

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 25 July 1984****The Council met at half past two o'clock****PRESENT**

HIS HONOUR THE DEPUTY TO THE GOVERNOR (*PRESIDENT*)  
THE HONOURABLE THE CHIEF SECRETARY (*Acting*)  
MR. DENIS CAMPBELL BRAY, C.M.G., C.V.O., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)  
MR. DOUGLAS WILLIAM ALFRED BLYE, C.M.G., O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL  
MR. MICHAEL DAVID THOMAS, Q.C.

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

THE HONOURABLE DAVID AKERS-JONES, C.M.G., J.P.  
SECRETARY FOR DISTRICT ADMINISTRATION

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 LYDIA DUNN, C.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.

THE HONOURABLE ERIC PETER HO, C.B.E., J.P.  
SECRETARY FOR TRADE AND INDUSTRY

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

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

THE HONOURABLE ANDREW SO KWOK-WING, O.B.E., J.P.

THE HONOURABLE HU FA-KUANG, J.P.

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

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

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

THE HONOURABLE CHAN KAM-CHUEN, O.B.E., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, J.P.

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

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

THE HONOURABLE MARIA TAM WAI-CHU, O.B.E., J.P.

DR. THE HONOURABLE HENRIETTA IP MAN-HING

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

THE HONOURABLE HENRY CHING, C.B.E., J.P.  
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE CHAN NAI-KEONG, J.P.  
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE CHAN YING-LUN

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN

THE HONOURABLE PETER POON WING-CHEUNG, M.B.E., J.P.

THE HONOURABLE YEUNG PO-KWAN, C.P.M.

THE HONOURABLE JAMES NEIL HENDERSON, O.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

DR. THE HONOURABLE JAMES WILLIAM HAYES, J.P.  
COMMISSIONER FOR LABOUR (*Acting*)

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E., J.P.  
SECRETARY FOR HOME AFFAIRS (*Acting*)

THE HONOURABLE JAMES JOHN O'GRADY  
LAW DRAFTSMAN (*Acting*)

DR. THE HONOURABLE RUDY KIAN-KANG KHOO, J.P.  
DIRECTOR OF MEDICAL AND HEALTH SERVICES (*Acting*)

THE HONOURABLE GORDON LOUIS MORTIMER, J.P.  
SECRETARY FOR SECURITY (*Acting*)

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
DIRECTOR OF EDUCATION (*Acting*)

#### **ABSENT**

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

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

THE HONOURABLE JOHN MARTIN ROWLANDS, C.B.E., J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

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

#### **IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR. ROBERT IAN WILLIAM UPTON

## Papers

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

Sessional Papers 1983-84:

- No. 62—1983 Annual Report by the Commissioner of the Independent Commission Against Corruption and a review of the first ten years.
- No. 63—J.E. Joseph Trust Fund Report for the period 1 April 1983 to 31 March 1984.
- No. 64—Sir Robert Black Trust Fund—Annual Report for the year 1 April 1983 to 31 March 1984.
- No. 65—Sir David Trench Fund for Recreation—Trustee's Report 1983-1984.
- No. 66—The Kadoorie Agriculture Aid Loan Fund—Report for the year 1983-1984.
- No. 67—Report on the Administration of the Immigration Service Welfare Fund for the period from 1 April 1983 to 31 March 1984.
- No. 68—Changes to the approved estimates of expenditure approved during the quarter ending 31 March 1984.

## Oral answers to questions

### Financial assistance for Mutual Aid Committees

1. MRS. NG asked in Cantonese:—

有關政府在致力推行地方行政計劃方面，請問：

- (甲) 在過去五年來，政府每年給予個別互助委員會的經濟資助；
- (乙) 這些資助是否足夠應付互助委員會的經常開支，包括差餉在內；
- (丙) 政府可否檢討資助金額，以抵銷最近差餉增加？

(The following is the interpretation of what Mrs. NG asked.)

*Against the background of Government's efforts in promoting the District Administration Scheme, will Government inform this Council—*

- (a) *the amount of financial assistance given by Government to each Mutual Aid Committee annually in the last five years;*

- (b) whether such financial assistance is sufficient for the purpose of enabling the Mutual Aid Committees to meet their running expenses including the payment of rates; and
- (c) will Government review the level of financial assistance to take account of the recent increase in rates?

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, the maximum financial assistance given by Government to each MAC annually in the last five years was as follows:

1979	\$1,200
1980	\$1,200
1981	\$1,400
1982	\$2,000
1983	\$2,000

This assistance is intended to help MACs meet the day-to-day administrative costs of their offices, such as telephones, electricity and rates. The level of financial assistance is generally felt to be adequate, and this seems to be borne out by the fact that most MACs claim only about 80-90% of the maximum ceiling on production of receipted bills. Many MACs prefer to finance their own operations from members' contributions and do not claim at all.

