law?*

LAW DRAFTSMAN:—Sir, there is a Guide for the lay assessors which is provided for them, and I believe that the Guide has not too long ago been examined with a view to being made more helpful.

MRS. CHOW:—*May I ask the Law Draftsman how the assessment is to be conducted?*

LAW DRAFTSMAN:—Sir, the assessment is being conducted by the Judiciary on the directions of the Chief Justice. I am not sure exactly in what way the assessment is being conducted, but I imagine it involves a detailed study of particular cases of how the assessors are appointed, how they are given their advice and so on and, if Mrs. CHOW wishes to have further details when the assessment is received, I will provide them to her personally.

MRS. CHOW:—*Sir, may we know whether, in fact, assessors and magistrates will be consulted during the process of this assessment?*

LAW DRAFTSMAN:—Sir, I am quite sure that assessors and magistrates will be consulted, because I cannot believe in what other way an assessment could be conducted, but I will certainly ensure that this view of Mrs. CHOW is passed on to the Judiciary.

Video games centres

2. MR. CHEUNG YAN-LUNG asked:—

- (a) *Is the Government satisfied that the licensing requirements imposed under the Miscellaneous Licences Ordinance (Cap. 114) are being strictly complied with by operators of amusement game centres?*
- (b) *What measures are taken to ensure that the subject matter of the video games available at these amusement centres is not objectionable?*

SECRETARY FOR HOME AFFAIRS:—Video games centres are new and they are fun but they can cause problems. In drawing up licensing conditions we aimed at keeping the fun while preventing the problems. Now that a good many centres have been running for several months we are beginning to see whether we got the balance right. Generally speaking we were not far out but shortcomings have emerged. For this reason we have in hand a review of licensing conditions and their enforcement.

Certain operators are, for instance, allowing under age people to take part in games. 699 summonses were issued by the Police during the first 11 months of 1982 for various breaches of licensing conditions. In our review, additional enforcement measures are being considered, including the cancellation and suspension of licences in cases of persistent offenders. The views of District Boards on these points are being sought.

On the second part of the question all video games in licensed centres have to be approved in advance by the Commissioner for Television and Entertainment Licensing. If video games not approved are installed, prosecution action will be taken on discovery. Enforcement in this area seems to be generally satisfactory.

REVD. JOYCE M. BENNETT:—Sir, are there enough Police available to monitor these video games centres and root out under age patrons?

SECRETARY FOR HOME AFFAIRS:—Sir, I think this is one of the things we shall be covering in our review.

MR. LO:—*Are there centres limited to children?*

SECRETARY FOR HOME AFFAIRS:—There are a few centres limited to children under 16.

Drowning in open pits at construction sites

3. MISS DUNN asked:—*Referring to the Secretary for Lands and Works' answer in the Council on 30 June 1982 in which he said that his Branch was considering possible ways of reducing 'the risk of a recurrence' of children being drowned in open pits at construction sites, can he say what measures have been implemented since then and in the light of the recent death of a girl drowned in a construction site in Tuen Mun, does he consider that the measures taken are adequate?*

SECRETARY FOR LANDS AND WORKS:—Sir, since June last year site safety precautions on Government contracts have been stepped up, particularly in respect of fencing, guarding, lighting and the draining of all open-pit and trench excavations which are likely to pose danger to the public, and to children in particular. Where practicable, barriers and hoardings have been placed around sites or parts of sites readily accessible to the public and warning notices erected

at appropriate locations. Moreover, a requirement for the contractor to provide site safety officers has been incorporated in an increasing number of contracts and has been included in highways maintenance contracts for which tenders have recently been called. In addition, specific instructions have been issued to site supervisory staff requiring them to make inspection at the end of each working day to ensure that open pits are properly protected.

Responsibility for safety precautions on private sector sites lies with the Authorized Persons and contractors.

The Building Authority had already issued a Practice Note to all Authorized Persons and Registered Structural Engineers explaining the procedures and requirements regarding hoardings on sites in which he has emphasized that the primary consideration must be the safety and convenience of the public.

Legislation regarding the provision of safety officers on construction sites has already been drafted by the Labour Department and consultation on the proposed legislation is being made with the Building Contractors' Association and other interested parties.

In summary, therefore, the measures taken or being taken on Government sites are considered to be adequate whilst those applying to the private sector cannot as yet be said to be as good.

However, it must be borne in mind that it is virtually impossible to ensure that safety measures will be totally effective in all cases.

MISS DUNN:—*Sir, can I infer from the answer that private sector construction sites are not inspected by the Government to ensure compliance with safety regulations?*

SECRETARY FOR LANDS AND WORKS:—Yes, Sir, the Buildings Ordinance Office normally carries out inspections of works in progress roughly on a monthly basis.

MISS DUNN:—*Sir, why are holes filled with water allowed to remain on construction sites in the first place, and would it not be sensible to require contractors to drain and fill the holes where there is no reason for their existence?*

SECRETARY FOR LANDS AND WORKS:—Where excavation sites with water in them are found, they are, in fact, normally required to protect these areas. Unfortunately, in this particular case, the design had been abandoned in late January 1982 with no further works progressing, and so no inspections of the site took place.

Vehicle exhaust fumes

4. MR. SO asked in Cantonese:—

- (甲) 自從一九七九年以來，當局是否有增加人力物力去檢驗汽車排出之有害廢氣？
 (乙) 自從一九七九年以來，每年曾作出多少次檢驗，因而受到檢控者有多少人？
 (丙) 檢控結果，最高罰款和罰款平均數字是多少？當局認為現行管制措施是否足夠？

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

- (a) *Have the resources required to test the emission of harmful exhaust fumes from vehicles been increased since 1979?*
 (b) *How many tests have been conducted each year since 1979 and how many prosecutions have resulted from these tests?*
 (c) *What is the maximum and average penalty imposed as a result of these prosecutions, and are present control operations considered adequate?*

SECRETARY FOR TRANSPORT:—Sir, since 1979, increases in Royal Hong Kong Police Force manpower and the availability of vehicles has enabled two teams instead of one team to be assigned to testing excess smoke in vehicle exhaust fumes in each of the three Police regions. Eight smokemeters as they are now called are now in use by the Police, three of these having been purchased in 1982.

Total figures for the number of tests carried out are not available, because the number of vehicles which pass the tests on the roadside is not recorded. Prosecutions for excess smoke since 1979 have been as follows:

1979— 8 661
 1980—15 535
 1981—13 547
 1982—12 351

The offence of emitting excess smoke may be dealt with either by fixed penalty or by way of summons. The fixed penalty is \$100. In respect of the cases dealt with by summons, the maximum fine is \$500. The average fine is around \$200.

Government considers, Sir, that the level of control action carried out by the Police Force is adequate, in the light of their other enforcement commitments.

MR. SO asked in Cantonese:—

本港市民，如果發現汽車有排出過量的廢氣，可否投訴，如果可以的話，應該向那個部門投訴？

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

Sir, if the members of the public have discovered excessive emission of exhaust fumes, can they make a complaint and to whom should the complaint be made?

SECRETARY FOR TRANSPORT:—Yes, Sir, indeed it is open to members of the public to make complaints. They should be made to the Commissioner of Police or to a Police Station or, if that is inconvenient, to the Commissioner for Transport or even to my office.

MR. SO asked in Cantonese:—

閣下，要出庭的罰款和不出庭的定額罰款，現時是否有足夠的阻嚇作用？

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

Do the fines for both fixed and by way of summonses still have deterring effect?

SECRETARY FOR TRANSPORT:—I think, Sir, the evidence is that any fine which remains fixed for a length of time becomes less and less effective, and it is in mind in connection with the regulations under the new Road Traffic Ordinance to propose increases in the penalties.

Scheduled drugs in Chinese patent medicines

5. DR. HENRY HU asked:—*Further to the Director of Medical and Health Services' reply to a question in this Council on 23 May 1979, can he make an up-to-date statement on the control of dangerous drugs in Chinese patent medicines, with details about inspections and prosecutions carried out under the Pharmacy and Poisons Ordinance since then?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the staff of the Forensic Pharmacy Section have continued to take routine samples of Chinese patent medicines with a view to detecting the presence of scheduled drugs in them since my reply to the question referred to by Dr. HU in this Council in May 1979.

Thus, for the years 1980, 1981 and 1982, the number of samples of Chinese patent medicinal products taken were six, 66 and 75, while the number of such products found to contain scheduled drugs for the same years were one, zero and 11 respectively.

As for the number of prosecutions for 1980, 1981, the figures were five and nil respectively, while for 1982 one prosecution is scheduled, pending the completion of legal procedures.

These figures are summarized in the table set out before honourable Members:

<i>Year</i>	<i>No. of samples of Chinese patent medicinal products taken</i>	<i>No. of samples found to contain scheduled drugs</i>	<i>No. of Prosecutions</i>
1980	6	1	5
1981	66	0	0
1982	75	11	1

prosecution pending completion of legal procedures.

DR. HU:—*Sir, in the present legislation which comprises an Ordinance and several sets of regulations, are they adequate to protect the health and general well-being of the public of Hong Kong?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir.