The Government reviews the amount of financial assistance given from time to time, as the figures show, and will continue to do so.

MRS. NG asked in Cantonese:—

閣下，很高興知道政府在過去五年內，是因應互助委員會的實際需要，來增加撥款，但是這些撥款，祇是用在經常開支，政府可否考慮撥出特定的款項，來贊助互助委員會所發起的睦鄰活動，例如旅行，探訪，攤位遊戲等等的項目？

(The following is the interpretation of what Mrs. NG asked.)

*Sir, I am glad to know that the Government has increased the amount of financial assistance to the MACs in the past five years, but such financial assistance only covers day-to-day administrative expenses. Would the Government consider setting aside another amount to sponsor MACs' other activities in the community, for example, visits, picnics or bazaars?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, I think that would go rather beyond the original intention of setting up the Mutual Aid Committees. That sort of activity really is sponsored by the District Boards and if the Mutual Aid Committees wish to engage in that type of activity such as picnics and so on, then I think they should be encouraged to do so, but I do not think they could be subsidised from Government funds.

MRS. NG asked in Cantonese:—

目前公共屋邨的互助委員會，是獲得政府特別優待，祇是作象徵式收取租金及差餉，請問政府可否考慮為私人樓宇的互助委員會，亦取得同等優待呢？

(The following is the interpretation of what Mrs. NG asked.)

*Sir, presently, we have MACs in public housing estates and they are receiving special treatment from the Government and they are only paying nominal rent and rates. Will the Government consider extending these special terms to the MACs of private residential buildings too?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Yes, Sir, if the need arises, but as I have said in my answer to the first question, the majority of MACs do not even claim the full amount of their assistance from Government, but certainly, if there are MACs who are feeling the pinch we would bear this in mind.

MRS. NG asked in Cantonese:—

我曾經探訪許多舊式屋邨的互助委員會，它們都是沒有電梯的設施，而它們的會址，就設立於四五樓之高，這樣，許多住戶根本不知互助委員會在那處，政府可否考慮將互助委員會搬到較為方便的位置及它們的面積可否擴大呢？

(The following is the interpretation of what Mrs. NG asked.)

*Sir, I have visited a lot of MACs in the old housing estates and these housing estates do not have any lifts. The offices of these MACs are often on the third and fourth floors of the estates, hence many residents are unaware of the location of the MAC offices. Could the Government consider moving these MAC offices to more convenient locations and providing them with larger offices?*

SECRETARY FOR DISTRICT ADMINISTRATION:—That certainly is something we are prepared to take up with the Director of Housing, Sir, particularly perhaps in the context of the redevelopment of the old estates.

### **Environmental Pollution Advisory Committee**

2. MR. SO asked in Cantonese:—

隨着防止環境污染諮詢委員會的成立，政府會推行甚麼管制污染計劃？

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

*With the setting up of the Environmental Pollution Advisory Committee, what are the pollution control programmes that the Government is undertaking?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, over the next 12 months or so the Environmental Pollution Advisory Committee—or EPCOM for short—will

be consulted on a number of major policy issues affecting pollution control programmes. I shall describe some of the more important ones.

Advice will be sought on regulations to be made under the Water Pollution Control Ordinance for the control of pollution in the Tolo Harbour Water Control Zone. The drafting of these regulations has proved more difficult than expected, but the work is now well advanced. We intend also to maintain progress in implementing the action plans recently drawn up to reduce pollution in the streams which feed into our coastal waters, including Tolo Harbour. Advice on these action plans will be sought as and when necessary.

EPCOM will also be consulted on a review of sewage treatment standards and on the development of a comprehensive, territory-wide policy for determining the levels of sewage treatment.

And we shall be seeking advice also on proposals to control the disposal of animal waste, probably by means of livestock licensing. We may also need to seek advice on priority areas for the implementation of such controls, and on the need for and location of special sites for livestock keeping so as to minimise waste disposal problems.

The storage and disposal of toxic, hazardous and difficult wastes needs to be regulated much more closely. Legislative proposals have been formulated, and these will be refined and submitted to EPCOM for advice during the coming months.

Action against beach pollution will remain a priority and an action plan to attack the problem of floating refuse is being developed. Advice will be sought as soon as this plan is ready. We shall also be consulting EPCOM on proposals to bring into force Part IV of the Waste Disposal Ordinance so as to provide for the licensing of private waste disposal services and so as to control the importation of waste. Still on the subject of waste management, we intend soon to seek advice on a first draft of the Waste Disposal Plan which is required under the Ordinance.

As a further step in implementing the provisions of the Air Pollution Control Ordinance, regulations will be required to control industrial processes which constitute potential major sources of air pollution. At the same time, and in order to provide a framework for control, specific air quality objectives need to be determined. EPCOM will be invited to consider this package of proposals at the beginning of next year.

Advice will also be sought, in the middle of next year, on a Noise Control Bill which will replace existing controls and expand their scope.

Sir, many of these issues have been keeping us busy for some considerable time. But we are hopeful that we shall be able to take some significant steps forward during the next 12 months. The items I have described do not by any

means constitute an exhaustive list of the Government's activities in the control of pollution, and we shall certainly not reduce our efforts in other directions while we concentrate on them.

### **Objectionable publications**

3. MRS. FAN:—*What are Government's present procedures in detecting and banning objectionable and indecent publications publicly sold in the territory; and what courses of action can a citizen take to report such cases?*

SECRETARY FOR HOME AFFAIRS:—Sir, objectionable publications are controlled by the Objectionable Publications Ordinance, and an objectionable publication is defined in the law as one 'which consists of or contains matter of an indecent, obscene or revolting nature'.

Objectionable publications sold in Hong Kong may be detected in a number of ways. First, the police vice squads maintain regular surveillance in areas where these are likely to be on sale publicly. Secondly, the Copyright Division of the Customs Investigation Bureau may take legal action against the owner or importer of any objectionable publications that are found on routine searches at various entry points into Hong Kong. Thirdly, staff of Home Affairs Branch do carry out regular spot checks at known potential outlets and finally objectionable publications may come to notice through complaints from the public.

I should point out however that, the law provides the final decision as to whether a publication is objectionable or not rests with the courts. The role of the Administration is to detect cases which are considered to fall within the definition of 'objectionable' and to bring them to the courts. There is in fact no provision in the Objectionable Publications Ordinance to ban a publication although upon conviction, such publications shall be forfeited to the Crown.

If a member of the public comes across a publication which he considers to be objectionable, he may either go to the nearest police station or to the district offices of the CNTA, or to the Home Affairs Branch of the Government Secretariat. Legal advice will then be sought as to whether action against the vendor is appropriate.

MRS. FAN:—*Can the Secretary for Home Affairs inform this Council how many cases of this nature has been detected and taken to court and what are the outcomes of those cases?*

SECRETARY FOR HOME AFFAIRS:—Sir, I do have some figures for the past few years. Between 1979 and June of this year, there have been 1 168 convictions arising from successful prosecutions. In fact, the yearly figures range from 122

in 1979 to a figure of 306 in 1983. The fines in most cases have averaged in the area of \$2,000 per case, but in some particularly serious cases, imprisonment has been imposed.

MRS. FAN:—*I wish to seek clarification on part of the answer given by the Secretary for Home Affairs. He said there is no provision in the Objectionable Publications Ordinance to ban a publication, although on conviction such publications shall be forfeited to the Crown. Does this mean that we simply forfeit that publication? I mean, if it is a series of publications, it is only one that is forfeited, the others can still go on and the publisher can still go on publishing that type of magazine?*

SECRETARY FOR HOME AFFAIRS:—Sir, I am advised that it is the publications themselves that are actually found to be objectionable that are forfeited to the Crown upon conviction.

MRS. CHOW:—*The fact that successful prosecutions of cases mentioned just now have not prevented blatant display of similar publications in full public view which may consider to have a seriously corrupting effect on the young. Does the Government consider the present legislation adequate to control these publications and their public display and if not, what action will Government take to remedy the situation?*

SECRETARY FOR HOME AFFAIRS:—I think one would have to say that as far as the law is concerned and the level of penalties that may be imposed on conviction, that the law and the level of penalties are adequate. The maximum fine is in fact \$100,000 and imprisonment of three years may be imposed. I suspect the question goes more towards the question of what is in fact an objectionable publication. This is a very subjective matter and the Government is considering a number of possible ways of dealing with this question. One possible way, but it is at the very early stage of consideration, might be to set up a tribunal on standards of decency. There is such a tribunal in New Zealand, but I would have to say that this is at the early days for discussion of such possibility.

MRS. CHOW:—*May I reiterate that perhaps the public concern and outcry at the present moment is more related to the public display and advertising of such publications and perhaps further action or further study could be taken in that area?*

HIS HONOUR THE PRESIDENT:—Was that really a question Mrs. CHOW?