Subvention for social centres for the elderly

6. DR. FANG asked:—*Will Government explain the policy on subvention for social centres and multi-service centres for the elderly, and inform this Council whether consideration has been given to revising the policy in the light of difficulties faced by voluntary agencies concerned and the need for such services to be further developed in the future?*

DIRECTOR OF SOCIAL WELFARE: — Sir, under the revised subvention system for organizations which provide social welfare services, services will be classified as Category I or Category II. Category I services will be those for which a standard cost can be established and which meet one of the following guidelines:

- (a) Services prescribed by law which clearly contribute to meeting a statutory requirement;
- (b) Services which ensure that a fundamental human need is met; or
- (c) Services which are required to alleviate generally recognized social problems.

Category I services will receive subvention at 100 per cent of the standard cost established for that service. Category II services will receive a subvention covering part only of the standard cost or, if standard costs cannot be established, a lump sum grant. The proportion of the standard cost to be subvented, or the lump sum grants would be determined on the merits of each case. Social centres for the elderly which provide social and recreational activities, and multi-service centres for the elderly which provide a full range of services such as home help, counselling, laundry and social activities have been placed in Category II.

As it will take some time to determine standard costs, interim arrangements have been made for subventions for Category II services which will receive a percentage of recognized expenditure based on previous levels of financial support, adjusted for price increases, but disregarding all income except fees. The percentage in the case of social centres for the elderly has been fixed at 70% and in multi-service centres the percentage varies between 70% and 100% depending on the service.

I would be willing to consider any approach made by an agency which is in financial need, but for this year only two appeals have been received out of 30 voluntary agencies running 70 social centres including those established within multi-service centres. These two appeals have been satisfactorily resolved.

For the next financial year nine social centres and three multi-service centres are planned and all have already been taken up by voluntary agencies.

DR. FANG:—*Sir, these centres have to a very great extent helped to keep elderly people cared for by their families at home instead of filling up the fully subvented and costly institutions. Such services indeed fall in line with the set guidelines for Category I. Would the Director of Social Welfare consider upgrading them in the near future from Category II to Category I?*

DIRECTOR OF SOCIAL WELFARE:—*Sir, from what I have said I don't think I can agree that social centres for the elderly fall in line with the guidelines for Category I, but I can see that there is room for a difference of opinion on what is a fundamental human need. I have had the advantage of the advice of the Social Welfare Advisory Committee on this point which involves a value judgement and they have advised that these services should be in Category II. However, if any agency can show that it is unable to function properly with the funds allocated, I should certainly be glad to reconsider the position.*

REVD. JOYCE M. BENNETT:—*Sir, has the Social Welfare Department heard of any centres which have cut down their services because of lack of funds?*

DIRECTOR OF SOCIAL WELFARE:—*Sir, with the exception of the two centres, I am not aware of any.*

Right of abode in Hong Kong

7. MR. CHARLES YEUNG asked:—*Will Government say whether a person born in Hong Kong before 1 January 1983 loses his right of abode here when he renounces his British nationality in order to take up another nationality?*

SECRETARY FOR SECURITY:—*Yes, Sir.*

A person born in Hong Kong before 1 January 1983, who on or after that date renounces his British nationality (which generally in a Hong Kong context means his British Dependent Territories citizenship) does not lose his right of abode in Hong Kong, that is he continues to be a 'Hong Kong believer'.

This consequence of renouncing nationality or citizenship can be distinguished from the situation before this Council enacted the Immigration Amendment (No. 2) Bill 1982. Before then, generally speaking renunciation of nationality or citizenship ended the right of abode here.

To have created this new right was an oversight. I am afraid that we were simply too intent on making sure that there were no inadvertent losses of rights under the new legislation and consequently this one was allowed to slip past unnoticed.

But obviously, loss of right of abode must go with renunciation of nationality or citizenship. I have issued drafting instructions for a Resolution to be moved in this Council to restore the former law as soon as possible. Sir, I would like to thank my honourable Friend for drawing this oversight to our attention.

MR. CHARLES YEUNG:—*Sir, regarding the pre-1983 situation the Secretary used the word 'generally speaking' when he asserts that renunciation of nationality ended the right of abode. Without disrespect, does he base his statement on law and, if so, whether it is British or Hong Kong laws or international laws?*

SECRETARY FOR SECURITY:—*Sir, I have used the word 'generally' actually not only on the basis of the law, but on the advice of a lawyer. The fact of the matter is that the whole question of citizenship and nationality is hideously complicated. It not only involves Hong Kong law and British law it also involves laws within the Commonwealth. 'Generally' in fact, means in about 99 cases out of 100, but there were odd little cracks in the edifice.*

MR. CHARLES YEUNG:—*It is appreciated that this nationality citizenship etc. is very complicated and in fact can be described as messy, may I know what is the reason for mixing the right of abode with nationality or citizenship, as there are many Chinese people, people with Chinese origin in Hong Kong, who are neither British nor British Dependent Territories Citizens, but have a right of abode here?*

SECRETARY FOR SECURITY:—*Sir, my honourable Friend is leading me into dangerous ground, but as far as I know, and I shall certainly consult my honourable Friend, the Attorney General when he surfaces again, unless one has British Dependent Territories citizenship in Hong Kong one does not have the right of abode.*

REVD. JOYCE M. BENNETT:—*Sir, does a Chinese not born in Hong Kong who lived here long enough to become a Hong Kong believer and who later becomes a citizen of another country, have the right of abode in Hong Kong as a Chinese resident?*

SECRETARY FOR SECURITY:—*The answer to that question, Sir, depends on the circumstances. If someone takes up a different nationality and has to renounce his Hong Kong citizenship, then he loses his Hong Kong right of abode. There is nothing as far as I know to stop someone taking on another nationality and provided he does not have to renounce his British nationality or his British Dependent Territories citizenship, he then retains his right of abode.*

Low cost clinics in public housing estates

8. MR. PETER C. WONG asked:—*What is the Government's policy regarding the provision of low cost clinics in public housing estates, especially those in the New Towns?*

SECRETARY FOR HOUSING:—Sir, medical clinics are provided in public housing estates as a standard feature. Generally, provision is made on the basis of one clinic for every 7 500-10 000 population. There are at present a total of 220 medical clinics in the public housing estates, of which 76 are in the New Territories. It is expected that over the next two years some 50 additional clinics will be provided, including 40 in the New Towns.

Since 1967 doctors have been nominated by the Estate Doctors Association, in accordance with the Association's by-laws and regulations. Conditions of the tenancies usually for three years, are similar to those for shops except with the proviso that the clinics should be in operation for at least six hours a day. A doctor cannot hold more than one clinic in public housing estates plus one clinic in the private sector.

MR. PETER C. WONG:—*Sir, is Government satisfied that at present there is adequate provision of low cost clinics in public housing estates?*

SECRETARY FOR HOUSING:—Sir, as housing estates are not planned in isolation, facilities outside the estates are also made use of. In addition, where suitable space is available Government clinics are sometimes provided on district basis within housing estates to give a wider choice of medical service. We therefore believe that the need of estate residents are adequately catered for, and we certainly have not received any report of shortage of privately run clinics in housing estates as such.

MISS DUNN:—*Sir, what average fees are charged in these clinics and how do they compare with Government clinics?*

HIS EXCELLENCY THE PRESIDENT:—I think, Miss DUNN, that question goes rather beyond the Secretary for Housing's responsibilities.

Usage of space under flyovers

9. MRS. CHOW asked:—

- (a) *Will Government state its policy regarding the usage of space underneath flyovers?*
- (b) *Are specific uses of such space taken into consideration in the initial planning stage of flyovers?*

SECRETARY FOR LANDS AND WORKS:—Sir, broadly, Government policy allows for space under flyovers not required for roads or pedestrian facilities to be put to other uses. This recognizes the shortage of ground level space, particularly in the older urban areas where flyovers generally have to be built.

However, in selecting the uses to which space can be put, we must ensure that the flyovers structures will not be damaged and also that users of the space will not be exposed to traffic or environmental risks.

Main uses are amenity areas, playgrounds, vehicle parks, bus termini, public toilets and storage.

Regarding the second part of the question, in the initial planning stages the main concern is the traffic requirements which the flyover is intended to meet. But consideration is also given to its compatibility with surrounding areas and the scope for meeting community requirements in the process of planning and design.

In recent times it has become the practice to consult District Boards about the use of space under flyovers in their respective districts. This has been in respect of space already existing or under construction. However, the practice is being extended to include projects under planning.

MRS. CHOW:—*Sir, will the Secretary for Lands and Works tell this Council who determines and allocates the usage should there be more than one application for space, and what are the criteria for such decisions?*

SECRETARY FOR LANDS AND WORKS:—Sir, the Land Development Policy Committee determined a series of lists covering permitted, tolerated or prohibited uses and these are followed generally. The Lands Department does the actual initial allocations. After allocation the user department becomes the operator for the site.

Legal abortions performed on girls under the age of 16

10. MR. WONG LAM asked in Cantonese:—

請問一九八二年全年內，十六歲以下少女進行合法墮胎者共有多少人，該數字與侵害人身罪條例未訂前，即一九八〇年全年內之數字相比又怎樣？

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

How many legal abortions have been performed on girls under the age of 16 in the 12 months period ending December 1982, as opposed to the same period ending December 1980, prior to the amendment of the Offences Against the Person Ordinance?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the number of termination of pregnancies performed under the provisions of the Offences Against the Person Ordinance Cap. 212 for girls under the age of 16 is 35 annually for both 1980 and 1982.