MRS. CHOW:—*Yes, I think I did, I did say 'May I'?*

HIS HONOUR THE PRESIDENT:—If the Secretary for Home Affairs detects a question, would he please answer it.

SECRETARY FOR HOME AFFAIRS:—Yes, we would consider such matters. I perhaps should say, Sir, that amongst the cases I referred to, those that resulted from public complaint are very very few indeed, only a handful. So perhaps we need to give more publicity to the fact that public complaints can be made to any of the places I mentioned.

MR. YEUNG PO-KWAN:—*Sir, as there are many publications which may not fall within the definition of objectionable, but are obviously not suitable for even display in newspaper stalls in streets where they have amoral effect on children and youths in particular. Will Government consider confining the sale of these publications to the premise of a shop or shops for adult readers only?*

SECRETARY FOR HOME AFFAIRS:—A number of possibilities are under consideration and that could be one of them. Another is to make publications with a stamp saying unsuitable for young persons and so on, but I do have to come back to the law and it is, as I have said, a matter for the courts to decide whether or not the publication is objectionable, as the law stands.

### **Civic education in schools**

4. MRS. FAN:—*Will the Government inform this Council the up-to-date plans for promoting and co-ordinating civic education in schools and the progress that has been made?*

DIRECTOR OF EDUCATION:—Sir, this is not a new subject but a very timely question and I am grateful to Mrs. FAN for asking it. I am pleased to report that we have the matter well in hand.

For many years my Department has been promoting civic education in schools, since it is clearly important that young people should understand the society in which they live, should be able to make informed judgements on issues of current interest and importance, and should contribute to its well-being and development, having regard to the rights and duties implicit in good citizenship.

This promotion began as early as the 1950s and has developed steadily since. Civic education forms an integral part of the primary curriculum, in which the subject Social Studies touches upon such themes as co-operation with neighbours, improving our living environment, the links between Government and the people, social responsibility, and the need to differentiate between fact and opinion. Such themes are pursued in various ways in the secondary curriculum in such subjects as Economic and Public Affairs and Social Studies, in which emphasis is laid on the acquisition of skills required for gathering, interpreting and evaluating information and the development of a sense of social responsibility. More specifically, the secondary syllabuses are concerned

with such areas as the way in which the Hong Kong Government works, its policy-making and consultative processes, the legal system, and an understanding of the ways in which Hong Kong, China and the United Kingdom relate to one another. Aspects of political science feature in the syllabuses for senior secondary and sixth forms and, as Members are aware, such aspects are being further developed in the proposed new syllabuses for Government and Public Affairs.

Both within the formal curriculum and in the wide range of extra-curricular activities in schools, there is a great deal of emphasis on community issues—for example, clean Hong Kong, anti-corruption, road safety, fire prevention, environmental protection, and anti-smoking, to name but a few. The approach is to encourage good citizenship through active participation. This is achieved by a variety of school-based clubs and associations, including such organisations as the Community Youth Clubs, in which more than 100 000 members are taking part in activities at school, district and territory-wide levels to promote and strengthen school involvement in community affairs.

While there are at present ample opportunities for civic education in schools, the Department fully accepts that there is growing public interest in the extent to which schools are preparing students for the future, and has therefore recently formulated a plan for the further strengthening of civic education. This plan, which has been fully discussed and endorsed by the Board of Education, covers a broad spectrum of activities both within and outside the curriculum, including civic, social, political and current affairs.

We will pursue the plan through two separate and interrelated aspects of school life: the formal curriculum and extra-curricular activities.

On the first of these aspects—I intend to ask the Curriculum Development Committee early in the coming school year to consider ways in which aspects of civic education in the existing curriculum can be further strengthened.

The Curriculum Development Committee will be asked to consider the development of teaching modules for use in existing or proposed new subjects at both primary and secondary levels. These could be in the form of teaching units, supported by a comprehensive range of resource materials, including charts, videotapes and notes on methodology. Relevant resource and teaching materials will be compiled and made available for school reference. Schools will be asked to draw more upon important or interesting contemporary events to illustrate teaching points in subjects such as Economic and Public Affairs, History and Economics and to use newspapers more extensively for teachings purposes. Discussion techniques in the teaching of a wide range of subjects will be encouraged as will the use of debates in language lessons.

As for extra-curricular activities, schools will be encouraged to heighten pupils' awareness of current events by such means as the establishment of current affairs clubs and debating societies. They will be asked to arrange visits

for senior students wherever possible to observe Government in action, including visits to District Boards, the Urban Council, the UMELCO Office, government departments and this Council.

Sir, as with all educational plans and programmes, full consultation with and co-operation from heads of schools is essential to their success. I intend therefore to mount a series of seminars and conferences within the next few months to seek their views and suggestions. Equal emphasis must also be placed upon the preparation of teachers for this programme. Discussions will therefore be held with the Colleges of Education and other teacher training institutions to ensure that both in-service, pre-service, and indeed retraining programmes are structured to reflect this new emphasis.

Finally, a comprehensive set of guidelines will be compiled to assist teachers and school authorities to implement the plan. The guidelines will be cross-curricular in nature, similar to the integrated approach of our guidelines on moral education in schools, which have been welcomed by schools since their issue three years ago. Preparatory work on the guidelines has begun and we aim to have them ready for implementation in September 1985.

Sir, the plan I have just outlined indicates clearly our interest, concern and determination to give full emphasis to the promotion and strengthening of civic education in schools. With the full understanding and support of teachers, schools and parents, and last but not least of the students themselves, I am confident that our objectives can be fully realised.

MRS. FAN:—*Sir, I would like to thank the Director of Education for his most comprehensive answer. Still I have one small supplementary. Can the Director of Education inform this Council whether the plans he has just disclosed will have any resource implications?*

DIRECTOR OF EDUCATION:—Yes, as with all government plans and programmes, there are always resource implications. However I am pleased that we will not be asking for additional staff or money for the time being. However, in the longer term, we might need additional staff and money to support those very extensive programmes I have just outlined, but in the meantime, we are trying our best to use our existing resources to cope with the new programme.

MISS DUNN:—*Sir, given that the intention is to build on the current curriculum, has the Government assessed the effectiveness of the current curriculum and the level of civic awareness among them?*

DIRECTOR OF EDUCATION:—Yes, Sir, we have done that and this is why we are now planning to strengthen the existing curriculum. As I mentioned earlier in my reply, within the existing curriculum, there are various subject areas in which civic education features in many ways. However, they are rather scattered in

nature and the present proposal is to strengthen the nature of this subject by a collective approach, and try to have a programme and guideline issued to co-ordinate and to strengthen this particular programme.

MISS DUNN:—*I am sorry, Sir, but please clarify on the level of current awareness?*

DIRECTOR OF EDUCATION:—Taking the days when I was at school, Sir, 30 years ago and comparing the situation now, I can certainly confirm that young people of these days are much more civic minded than in my days because of the large number of clubs and societies in schools promoting community awareness and civic responsibilities. Therefore, I can safely say that people of these days have learned to understand a lot from the existing programme and we intend to do more in this direction.

MRS. NG asked in Cantonese:—

閣下，目前本港的資助中小學，都是有電視機及錄影機的設施，而教育電視的製作，對老師的一般教學是有很大的幫助，本人曾經在教聖經科的時候，借用經公科內的公民教育的錄影課程，作為論理方面的教材，政府可否考慮這方面的製作及加入最新的資料來協助公民教育的推進？

(The following is the interpretation of what Mrs. NG asked.)

*Sir, at present, subsidised schools have videotape recorders and televisions, these are very helpful to teachers in general. In conducting Biblical Knowledge lessons, I have used sections of the videotapes of Economic and Public Affairs to illustrate my points. Can the Government consider the production of such programmes with update information to facilitate the promotion of civic education?*

DIRECTOR OF EDUCATION:—We have used and will use more in this direction.

MRS. CHOW:—*Will all the activities which are outlined under the first paragraph on page 3 by the Director, which are mainly activities only initiated under the extracurricular category and therefore entirely voluntary, be incorporated into the formal curriculum so that all students will be benefitted by a more lively approach to civic education?*

DIRECTOR OF EDUCATION:—Sir, we always respect the schools' discretion and the freedom of choice to select things which are most relevant to their needs. Therefore, we do not wish to compel schools to include all things under the curriculum, rather we intend to do it in two ways. First, within the curriculum through various subject areas and second, through extracurricular activities. Therefore, the approach is a two-pronged approach in trying to cope with this particular area.

MRS. CHOW:—*May I suggest that the slight problem we face here is one of approach? In fact in some of the schools, the way that they tackle civic*

*education is purely by book learning and therefore cannot arouse the interest of students. May I suggest that the Director look into this and see how they can take a more lively approach through participation by the students?*

DIRECTOR OF EDUCATION:—Sir, I entirely agree with Mrs. CHOW's observations. In the case of some schools, of course, they try to relate more of these things to facts than to interpretation of facts. And this is precisely why we intend to draw up guidelines for schools to ensure that they will try not to remember facts so much as to debate and to discuss issues of current concern and therefore draw their own value judgement on these issues.