MR. WONG LAM asked in Cantonese:—

閣下，請問這三十五個數字之內，是否包括公立和私立醫院？

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

Sir, among the 35 cases, do they include Government hospitals and private hospitals?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir.

DR. FANG:—*Sir, does the Director of Medical and Health Services have any information on the morbidity, that is, the mental and physical trauma relating to these very young women after abortion; if not, should Government keep a record of such information for further assessment?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the answer to the first part of the question is 'no', but I should look into this and see whether it is feasible to collect and keep such information.

REVD. JOYCE M. BENNETT:—*Sir, does the Director of Medical and Health Services know whether these figures relate to the same girls under 16. In other words, did one girl have two abortions?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I have no details about this but my impression is that they are separate individuals.

MR. SO asked in Cantonese:—

這些少女會不會得到一些諮詢和指導的服務，使到醫生在按照侵害人身條例第四十七(甲)一項作出決定時，得到正確的資料，認明她們所作出終止懷孕的決定不但影響自己的健康，而且會影響一個成長中的生命？

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

May I ask, would the young girls be given any guidance and counselling so that once the doctors make a decisions in accordance with section 47(A) of the Offences Against the Person Ordinance, they would be able to get proper information and realize that making decisions as to the desirability of termination of pregnancies will not only affect their own health but also another developing life?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, it must be remembered that it is necessary to seek the opinion of two separate registered medical

practitioners, and within the professional ethics and practices of these medical practitioners, consultations as to the psychological and psychiatric elements are expectedly carried out.

REVD. JOYCE M. BENNETT:—*Sir, in each case was the gentleman prosecuted successfully?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, with respect, this is information which is kept by my Colleague the Commissioner of Police, so I have to refer my Friend to him.*

Government's anti-smoking programme

11. MISS DUNN asked:—*What is the progress of the Government's anti-smoking programme since the enactment of the Smoking (Public Health) Ordinance in July 1982?*

SECRETARY FOR HEALTH AND WELFARE:—*Sir, since the Smoking (Public Health) Ordinance was enacted in July 1982, a number of measures, both administrative and legislative, have been taken to step up our anti-smoking effort.*

Administratively, no-smoking areas have been established in hospitals, clinics, schools and in food business premises. The Director of Medical and Health Services has issued instructions prohibiting smoking in wards, treatment rooms and public areas in Government hospitals and clinics in addition to areas like operating theatres where smoking has long been prohibited. Subvented and private hospitals have also been urged to follow suit. The Director of Education has instructed all Government schools, colleges and institutions and advised aided and private schools to ban smoking in school halls, classrooms, playgrounds, libraries and other premises where students are present. The Director of Urban Services has also written to all licensees of food business seeking their co-operation in establishing no-smoking areas in their premises on a voluntary basis and reminding them to display 'No-Smoking' signs in food preparation areas, such as kitchens, where smoking is already prohibited by law.

In Government premises, smoking has been banned in all lifts and public waiting areas. Cigarette advertisements are not allowed on premises under Government control.

Since 15 November 1982, all cigarette advertisements in local newspapers and other printed matters are required to carry a health warning and tar group rating.

The requirement for the Government health warning to be included in cigarette advertisements was extended to television, radio and cinema, as from the beginning of 1983.

The next stage in the implementation of our anti-smoking legislation will come into effect on 15 February 1983 when smoking will be prohibited in public lifts, single decker road public transport (except taxis and hired cars), and the lower decks of double decker buses and trams. No-smoking areas will also have to be designated in not less than 50 per cent of each class of seating accommodation in ferries, trains, cinemas, concert halls and theatres.

On the same day, most other types of cigarette advertisement, both indoor and outdoor, will also be required to carry the Government health warning. This statutory requirement will be extended to cigarette advertisements by way of neon signs as from 15 May 1983.

From 15 August 1983, it will be mandatory for all cigarette packets and retail containers on sale in Hong Kong to carry the Government health warning and the appropriate tar group designation.

To promote greater public awareness of the health hazard of smoking, plans are in hand for a major anti-smoking publicity campaign to be launched later this year.

MISS DUNN:—*Sir, will the Government Chemist be in a position to advise on the tar content in various brands by the due date and regularly thereafter?*

SECRETARY FOR HEALTH AND WELFARE:—The Government Chemist has acquired an automatic smoking machine and other sophisticated equipment for the cigarette testing programme, and an application for the creation of the necessary posts for the staff to undertake the work is being processed, for consideration by the Establishment Subcommittee of the Finance Committee. However due to the requirements to meet the procedures laid down by the Finance Committee, I am afraid that the testing programme is a little delayed, but there is provision in the law for the manufacturer's estimate to be used in place of the Government Chemist's determination.

REVD. JOYCE M. BENNETT:—*Sir, is there a minimum age limit under which no young person is allowed to purchase cigarettes?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, under the existing legislation I am not aware that there is any age limit, upper or lower.

REVD. JOYCE M. BENNETT:—*Sir, could this be considered?*

SECRETARY FOR HEALTH AND WELFARE:—Yes, Sir.

MR. PETER C. WONG:—*Does the Secretary agree that the Health Warning signs appearing on TV are on the small side? (laughter)*

SECRETARY FOR HEALTH AND WELFARE:—Sir, I would personally prefer to see even more stringent measures about advertising on TV.

DR. HUANG:—*Sir, does Government intend to follow the results of this campaign, for instance, by checking on the sale of cigarettes or measuring the incidence towards lung cancer, as the years go by?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the incidence of lung cancer is already being recorded, and I am sure this will be maintained in the years ahead.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

Figures are kept of cigarettes and other tobacco products withdrawn from bond. This is taken as the measure of consumption. These figures will continue to be maintained.

MR. CHARLES YEUNG:—*Will the grading of tar level in cigarettes be extended to cigar and pipe smoking?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the present Order does not extend to cigars or tobacco.

MR. LO:—*Sir, what is the merit of requiring manufacturers to display their own estimate of tar contents on cigarettes?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, regulation 4 of the Smoking (Public Health) Regulations provides for the use of manufacturers' estimates where there has been no formal determination by the Government Chemist, and where the manufacturer has altered the tar content thus rendering any previous determination incorrect.

Light rail transit system in Tuen Mun

12. MR. STEPHEN CHEONG asked:—*In view of speculation about the future of the Tuen Mun Light Rail Scheme, will the Government:—*

- (a) make a statement on how it intends to proceed; and*
- (b) give an assurance that the other transportation options will be reconsidered before any decision to proceed with the light rail system is made?*

SECRETARY FOR TRANSPORT:—Sir, Tuen Mun New Town has been planned on the basis of a light rail transit system as the principal internal mode of public transport. The transport infrastructure of the New Town has therefore been developed to accommodate such a system. Briefly, it provides for running light rail vehicles in their own exclusive bi-directional right-of-way, located at the side of the road system. Where the L.R.T. right-of-way crosses the road system at grade, priority is given to light rail vehicles.

The possibility of using some other form of public transport has recently been examined in broad terms. Operationally, it would be possible; but the resulting standards of service, and the financial aspects require further study.

As was announced some twelve days ago, it was not possible to find a mutually agreeable basis on which to conclude the discussions between Kowloon Wharf and Godown Company and Government for the Company to proceed with building the L.R.T. Several groups of companies have expressed interest in the project, and consideration is now being given as to how best to proceed. I cannot yet say precisely Government will proceed, but I should like to reassure Mr. CHEONG in respect of one aspect of the speculation to which he refers. The 1977 plans for Tuen Mun development projected a rate of population build-up which would justify the commencement of operation of the L.R.T. in 1986-87. Population build-up and its distribution, however, over such long periods of time very rarely follow precisely the first projections. At least two of the groups to which I referred earlier consider a construction period of 36 months to be feasible. We therefore have adequate time to consider how best now to proceed in respect of the L.R.T. Meanwhile the Kowloon Motor Bus Company is providing—and this, too, was included in the development plans from the beginning—satisfactory interim bus services.

MR. STEPHEN CHEONG:—*Sir, the Secretary for Transport stated that the transport infrastructure of the New Town has been developed to accommodate the L.R.T. system. Does he think that there will be serious difficulties if other modes of internal transport were to be adopted? If so, can we be enlightened briefly of some of those difficulties?*

SECRETARY FOR TRANSPORT:—*Sir, as I have said the planning is for a light rail transit system and segregated rights of way. This means that if one is to install a different form of transport such as buses, the system will have to be redesigned. There will have to be quite basic engineering changes; this will mean cost inevitably. At the moment I am not able to say precisely what cost but it would be very substantial so that you have engineering considerations and financial considerations; in addition, and this, I think, is an important question to that community in Tuen Mun, it is not at all clear what the level of service would be which would result from a different form of public transport.*

MRS. CHOW:—*Is there a deadline as to when the final decision regarding the L.R.T. will be taken?*

SECRETARY FOR TRANSPORT:—*I think I have covered that point, Sir, in the latter part of my first reply.*

MRS. CHOW:—*Sir, with respect, I think we were told about the 1986-87 date which was in the original plan, but I don't think that we have been told about when the decision will be taken. I mean, is it within the next three months, or is it within the next two years?*

SECRETARY FOR TRANSPORT:—I apologize for not making myself more clear, Sir. I said in my first reply there is adequate time for the decision to be taken. That is based on an assumption that 1987 will be the earliest required date for commencement of operation.