### **Overseas employment**

5. DR. HO:—*Would Government inform this Council:—*

- (a) of the number of Hong Kong residents working overseas in the last five years and the fields of employment in which they were engaged?*
- (b) how could those workers be protected against unfair treatment or exploitation by overseas employers?*
- (c) whether the existing Contracts for Overseas Employment Ordinance is adequate to protect Hong Kong residents working overseas?*

COMMISSIONER FOR LABOUR:—Sir, this question concerns Hong Kong residents working overseas. My answer will refer only to manual workers required to have their contracts attested under the Contracts for Overseas Employment Ordinance. There is no obligation for other persons to have their overseas employment contracts attested by the Labour Department which has therefore no means of knowing how many non-manual workers are working overseas.

Sir, this is possibly the first occasion on which a question on the subject has been asked in Council. I shall therefore try to explain the workings of the Ordinance in this reply.

Firstly, Dr. HO asks for information on the number of Hong Kong residents working abroad in the last five years and the fields of employment in which they were engaged.

Under international labour conventions governing the subject, the maximum length of employment contract without repatriation is two years for persons not accompanied by their families, and three years if the family goes too. Reengagement contracts are usual.

Over the five-year period 1979-83 a total of 2 742 contracts were attested by the department. Of these 1 328 were first contracts, and the rest re-engagements. Most of the persons on first contract, indeed 85%, went to West Germany as

cooks in hotels and restaurants, to Nigeria as technicians in textiles factories; to Nauru as mining and construction workers; or served as laundrymen and civilian employees on H.M. ships. The remaining 15% obtained employment in other countries such as Saudi Arabia, Sri Lanka, Philippines and Singapore, mostly working as technicians. It follows that the re-engagement contracts were for similar work in these places.

Secondly, Dr. Ho asked how workers could be protected against unfair treatment or exploitation by overseas employers.

The legislative element is predominant in protecting workers overseas, and indeed the Hong Kong ordinance follows the provisions of three International Labour Conventions on this subject. Under our Hong Kong ordinance, an overseas employer is required to enter into a detailed written contract with his workers on the terms of employment, including wages, hours of work, holidays, employees' compensation in the event of death or injury, accommodation and repatriation and a good deal else. To have the Commissioner's approval, these terms must be comparable with, or better than, the general employment standards in Hong Kong. The contract further provides that no variation to its terms can be made without the approval of the appropriate government authority in the country of employment.

We aim to ensure that workers are fully aware of their rights and obligations under their contracts. It is our standard procedure to hold a special briefing session for them before their departure to explain the contract to them in Chinese, clause by clause. A Chinese version of the contract is always given for reference and they are asked to bring to our attention any complaints on their employment. We also require an overseas employer to nominate a local guarantor to sign a letter of guarantee with individual workers for the performance of the contract by the employer. This statutory requirement enables workers to claim against the local guarantor on return to Hong Kong for any contractual breach by the overseas employer. Sometimes, where a local guarantor cannot be found, the overseas employer has to arrange a bank bond in Hong Kong.

In the event of any complaint arising from employment overseas, and irrespective of whether the worker is still there or has returned to Hong Kong, we take up the matter with the employer, and at the same time we contact the local guarantor. In some cases we also seek the assistance of the overseas government concerned.

In short, the welfare of the worker is our prime concern throughout the period of his overseas employment.

Finally, Dr. Ho asked whether the existing Contracts for Overseas Employment Ordinance is adequate to protect Hong Kong residents working overseas.

In coming to a view, we must take into account the fact that the Ordinance has been in operation for many years. Its provisions are generally known to persons going to work overseas, and workers do bring their complaints to us by writing, telephone and even by telex from the countries where they are employed. A special section of the department deals with this work and as mentioned above takes administrative action to support the provisions of the law, including the handling of complaints. During the five-year period covered by Dr. Ho's question we received 49 complaints. Of this number 33 were settled and ten were withdrawn. Six are currently pending.

It is, of course, important that employers and their agents bring their contracts to us for vetting and attestation, as required by the Ordinance, or that the workers being recruited for overseas work do so in their own interest. In our experience, this happens in most cases, in which event any dispute can be settled by Labour Department according to the terms and conditions of the employment contract. In short, the Contract for Overseas Employment Ordinance is considered to be generally adequate in protecting the welfare of Hong Kong workers taking up overseas employment. However, in the light of a recent case we are again reviewing its provisions.