Safety of equipment at the Prince Philip Dental Hospital

13. MR. S. L. CHEN asked:—*Will Government make a statement on the findings of the technical team which examined the safety of the equipment supplied to the Prince Philip Dental Hospital?*

SECRETARY FOR LANDS AND WORKS:—Sir, following the receipt of reports of the malfunctioning of some items of equipment at the Hospital the Chairman of the Board of Governors requested that a team of Government experts be formed to carry out an investigation.

The team included mechanical, electrical and electronic engineers and a dental specialist. Its terms of reference were 'to investigate the engineering safety aspects of all medical and related equipment at the Prince Philip Dental Hospital together with any functional aspects of the equipment that is patient related'. The team commenced work on 6 December 1982 and submitted its report on 12 January 1983.

The team concluded within its terms of reference that there is no serious general deficiency in the equipment installed and indeed the overall impression is one of good quality. However, in matters of detail some elements were found to be faulty or unsatisfactory and the team has recommended the implementation of remedial works at an approximate cost of \$700,000.

Sir, subject to the approval of funds by Finance Committee, the works will be put in hand and completed as a matter of urgency.

MR. S. L. CHEN:—*Sir, I am attracted by the words 'a matter of urgency'. Why is this a matter of urgency? Will the Secretary for Lands and Works agree with my observation that there is an element of risk and danger to the public if the defects are not corrected immediately?*

SECRETARY FOR LANDS AND WORKS:—Sir, a few items or parts of items which were thought to carry higher risk potential were disconnected or withdrawn from service. Other items with unsatisfactory but less critical features are still in use, but I feel sure that the hospital heads of departments, with their wealth of professional knowledge and experience, would not continue to use them if they considered them to be unsafe.

MR. S. L. CHEN:—*Sir, presumably the equipment was supplied by a reputable manufacturer and is still under guarantee or warranty. That being the case, is the manufacturer under contractual obligation to rectify all the faults and defects?*

SECRETARY FOR LANDS AND WORKS:—The question seems to infer non compliance with specifications but, as the terms of reference for the investigation team covered engineering safety and functional aspects only, the report does not deal with the question of compliance with specifications, and I cannot comment on this matter.

Government Business

First reading of bills

INLAND REVENUE (AMENDMENT) BILL 1983

MATRIMONIAL CAUSES (AMENDMENT) BILL 1983

PROTECTION OF INVESTORS (AMENDMENT) BILL 1983

REGISTRATION OF PERSONS (AMENDMENT) BILL 1983

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

Second reading of bills

INLAND REVENUE (AMENDMENT) BILL 1983

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

He said:—Sir, the purpose of the Inland Revenue (Amendment) Bill 1983 is to replace the existing system of property tax assessment, which is based on valuations, with a system based on actual rents received.

At present property tax is charged on the assessed value of the property. The valuation normally reflects the rent at which the property might reasonably be expected to let, and for rent controlled premises it is the permitted rent. The assessed value remains in force until a formal revaluation is made of the property. However a relief measure introduced in 1981 permits a reduction to be made where the Commissioner of Inland Revenue is satisfied that the assessed value exceeds the annual rent actually receivable.

The existing system has the advantage that it predetermines the basis of the charge, which remains fixed for a number of years. If rents remained stable the defects of the system would be tolerable in exchange for its simplicity. The main disadvantage of the existing system is that it cannot respond within a reasonable time to sudden changes in the general level of rents, since a revaluation exercise

is a major commitment that can only be undertaken at intervals of several years. In view of the current decrease in rental levels, the number of objections lodged with the Inland Revenue Department as a result of the 1981 relief measure has exceeded 50 000.

Clause 6 of the Bill provides that, from the year of assessment 1983-84 onwards, property tax shall be determined by reference to the rent payable in that year. The intention is that the liability to tax should relate to the full consideration receivable by the landlord in respect of the tenancy. This would include management charges. The clause also allows for the inclusion of lump sums, such as lease premia, but alleviates the full impact of the charge in the year of receipt by spreading the lump sum over the period of letting or over three years whichever is the less. Relief is provided in cases where rents receivable prove to be irrecoverable.

Clause 18 of the Bill introduces for the first time provisional property tax. Property tax, like other taxes imposed under the Ordinance, is charged on the income arising in the year of assessment. Unlike profits and salaries, however, there is at present no arrangement for the assessment of provisional property tax; this is because the existing system enables firm assessments to be made on the already established assessed values. The change to an actual rental income basis will require a submission of annual returns of rental income by property owners and, as in the case of Profits and Salaries Taxes, these returns will not be capable of submission until some time after the end of the year of assessment to which they relate. Clause 18 therefore provides for a provisional payment within the year of assessment based on the income for the year preceding the year of assessment. In addition to prescribing the amounts on which provisional tax is to be paid, the Bill also contains safeguards for the taxpayer, enabling provisional tax to be held over in a variety of circumstances wherein actual liability is likely to be less than that provisionally assessed.

The opportunity is also taken, in clauses 3 and 19 of the Bill, to amend the main Ordinance to enable the Board of Inland Revenue, which is at present obliged to meet for the conduct of its business, to conduct business by the circulation of papers.

The proposed system of assessment of property tax is, I believe, more equitable than the existing system, because it can respond more swiftly to the changing levels of rents actually charged. It is not a measure whose purpose is to increase the level of tax payable but to provide the proper criteria for payment.

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

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

Question put and agreed to.

MATRIMONIAL CAUSES (AMENDMENT) BILL 1983

THE DIRECTOR OF SOCIAL WELFARE moved the second reading of:—‘A bill to amend the Matrimonial Causes Ordinance’.

He said:—Sir, I move that the Matrimonial Causes (Amendment) Bill 1983 be read the second time.

The purpose of this Bill is to clarify the duties and extend the powers of the court in relation to the making of orders for the welfare of children of a family involved in matrimonial proceedings.

In a small but growing number of cases coming before the courts, it has been noted that it is impracticable or undesirable for the child of a broken marriage to be entrusted to the care of either parent or to any other individual—for example where neither parent will apply for custody and no other willing and suitable applicant can be found. To safeguard the welfare of such children, it is proposed that the courts be empowered in exceptional circumstances to commit them to the care of the Director of Social Welfare. The new section 48A provides for this. Similar provisions exist in the Matrimonial Causes Act 1973 of the United Kingdom.

It will be my responsibility to ensure that a child committed to care is adequately looked after and provided for on a day to day basis and where possible, I will consider non-institutional forms of care, such as a foster home. Every effort will be made to maintain contact between the child and his parents with a view to returning the child to the care of one of them as soon as it is in the child’s best interests to do so.

New section 48B imposes a duty on a parent or guardian of a child who is under the supervision or care of the Director of Social Welfare to inform me of a change of address, and failure to comply without reasonable excuse will be an offence.

New section 48C makes it clear that a court, in making an order for custody, care or supervision of a child, must have regard to the welfare of the child as the first and paramount consideration and that in doing so must give due consideration to the wishes of the child if practicable and to any material information available to the court including any report from the Director of Social Welfare.

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—DIRECTOR OF SOCIAL WELFARE.

Question put and agreed to.

PROTECTION OF INVESTORS (AMENDMENT) BILL 1983

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Protection of Investors Ordinance’.

He said:—Sir, I move that the Protection of Investors (Amendment) Bill 1983 be read the second time.

Background

The purpose of this amendment Bill is to extend the meaning of ‘investment arrangements’, an expression defined in the principal Ordinance, so as to enable the Government to afford some protection to potential investors in what have come to be called paper gold schemes.

Members of this Council will recall the closure last September of a well-known chain of jewellery shops operated by a company against which a winding-up order has recently been made. This company offered to the public a scheme of investment, described as a ‘Gold Accumulation Plan’. The scheme enabled purchasers to acquire gold in small units, which would be deposited with the company for safe custody. In return, the company gave an undertaking to deliver the gold on demand or to buy it back at prices offered by the company. All that the customer had by way of acknowledgement was a receipt or deposit book in which transactions were recorded. From the company’s point of view the plan provided an opportunity to raise substantial sums of money without having to pay interest.

The case for protection

In general, the attitude of the Government towards consumer protection is that consumers should protect themselves as far as possible. Only in circumstances where they are manifestly unable to do so will the Government consider specific intervention.

It has been suggested by some commentators that measures should be introduced to enable the Administration to supervise businesses which deal in paper gold. But, notwithstanding the fact that one company dealing in paper gold has failed, the argument in favour of a high degree of Government intervention is not compelling. First, the failure of this one company has not been followed by a series of failures of other companies carrying on the same type of business. Second, purchasers of gold from jewellery shops can, in fact, take delivery of their purchases. There is thus no reason for purchasers to take the risk of leaving their goods on deposit with a company which is not subject to any degree of prudential supervision whatsoever.

As originally conceived, the Gold Accumulation Plan did not fall within the ambit of the Banking Ordinance, the Deposit-taking Companies Ordinance or the Commodities Trading Ordinance. And the plan appears to have been designed with the specific intent of escaping the provisions of the Protection of

Investors Ordinance. So, on balance it is felt that some measure of protection for participants in paper gold schemes is justified.

Furthermore, in the case of the company that failed, there can be no doubt that while purchasers might be criticized for not having taken steps to protect themselves by taking delivery of the gold, they were persuaded by an aggressive advertising campaign that what was being offered was a convenient and apparently secure service. This advertising campaign caused a rapid expansion of the company's business.

The Bill

In designing a measure concerned with consumer protection, it is generally best to interfere as little as possible with normal trading practices and to avoid creating unnecessary restraints on trade.

So it is considered that the most appropriate form of protection would be to minimize the exposure of members of the public to paper gold schemes, and that this is best achieved by extending to these schemes the controls over advertising that are already provided for under section 4 of the Protection of Investors Ordinance.

Accordingly, it is proposed to widen the definition of investment arrangements in section 2 of the principal Ordinance to include arrangements specified by the Governor in Council (clause 2), and to enable the Governor in Council by order to specify as investment arrangements for the purposes of the Ordinance those arrangements which meet certain criteria (clause 3). These criteria are, first, that the arrangements are made in the course of business; and, second, that they enable the participants in such arrangements to buy property, to defer taking possession of it and to transfer or retransfer the ownership of that property to the business from which it was originally bought or to an associated business. If the amending Bill is enacted it is proposed to submit to the Governor in Council an order that would cover the purchase of gold coin and gold bullion.

Sir, we have deliberately attempted to avoid creating unnecessary impediments to trading in gold. Trading in gold *futures*, which is conducted on the Commodities Exchange, is already subject to prudential supervision by the Commodities Trading Commission. *Spot* trade in gold at the wholesale level is transacted by the members of the Chinese Gold and Silver Exchange Society, and the Society not only practises an effective degree of self-regulation but is taking active measures to discourage speculative trading. So, what the Government is trying to do is to apply selective controls over the advertising of paper gold trading schemes mainly at the *retail* level and thus reduce the exposure of the public to unsound schemes.

I have used the term 'selective controls over advertising'. This means two things. First, the Government is *not* seeking to regulate jewellery businesses in the sense of exercising prudential supervision over them. They and any other

business may continue operating paper gold trading schemes provided that they do not seek to advertise them. This is an important consideration in our seeking to avoid creating unnecessary impediments to trading in gold. Second, any business which operates a paper gold trading scheme and wishes to advertise it must in future obtain the prior authorization of the Securities Commission for the advertisement. In this connection, we envisage that applications made by businesses that are already subject to prudential supervision—such as banks—and those which practise a sufficient and effective degree of self-regulation—such as members of the Gold and Silver Exchange—will normally be approved. But applications made by any other business will be examined carefully by the Commissioner for Securities, who will have to satisfy himself generally that the draft advertisement is not ambiguous or misleading, that the business is genuine and that the promoters intend to implement internal control systems appropriate to the scheme in question.

Sir, Members will note that the Bill has been drafted to enable the Governor in Council to specify any investment arrangements provided they meet with the criteria set forth. So, whilst it was trading in paper gold that prompted this Bill, it has been designed in such a way that its provisions could be extended to other commodities traded under similar schemes.

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

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

Question put and agreed to.

REGISTRATION OF PERSONS (AMENDMENT) BILL 1983

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

He said:—Sir, I move that the Registration of Persons (Amendment) Bill 1983 be read a second time.

I do not need to repeat before this Council the significance of preventing illegal immigration into over-crowded Hong Kong.

Sir, when you addressed the subject in your address* at the opening of the present session of this Council you referred to the more secure replacement identity card which the Immigration Department will start issuing in May 1983. You described it as an important new factor in deterring illegal immigrants

* Address by the Governor at the opening of the 1982-83 Session of the Legislative Council on 6 October 1982, paragraph 127.

from coming to Hong Kong and in detecting them if they manage to get in. You then went on briefly to describe the main features of the new scheme. And you stressed that the issue of the new identity card would *not* be the occasion of any sort of amnesty for immigrants still in Hong Kong illegally.

The new cards will be extremely difficult to forge. And to make them doubly secure, they will have a fixed period of validity (in contrast to the indefinite life of cards currently in issue). The first complete issue of the new cards will start in the spring of this year and should be completed by 1987. The issue will progress on a group-by-group basis. The first group to be tackled will be men between the ages of 18 and 35, the group in which most illegal immigrants are found.

Sir, the main object of the Bill now before this Council is to provide the statutory framework necessary to enable the new and much more secure identity cards to be issued to replace those already held, and to enable extant types of identity cards to be invalidated. Subsidiary legislation will set out in detail the requirements and procedures to be followed for the replacement programme and the penalties for failing to comply. The details of the proposed legislation are clearly laid out in the Explanatory Memorandum.

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.

INSURANCE COMPANIES BILL 1982

Resumption of debate on second reading (19 January 1983)

Question proposed.

SECRETARY FOR ECONOMIC SERVICES:—Sir, before I reply to the points made by Mr. Lo, I would like to express my gratitude to him and other members of the *Ad Hoc* Group for their careful and detailed consideration of this lengthy Bill and of the many representations made to them by the insurance industry and some other professional bodies. The amendments to be introduced as a result of the *Ad Hoc* Group's deliberations undoubtedly represent a great improvement to this legislation and are to be welcomed.

Mr. Lo has rightly drawn attention to a major criticism levelled at the Bill. In the course of the Administration's discussions with the industry, we were constantly warned against imposing an excessive burden on insurance companies, particularly those insurers who are already subject to supervision in other jurisdiction. So it was decided at an early date to attempt to build flexibility into the legislation in order to avoid imposing burdensome reporting

requirements when the information was already available, albeit in another form or presented in a different manner from that envisaged in the Third Schedule. Clause 17(2) is drafted so as to confer wide discretion on the Insurance Authority to approve modifications to accounting requirements in the Third Schedule. Although the discretion is wide, the provision is designed essentially to cater for insurers who have provided comprehensive accounting information in other jurisdictions. If the information provided by an insurer to another regulatory authority gives the Insurance Authority in Hong Kong what he needs in order to exercise his judgment, then it seems reasonable that our requirements should be modified so as to enable the Insurance Authority to accept that information and thus avoid the need for producing an entirely new set of accounts or returns which would give basically the same facts.

It is envisaged that this power to grant modifications will be exercised only if an insurer encounters genuine difficulties and if information equivalent or compatible with that in the Third Schedule can be provided. So it is unlikely that the Authority's power to grant modifications will be of much value to an insurer who carries on business and reports only in Hong Kong.

The insurance industry is diverse. It is therefore difficult to cover in the legislation every type of insurance company. For example, there are some specialist insurers or reinsurers in the market whose structure for one reason or another does not fit the normal framework of the legislation. To cover this situation, and to maintain flexibility, clause 53 of the Bill empowers the Governor in Council to grant to an insurer or reinsurer an exemption or modification in respect of any provision in the Bill. The exercise of this power by the Governor in Council is, of course, unfettered. But as Mr. Lo has said, the Administration will be recommending its use only sparingly.

Turning now to the various powers of intervention, there has been much concern about how the power to require maintenance of assets in Hong Kong under clause 29 will be exercised. As the Administration has assured the *Ad Hoc* Group, the power will be used only when an insurer shows signs of financial weakness so that in a liquidation there will at least be some assets available to meet the insurer's liabilities in Hong Kong. In the exercise of this power, the Administration has always intended to take into account the insurer's reinsurance arrangements. But I entirely agree with the *Ad Hoc* Group that a legislative safeguard is appropriate and that clause 29 should be amended to require the Insurance Authority to have regard to reinsurance arrangements.

Mr. Lo has referred to the proposed amendment to clause 5. This clause requires information to be entered in a register of insurers to be available for public inspection on payment of a fee. Concern was expressed about confidentiality. And so clause 5 will be amended to specify what may be included in the register. The information will be entirely factual and will not be confidential in nature.

Clauses 56 and 57, the former stipulating offences in respect of misleading statements and false information and the latter governing an individual's liability for offences committed by a body corporate, have given rise to doubts. We were asked whether by virtue of clause 57 an insurance company would be automatically liable if any of its staff committed an offence under clause 56. In fact the two clauses, apart from their close proximity in the text of the Bill, are unrelated and cover different situations. Depending on the facts of the case, an offence under clause 56 (the making of misleading statements and so on) may be committed by a company or by an individual, who will normally be a director or an employee of the company. Clause 57 relates to all the offences under the Ordinance that may be committed by a company as such and is designed to catch the 'master minds', as it were, behind any unlawful activities of that company. The facts would have to be established. So there is no question of automatic liability arising.

It has been argued throughout the consultative process that reinsurers deserve special treatment because of the nature of their operations. While reinsurers do have some problems different from those encountered by direct insurers, the Administration has yet to be convinced as to the kind of concessions, if any, that should be made available to them. It would be premature to give any blanket concession to reinsurers before the case is fully justified. I would, therefore, prefer to review this issue in the light of experience gained through supervision of reinsurers under the legislation. This is where the Insurance Advisory Committee, to be set up under clause 54 of the Bill, will prove invaluable, and the Insurance Authority will in due course be looking to the Committee for advice and guidance in this area.