DR. HO:—*I understand that some of the employers failed to present the contracts on overseas employment for attestation by the Commissioner for Labour. In these cases, how might the manual workers' interests be protected? And whether the employers involved would be penalised for non-compliance with the Ordinance?*

COMMISSIONER FOR LABOUR:—Sir, it is a fact that not all overseas employers present the contracts for attestation. However, we feel that the proportion of non-attested contracts is not high. Some idea of the relative proportion of non-attested contracts can be obtained from the complaint figures just given. Of the 49 complaints received in the past five years, only six were in respect of non-attested contracts. The second part of Dr. Ho's question asked what can be done in the event that there are breaches of contracts which have not been attested. Well, I think a typical case of the kind is the case involving Hong Kong workers in Sri Lanka which was in the newspapers about a fortnight ago. In cases like this, we always get in touch with the workers concerned either on their return or, if they are still in the country of employment, we contact the employers' representative if he is here or the employer direct. And generally speaking, we seek by administrative means to deal with legitimate complaints. With regard to the third part of Dr. Ho's question on penalties, the Ordinance does not contain penalties for non-attestation. The Ordinance provides that unattested contracts shall be null and void. Thus either party is denied the protection intended by its provision. Were penalties on overseas employers to be included in the Ordinance there would be obvious difficulties in applying and enforcing them. We feel that the provision that unattested contracts shall be null and void, together with other statutory requirements in the Ordinance, and our

provision of an effective administrative backup service all help to reinforce the protection offered by the legislation. And as far as we can, we do try to advise all concerned to seek attestation.

### **Government Consultant Ophthalmologists and Ear, Nose and Throat Surgeons**

6. DR. IP:—*Regarding Government Consultant Ophthalmologist and Ear, Nose and Throat Surgeons, would Government inform this Council:—*

- (1) of consultants to population ratio as compared to other developed countries;*
- (2) what is the average waiting time before an appointment can be given to a patient who requires a specialist appointment at the outpatient clinic or for an operation;*
- (3) whether existing number of consultants in these two specialties are adequate, based on the answer for (2) above; and*
- (4) whether Government has plans to increase the number of such specialists, if so what are they and when will it materialise?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, it is inherent in our health care delivery system that patients suffering from diseases of the eye, and ear, nose and throat or ENT or indeed other parts of the body, do not necessarily need to receive treatment only from the consultants in the respective specialty. For common ailments of the eye and ENT, the general practitioners are fully competent to deal with such patients. More complex cases may require the attention of doctors who have received higher professional training and experience, but who may not necessarily occupy consultant posts. Thus the medical practitioners in private practice, and doctors in the public sector, in addition to consultants, each in their own setting, provide a service to the community which is complementary to each other, on the above basis.

In the light of the foregoing, I do not consider that it is meaningful to establish an arbitrary consultants-to-population ratio in the provision for medical and health services, much less to compare standards with those of developed countries, which have different health care delivery systems serving communities with different requirements and different resources.

With regard to the waiting time for appointments for consultations, there is none for patients with urgent problems. They are attended to immediately, either in the outpatient clinics or in the accident and emergency departments, and operated on as and when indicated. For non-urgent or 'cold' cases, the average waiting time for consultations in both the eye and ENT specialties is three months. The waiting time for operations ranges from six to nine months for diseases of the eye and two to ten months for ENT conditions. I would like to point out that in the intervening period these patients will continue to be seen in the specialist clinics and I must emphasise that the waiting time for

operations on 'cold' cases has no adverse effect on the medical conditions of the patients concerned as they do not require immediate operations. I might also add that the maintenance of a waiting list is common to most hospitals in the world and is not peculiar to us in Hong Kong.

With regard to the staffing of these two specialties with consultants and other medical officers with various levels of higher professional training, I consider it as adequate. As I have explained in the earlier part of my reply, consultants are not the only doctors who are competent to treat eye and ENT conditions. Other doctors at various levels of higher professional training are also involved in our system of health care delivery. In order to ensure the most economical use of available manpower resources, patients with different complexities of these conditions are treated by doctors of the appropriate level of professional competence.

On the last part of the question, Sir, Government has formulated service targets for the coming years, including the development and planning of eye and ENT services. The appropriate number of staff of various ranks and specialties will be recruited and trained at the right time for these programmes.

Within the next planning decade, the following additional functional posts are planned, subject to availability of resources:—

For the Eye Service — an additional 20 doctors on top of the present strength of 30;  
For the ENT Service — an additional 22 doctors on top of the present strength of 18.