In concluding his speech Mr. Lo drew attention to the need to regulate the conduct of insurance brokers and their intermediaries. As he said, this question is being examined by a sub-committee of the Law Reform Commission. I understand that progress has been made, but at this stage I cannot forecast when the committee will have concluded its deliberations. But the need for improvement in this area is well recognized.

Lastly, Sir, I would like to conclude by thanking all those members of the insurance industry who gave me valuable guidance throughout our discussions leading to this Bill. With that guidance much has been achieved.

Question put and agreed to.

Bill read the second time.

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

MERCHANT SHIPPING (RECRUITING OF SEAMEN) (AMENDMENT) BILL 1983**Resumption of debate on second reading (19 January 1983)**

Question proposed.

Question put and agreed to.

Bill read the second time.

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

Committee stage of bills

Council went into Committee.

INSURANCE COMPANIES BILL 1982

Clauses 3, 4, 6, 9, 11 to 13, 16, 18 to 21, 24, 25, 27, 28, 30 to 34, 39, 41 to 45, 47 to 49, 53 to 56, 58 and 59 were agreed to.

Clauses 1, 10, 26, 35, 38, 40, 46, 50 and 60

SECRETARY FOR ECONOMIC SERVICES:—I move that the clauses specified be amended as set out in the paper circulated to Members.

*Proposed amendments***Clause 1**

That clause 1 be amended by deleting ‘1982’ and substituting the following—‘1983’.

Clause 10

That clause 10(1) be amended in the Table by inserting after ‘\$4,000,000’ the following—

‘or its equivalent’.

Clause 26

That clause 26 be amended in subclause (1)(b)(ii) by deleting ‘an insurer’ and substituting the following—

‘a body corporate’.

Clause 35

That clause 35 be amended by deleting ‘The’ and substituting the following—
‘Subject to section 26(5), the’.

Clause 38

That clause 38(2) be amended by deleting ‘period of 5 years’ and substituting the following—
‘relevant period’.

Clause 40

That clause 40(2) be amended by inserting after ‘class’, where it occurs the second time, the following—
‘in or from Hong Kong’.

Clause 46

That clause 46(2) be amended by deleting ‘winding up’ and substituting the following—
‘winding-up’.

Clause 50

That clause 50(2) be amended by deleting ‘Llyod’s’ and substituting the following—
‘Lloyd’s’.

Clause 60

That clause 60 be amended by deleting ‘1982’, wherever it occurs in subclauses (2)(b), (3)(a)(i), (3)(a)(iii) and (4), and substituting the following—
‘1983’.

The amendments were agreed to.

Clauses 1, 10, 26, 35, 38, 40, 46, 50 and 60, as amended, were agreed to.

Clauses 2, 5 and 17

MR. PETER C. WONG:—Sir, I move that clauses 2, 5 and 17 be amended as set out in the paper circulated to Members.

The addition of new clause 2(5) makes it clear that a person would not be considered as a controller of an insurance company and therefore subject to the various provisions of the Bill simply because its directors act on his advice in a professional capacity. The other minor amendments to clause 2 are technical in nature.

The amendments to clause 5 are aimed at removing the concern of certain insurers that the Insurance Authority will have unlimited powers to ask for whatever information it thinks fit, including confidential information, to be entered on the register of insurers. The contents of the register will now be specified and will not require disclosure of material which should remain confidential.

The amendment to clause 17 provides that where an approval to modify the Third Schedule requirements has been given by the Insurance Authority to a particular insurer, the name of the insurer concerned and the fact that modifications have been approved will be published in the *Gazette*. This will minimize opportunities for favouritism or corruption.

Proposed amendments

Clause 2

That clause 2 be amended—

(a) in subclause (1)—

(i) by deleting the definition of ‘main agent’

(ii) in the definition of ‘subordinated loan stock’ by deleting ‘winding-up’ and substituting the following—

‘winding up’; and

(iii) in the definition of ‘valuation regulations’ by deleting ‘8(5)(b)’ and substituting the following—

‘8(4)(b)’; and

(b) by inserting after subclause (4) the following—

‘(5) A person shall not be deemed to be within the meaning of any provision of this Ordinance a person in accordance with whose directions or instructions the directors of a company or other body corporate or any of them are accustomed to act by reason only that the directors of the company or body act on advice given by him in a professional capacity.’.

Clause 5

That clause 5(1) be amended—

(a) by deleting paragraph (a) and substituting the following—

‘(a) the name, place of incorporation and year of first authorization (whether under this Ordinance or any Ordinance repealed or amended by this Ordinance) of every authorized insurer;’;

(b) in paragraph (b) by deleting ‘and’; and

- (c) by deleting paragraph (c) and substituting the following—
- ‘(c) where an authorized insurer ceases to effect contracts of insurance of any description, or any requirement is imposed in respect thereof under section 27, a note to that effect; and
 - (d) where any requirement is imposed on an authorized insurer under section 30, or a provisional liquidator, liquidator or receiver is appointed, a note to that effect.’

Clause 17

That clause 17 be amended by inserting after subclause (2) the following—

‘(3) Where under subsection (2) the Insurance Authority modifies or varies any of the requirements of the Third Schedule in relation to an insurer, he shall, as soon as practicable, publish a notice in the *Gazette* stating the name of the insurer and the fact that that Schedule has been modified or varied under subsection (2) in relation to that insurer.’

The amendments were agreed to.

Clauses 2, 5 and 17, as amended, were agreed to.

Clauses 7, 14, 36, 37, 57 and 61

MR. STEPHEN CHEONG:—Sir, I move that clauses 7, 14, 36, 37, 57 and 61 be amended as set out in the paper circulated to Members.

The amendments, if adopted, would have the effect of deleting the provisions for ‘main agent’ from the present Bill.

During the deliberations of the Unofficials’ *Ad Hoc* Group on this Bill, it was felt that these provisions, as drafted, were inadequate for the regulation of insurance brokers. As the subject of insurance brokers is being further studied by a sub-committee of the Law Reform Commission, we respectfully submit that it would be more appropriate to deal with this issue after the sub-committee has reported.

Proposed amendments

Clause 7

That clause 7(2) be amended by deleting ‘director, controller or main agent’ and substituting the following—
‘director or controller’.

Clause 14

That clause 14 be amended—

- (a) in subclause (2) by deleting ‘directors, controllers or main agents’ and substituting the following—
‘directors or controllers’; and
- (b) in subclauses (3) and (4) by deleting ‘director, controller or main agent’ and substituting the following—
‘director or controller’.

Clause 36

That clause 36(2) be amended by deleting ‘director, controller or main agent’ and substituting the following—
‘director or controller’.

Clause 37

That clause 37(1) be amended by deleting ‘director, controller or main agent’ and substituting the following—
‘director or controller’.

Clause 57

That clause 57 be amended in paragraph (b) by deleting ‘or main agent’.

Clause 61

That clause 61 be amended in subclause (1)(a) by deleting ‘director, controller and main agent’ and substituting the following—
‘director and controller’.

The amendments were agreed to.

Clauses 7, 14, 36, 37, 57 and 61, as amended, were agreed to.

Clause 8

MR. BROWN:—Sir, I move that clause 8 be amended as set out in the paper circulated to Members.

Subclauses (2) and (4) are amended to delete the ‘main agent’ provisions on which Mr. Stephen CHEONG has spoken earlier.

The amendment to subclause 3(b)(iii) is to exempt reinsurance companies from the more stringent requirements imposed on insurers writing business relating to liabilities in respect of which persons are required by law to be

insured. It is considered that a stronger capital base and higher solvency margin required in such case should be applicable to direct insurers only.

The amendment to subclause (5) is to clarify the intention that in determining the liability of an insurer for the purpose of calculating the solvency margin, its share capital, rather than its authorized share capital, will be excluded.

Proposed amendment

Clause 8

That clause 8 be amended—

- (a) in subclause (2) by deleting ‘director, controller or main agent’ and substituting the following—
‘director or controller’;
- (b) in subclause (3)(b)(iii) by inserting after ‘business’ the following—
‘(not being reinsurance business)’;
- (c) by deleting subclause (4);
- (d) in subclause (5)—
 - (i) in paragraph (a) by deleting ‘authorized’; and
 - (ii) in paragraph (b) by deleting the semicolon after ‘regulations’ and substituting a comma.

The amendment was agreed to.

Clause 8, as amended, was agreed to.

Clause 15

MISS TAM:—Sir, I move that clause 15 be amended as set out in the paper circulated to Members.

The amendments to subclause (1) will allow the qualifications acceptable for the appointment as an actuary to an insurer to be prescribed by way of subsidiary legislations. The professional bodies which members are considered as holding acceptable qualifications will be listed in regulations to be drawn up. The Insurance Authority retains the discretion to appoint other persons whom it considered as holding acceptable qualifications.

The amendments to subclauses (2) and (4) make it clear that insurance companies have to notify the Insurance Authority of any new appointments of auditors and actuaries.

Proposed amendment

Clause 15

That clause 15 be amended—

- (a) in subclause (1)—
 - (i) by deleting ‘, in accordance with subsection (2),’;
 - (ii) by deleting paragraph (b) and substituting the following—
 - ‘(b) if the insurer carries on long term business, an actuary possessing the prescribed qualifications or who is acceptable to the Insurance Authority, as actuary to the insurer, and whenever any such appointment comes to an end the insurer shall as soon as practicable make a fresh appointment.’;
- (b) in subclause (2) by deleting ‘An appointment required to be made—’ and substituting the following—
 - ‘A first appointment made—’; and
- (c) in subclause (4) by deleting’; and the insurer shall as soon as practicable make a fresh appointment under that subsection’.

The amendment was agreed to.

Clause 15, as amended, was agreed to.

Clauses 22 and 23

MR. ALLEN LEE:—Sir, I move that clauses 22 and 23 be amended as set out in the paper circulated to Members.

The new clause 22(2A) requires a solvency margin to be maintained in the funds attributable to any long term business written by an insurer. This amendment is to ensure that adequate protection is given to long term policy holders. Consequential amendments are necessary for clause 23(2).

The amendment to clause 23(6) prevents the solvency margin established for the long term business from being eroded during the course of a financial year due to dividend payments.

The amendment to clause 23(7) closes a loophole by including parent companies of insolvent insurers into the penalty provisions.

*Proposed amendments***Clause 22**

That clause 22 be amended by inserting after subclause (2) the following—

- ‘(2A) Any fund or funds maintained by an insurer in respect of its long term business shall be so maintained that the value of the assets representing the fund or funds (as determined in accordance with any

applicable valuation regulations) shall in the aggregate exceed the amount of the liabilities attributable to that business (as so determined) by not less than \$2,000,000 or its equivalent.’.

Clause 23

That clause 23 be amended—

(a) in subclause (2)—

(i) by inserting after ‘exceed’ the following—

‘the aggregate of’; and

(ii) by inserting after ‘business’ the following—

‘and \$2,000,000 or its equivalent,’;

(b) by deleting subclause (6) and substituting the following—

‘(6) No insurer, and no body corporate of which an insurer is a subsidiary, shall declare a dividend to shareholders at any time when the requirements of section 22(2A) relating to any fund or funds maintained by the insurer in respect of its long term business have ceased to be satisfied.’; and

(c) in subclause (7) by inserting after ‘insurer’ the following—

‘or body corporate’.

The amendments were agreed to.

Clauses 22 and 23, as amended, were agreed to.

Clause 29

MR. CHAN KAM-CHUEN:—Sir, I move that clause 29 be amended as set out in the paper circulated to Members.

The amendment is to require the Insurance Authority, in determining the amount of asset which an insurer is required to maintain in Hong Kong, to have regard to any arrangements for the reinsurance of risks which the insurer has made.

Proposed amendment

Clause 29

That clause 29 be amended by deleting subclause (1) and substituting the following—

‘(1) The Insurance Authority may require that assets of an insurer of a value which at any time is equal to the whole or a specified proportion of the amount of its domestic liabilities shall be maintained in Hong Kong,

and, in imposing any such requirement, he shall have regard to the insurer's arrangements for the reinsurance of risks against which persons are insured by the insurer in the course of carrying on business.'

The amendment was agreed to.

Clause 29, as amended, was agreed to.

Clause 51

MR. SO delivered his speech in Cantonese:—

督憲閣下，本人謹動議按照通傳給各全寅傳閱的文件所載的建議，修訂一九八二年保險公司法案第五十一條。

根據現行法案第五十一條（乙）項的規定，任何個別人士或合夥公司，均可在本港自由經營業務，而不受任何約束，建議所提出的修訂，可堵塞上述的漏洞。

本人為香港儲蓄互助社運動發起人之一，並且受僱於世界性儲蓄互助社的保險組織，故謹此聲明增訂的第五十一條（庚）項與本人有利益關係。本港的儲蓄互助社是由根據儲蓄互助社條例，而成立的香港儲蓄互助社協會提供服務，此等互助社須與其他註冊合作社，受同等程度的監管。既然其他註冊合作社獲得豁免不受本法案的約束，則香港儲蓄互助社協會亦應同樣獲得豁免。

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

Sir, I move that clause 51 be amended as set out in the paper circulated to Members.

Clause 51(b), as it now stands, will enable an individual or partnership to carry on reinsurance business in Hong Kong free from all control. The amendments will close this loophole.

As the co-founder of the Hong Kong Credit Union Movement and an employee of the worldwide credit union's own insurance organization, I wish to declare an interest in the addition of new clause 51(g). Local credit unions, served by the Credit Unions League of Hong Kong incorporated under the Credit Unions Ordinance, are subject to the same degree of supervision as other registered co-operative societies. As the latter are given exemptions from the Bill, it is only fitting that the League should also be exempted.

Proposed amendment

Clause 51

That clause 51 be amended—

(a) in paragraph (b) by inserting after sub-paragraph (ii) the following—

‘(iii) any other person or any partnership having a place of business in Hong Kong;’;

- (b) in paragraph (f) by deleting the full stop and substituting a semicolon; and
 (c) by inserting after paragraph (f) the following—
 (Cap. 119.) '(g) the Credit Union League of Hong Kong incorporated under Part XI of the Credit Unions Ordinance.'

The amendment was agreed to.

Clause 51, as amended, was agreed to.

Clause 52

MR. WONG PO-YAN:—Sir, I move that clause 52 be amended as set out in the paper circulated to Members.

The intention behind clause 52 was that the Insurance Authority would, where possible, rely upon the prudent supervision of the U.K. Department of Trade and grant partial exemptions to insurers authorized in U.K. The new subclause (1A) will enable a Hong Kong authorized insurer to apply for exemption applicable to U.K. authorized insurers on obtaining authorization from the U.K. authorities or on having a previously withdrawn authorization reinstated.

Proposed amendment

Clause 52

That clause 52 be amended—

- (a) by inserting after subclause (1) the following—

'(1A) Where an authorized insurer satisfies the conditions specified in subsection (1)(a), (b), (c) and (d), the Insurance Authority may, upon application in writing by such authorized insurer under this subsection, exercise the power conferred by subsection (1) in relation to such authorized insurer notwithstanding that such authorized insurer is authorized to carry on any class of insurance business in respect of which the application is made; and references in this section to an insurer authorized by virtue of subsection (1) shall include references to an authorized insurer in relation to which that power is so exercised.'

- (b) in subclause (6)(b) by deleting 'director, controller or main agent' and substituting the following—
 'director or controller'.

The amendment was agreed to.

Clause 52, as amended, was agreed to.

First Schedule

SECRETARY FOR ECONOMIC SERVICES:—I move that the First Schedule be amended as set out in the paper circulated to Members.

Proposed amendment

First Schedule

That the First Schedule be amended in Part 1 in paragraph 3 by deleting ‘kind’ and substituting the following—
‘nature’.

The amendment was agreed to.

The First Schedule, as amended, was agreed to.

Second Schedule

MR. STEPHEN CHEONG:—Sir, I move that the Second Schedule be amended as set out in the paper circulated to Members.

Most of the amendments are consequential to the deletion of the ‘main agent’ provisions. The others are technical in nature.

Proposed amendment

Second Schedule

That the Second Schedule be amended—

- (a) in the heading thereto—
 - (i) by deleting ‘DIRECTORS, CONTROLLERS AND MAIN AGENTS’ and substituting the following—
‘DIRECTORS AND CONTROLLERS’; and
 - (ii) by deleting ‘[ss. 7, 14 and 61.]’ and substituting the following—‘[ss. 7, 14, 52(6) and 61.]’

- (b) in paragraph 1—
 - (i) by deleting ‘director, controller and main agent’ and substituting the following—
‘director and controller’;
 - (ii) in sub-paragraph (b) by deleting ‘director, controller or main agent’ and substituting the following—
‘director or controller’; and

- (iii) by deleting sub-paragraph (c) and substituting the following—
 - ‘(c) under section 52(6), within 1 month from the date of service of a notice under subsection (5) of that section;
 - (d) under section 61(1), within 3 months of the commencement of this Ordinance (or such additional period as may be allowed thereunder) in the case of an insurer authorized to carry on insurance business under an Ordinance repealed or amended by this Ordinance.’;

- (c) in paragraph 2—
 - (i) by inserting after ‘14(2)’ the following—
 - ‘, 52(6)’; and
 - (ii) by deleting ‘director, controller or main agent’ wherever it occurs and substituting the following—
 - ‘director or controller’;

- (d) in paragraph 3 by deleting ‘director, controller or main agent’ and substituting the following—
 - ‘director or controller’;

- (e) in Form A—
 - (i) by deleting the heading thereto and substituting the following—
 - ‘PARTICULARS REQUIRED IN RESPECT OF *INDIVIDUALS* WHO ARE DIRECTORS OR CONTROLLERS’;
 - (ii) by deleting ‘/Main Agent’ wherever it occurs;
 - (iii) in item 12 by deleting ‘a director, a controller or a main agent’ and substituting the following—
 - ‘director or controller’;
 - (iv) in item 13 by deleting ‘or main agent’ wherever it occurs;
 - (v) in item 15 by deleting ‘1982’ and substituting the following—
 - ‘1983’; and
 - (vi) by deleting item 16;

- (f) in Form B—
 - (i) by deleting the heading thereto and substituting the following—
 - ‘PARTICULARS REQUIRED IN RESPECT OF *BODIES CORPORATE* WHICH ARE DIRECTORS OR CONTROLLERS’;
 - (ii) by deleting ‘executive, managing director or main agent’ wherever it occurs and substituting the following—
 - ‘executive or managing director’;
 - (iii) in item 11 by deleting ‘1982) by virtue of which the above-named corporate body’ and substituting the following—
 - ‘1983) by virtue of which the above-named body corporate’;

(iv) in item 12 by deleting ‘a director, a controller or a main agent’ and substituting the following—

‘director or controller’;

(v) by deleting item 13; and

(vi) by deleting ‘/Main Agent’ wherever it occurs; and

(g) in Form C—

(i) by deleting the heading thereto and substituting the following—
‘PARTICULARS REQUIRED UNDER SECTION 14(2) IN RESPECT OF PERSONS CEASING TO BE DIRECTOR OR CONTROLLER’; and

(ii) by deleting ‘/Main Agent’ wherever it occurs.

The amendment was agreed to.

The Second Schedule, as amended, was agreed to.

Third Schedule

MR. LO:—Sir, I move that the Third Schedule be amended as set out in the paper circulated to Members.

The amendments proposed to paragraph 4(1) will allow the auditor to qualify his opinion as to whether a true and fair view has been presented by the accounts if they are prepared in accordance with statutory provisions other than those in the Bill.

The amendments proposed to paragraph 36(2) clarify the duties of the auditor and remove the ambiguity.

The proposed deletion of paragraph 38(2)(g)(iv) removes the need for information on bonuses. The collection of such information is costly and of little use.

The other amendments proposed to the Third Schedule are either consequential or minor, and are self-explanatory.

Proposed amendment

Third Schedule

That the Third Schedule be amended—

(a) in paragraph 1—

(i) in the definition of ‘gross premiums’ by deleting ‘and refunds of premium’ and substituting the following—

‘specified in policies or refunds of premiums made in respect of any termination or reduction of risks’; and

(ii) in the definition of ‘provision’ by inserting after ‘depreciation,’ the following—
‘amortization,’;

(b) in paragraph 4(1)—

(i) by deleting ‘, and having regard to any statutory provisions followed in the preparation of such accounts and statements,’; and

(ii) by deleting sub-sub-paragraph (c) and substituting the following—

‘(c) in the case of group accounts submitted by an insurer which is a holding company, of the insurer’s interest therein,

but his opinion as to whether a true and fair view is so given may, where the valuation of any asset or liability or the treatment of any income or expenditure of the insurer is in accordance with any statutory provision which, in the case of that insurer, applied to the preparation of the accounts and statements so submitted, be qualified in such respects as he may specify, indicating the items affected by such valuation or treatment and the statutory provisions in question.’;

(c) in paragraph 5(1) by deleting sub-sub-paragraph (b) and substituting the following—

‘(b) he is satisfied that, as at the date to which the valuation relates, the value of the assets identified as representing the long term business exceeded the aggregate of the amount of the liabilities under long term business contracts and the amount of any other liabilities of the insurer attributable to its long term business by not less than \$2,000,000 or its equivalent; and’;

(d) in paragraph 9—

(i) in sub-paragraph (a) by inserting after ‘insurer’ the following—‘and of its subsidiaries’; and

(ii) in sub-paragraph (n) by inserting after ‘business’ the following—‘(other than reinsurance business)’;

(e) in paragraph 24—

(i) in sub-paragraph (1)—

(A) in sub-sub-paragraph (a)(ii) by deleting ‘facultative’; and

(B) in sub-sub-paragraph (e) by deleting ‘facultative’; and

(ii) in sub-paragraph (3) by deleting ‘following’ and substituting the following—

‘falling’;

(f) in paragraph 26—

(i) in sub-paragraph (d) by inserting after ‘depreciation,’ the following—
‘amortization,’;

- (ii) by deleting sub-paragraph (*f*) and substituting the following—
 - ‘*f* if, as respects any assets in whose case an amount is provided for depreciation, amortization or diminution in value, an amount is provided for renewal thereof, the last-mentioned amount shall be shown separately;’; and
 - (iii) by deleting sub-paragraph (*p*)(ii) and substituting the following—
 - ‘(ii) if there are more than 3 directors, the aggregate amount of the emoluments of the 3 highest-paid directors;’;
- (g) in the heading to Part 6 by deleting ‘TEAM’ and substituting the following—
‘TERM’;
- (h) in paragraph 31—
 - (i) by deleting ‘the amount to be identified’ and substituting the following—
—
‘the assets to be identified’; and
 - (ii) by deleting the proviso and substituting the following—
‘Provided that—
 - (a) the value of assets to be identified shall be not less than the aggregate of \$2,000,000 or its equivalent and the amount of the identified liabilities; and
 - (b) where the value of assets so identified is less than the aggregate of the values of the assets which were already identified as attributable to the insurer’s long term business on the base date, the latter shall be taken as the identified assets.’;
- (i) in paragraph 34 by deleting ‘regulations’ and substituting the following—
‘requirements’;
- (j) in paragraph 36—
 - (i) in sub-paragraph (1) by deleting ‘a insurer’ and substituting the following—
‘an insurer’; and
 - (ii) in sub-paragraph (2) by deleting ‘whether or not in his opinion that certificate was properly given.’ and substituting the following—
‘whether—
 - (a) the insurer has complied with sub-paragraph (1)(a) and (b); and
 - (b) in his opinion, the insurer has complied with sub-paragraph (1)(c).’;
- (k) in paragraph 38(2)—
 - (i) by deleting the semicolon at the end of sub-sub-paragraph (g)(iii) and substituting a full stop;
 - (ii) by deleting sub-sub-paragraph (g)(iv); and
- (l) in paragraph 39 by deleting Form L2 and substituting the following—

Class	Type of insurance	1 Number of contracts	2 Amount of sums assured or annuities per annum including vested reversionary bonuses	3 4 Amount of yearly premiums		5 Value of sums assured or annuities per annum including vested reversionary bonuses	6 Value of yearly net premiums	7 Amount of net liability	8 Bases of valuation
				Office premiums	Net premiums				
	(b) Without participation in profits: Life annuities in course of payment · · Deferred life annuities · · · · · Other types (to be specified) · · · · Total annuities without profits · · · · Total annuities · · · · ·		\$	\$	\$	\$	\$	\$	
B	Marriage and birth								
C	Linked long term								
D	Permanent health								
E	Tontines								
F	Capital redemption								
	TOTALS								

Notes

1. The classes referred to correspond to the classes of Long Term Business set out in Part 2 of the First Schedule.
2. Within each class of insurance, the following are to be shown—
 - (i) direct business and reinsurances accepted;
 - (ii) reinsurances ceded; and
 - (iii) net retained business.
3. The entry under column 8 should either refer to details given as supplementary information or should state the mortality tables/statistical tables and rates of interest employed, as appropriate.
4. With regard to business falling within Class A—
 - (i) separate summaries similar in form to the above must be furnished in respect of policies valued by different mortality tables. or at different rates of interest; and
 - (ii) contracts the nature of which or the method of valuation of which makes it impossible or inappropriate to give the information required in columns 4, 5 and 6 of any valuation summary are to be shown separately and the reason stated.

The amendment was agreed to.

The Third Schedule, as amended, was agreed to.

MERCHANT SHIPPING (RECRUITING OF SEAMEN) (AMENDMENT) BILL 1983

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bills

THE LAW DRAFTSMAN reported that the

MERCHANT SHIPPING (RECRUITING OF SEAMEN) (AMENDMENT) BILL

had passed through Committee without amendment and the

INSURANCE COMPANIES BILL

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

Question put on each Bill and agreed to.

Bills read the third time and passed.

VALEDICTORY

HIS EXCELLENCY THE PRESIDENT:—Honourable Members, before adjourning this sitting I should like to pay tribute to Mr. William DORWARD, who will be retiring from this Council after more than three years' membership, first as Director of Trade, Industry and Customs and more recently as Secretary for Trade and Industry.

MR. DORWARD has rendered long and valuable service in the trade and industry fields since he joined the Hong Kong Government in 1954. As you have been informed, he will be taking up the new post of Hong Kong Trade Commissioner in the United States in April. I am sure we all wish him well in that new and important post, where his experience in the trade and industry field will continue to be of great value.

Mr. LOBO:—Sir, Unofficial Members would wish to be associated with the warm tribute you have paid to Mr. DORWARD.

As the Secretary for Trade and Industry, and as Director of Trade, Industry and Customs before that, Mr. DORWARD has battled unsparingly for many years to protect Hong Kong's external commercial relations.

He has spent almost his entire service in the commerce and industry field, and has contributed significantly to the development of a branch of the Government whose professional expertise and integrity are respected not only locally, but throughout the world.

Hong Kong industry has much to thank Mr. DORWARD for; and the Hong Kong economic miracle, in part, is a measure of his success.

It is heartening that Mr. DORWARD will continue to serve Hong Kong, and his negotiating skills and expertise in trade relations will still be available to us in New York.

I should like, on behalf of my Unofficial Colleagues, to wish Mr. DORWARD every success in his new appointment.

Adjournment and next meeting

HIS EXCELLENCY THE PRESIDENT:—Before I adjourn the Council may I wish all Members a very happy and healthy Year of the Pig. In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 23 February.

Adjourned accordingly at four minutes past four o'clock.