DR. IP:—*Sir, is a child suffering with conductive deafness treated as an urgent case or a non-urgent case? If the answer is yes, why are they having to wait three months for an appointment? If the answer is no, does the Director of Medical and Health Services consider it demaging to a child who having been picked up to be suffering with conductive deafness due to chronic otitis media by the Education Department's Primary Two Screening Programme to have to wait three months for an appointment with an ENT surgeon?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, the classification of whether a case is urgent or not urgent depends on the referring doctor. If the referring doctor considers it to be urgent, special arrangement can be made with the ENT Consultant for an urgent appointment.*

DR. IP:—*Sir, I register the answer made by the Director of Medical and Health Services regarding 'patients suffering from diseases of the eye, ear, nose and throat or indeed other parts of the body do not necessarily need to receive treatment only from consultants in the respective specialty'. I take it that he will mean the same*

*for other specialties like gynaecology, paediatrics, orthopaedics and the like. Under such a context, since the Director is not prepared or feel it meaningful to give me the answer regarding the consultants-to-population ratio for ENT surgeons and ophthalmologists, would the Director be prepared at least to give me the total number of ENT surgeons and ophthalmologists in the government practice and also what are these numbers compared to the number of other consultants such as gynaecologists, paediatrician and orthopaedic surgeons? I know that not all of us are children nor are we women requiring gynaecological treatment, but we all have eyes and ears. If the answer is not immediately available, Sir, may I have them in writing?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—I have the answers only in respect of the ENT service and the eye service. For the ENT service, our present strength are 18 which consist of two consultants, three senior medical officers and 13 medical officers. In respect of the eye service, we have two consultants, three SMOs and 25 MOs. In respect of the other specialties, with your permission, Sir, I shall give Dr. Ip a written reply as soon as possible.

(The following written reply was provided subsequently.)

*Consultant Staff List as on 1.7.1984*

<i>Stream</i>	<i>Establishment</i>	<i>Strength</i>
Medicine	7	7
Surgery	6	6
Obstetrics and Gynaecology	4	3
Orthopaedic	4	4
Paediatrics	4	4
Neurosurgery	1	1
Thoracic Surgery	2	1
Psychiatry	8	8
Anaesthesia	7	7
Radiology & Oncology	10	9
Pathology	6	6
Forensic Pathology	3	3
ENT Service	2	2
Ophthalmology	2	2
Social Hygiene Service	1	1
Occupational Health	1	1
TB Service	3	3
A and E Department	5	5
Geriatrics	1	1
Total:	77	74

DR. IP:—*Sir, thank you very much for the answer. Two consultants for each specialty is of interest, for the whole of Hong Kong, Kowloon and the New Territories but I would not waste my third supplementary question on this. My third question, Sir, will be: Sir, since the projected population expansion in the next decade is not going to be doubled, I hope, with the family planning, yet according to the Director's answer, the additional doctors for eye, ear, nose and throat service will be nearly doubled in the next planning decade. I see some contradiction in the Director's answer 'the staffing of these two specialties with consultants and other medical officers with various levels of higher professional training, I consider it as adequate.' Sir, would the Director of Medical and Health Services clarify these two points?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—For the next planning decade, a number of hospitals will be planned and opened for which these staffing are required. In particular I am referring to the Shau Kei Wan Hospital, the Tuen Mun Hospital, the East Kowloon Hospital, which are not similar to what has happened before in the past.

DR. IP:—*Sir, I just like to clarify my previous question, because I don't think the answer was given to appropriately.*

PRESIDENT:—I think he did say what the doctors were going to do and where they would be.

DR. IP:—*Well, you see if the number of doctors are adequate now, and since the population is not going to double in the next decade, and yet we are planning for double number of consultants for these two specialties, either we don't have enough now, or we are planning for too much in the future, or we are planning for better quality in the future; if so, why can't we have them now?*

PRESIDENT:—So what was your question Dr. IP? *(laughter)*

DR. IP:—*My question is that there is some contradiction in the answer of the Director of Medical and Health Services and I repeat my third supplementary question: since the projected population expansion in the next decade is not going to be doubled, and yet the additional doctors for these two services are going to be doubled, and yet the answer given by the Director is that the services are now adequate, I cannot understand, there seems to be some contradiction in the two answers. I would like some clarification.*

PRESIDENT:—Can you clarify further?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I think I have been trying very hard to explain *(laughter)* that we do not peg our number of consultants to the population. Our staffing needs are based on functional needs and on service

programmes and that is why we need more staff. In fact in view of the fact that we are planning more and more services we shall be needing more and more doctors in these specialties irrespective of whether the population is going to double or not.

PRESIDENT:—Thank you.

### **Corporal punishment**

7. MR. CHEUNG YAN-LUNG:—*Will Government inform this Council:—*

- (a) how often has corporal punishment been administered in H.K. over the past three years; and*
- (b) the effectiveness of corporal punishment as a deterrent to criminal activities; and*
- (c) whether corporal punishment would be more frequently administered in future?*

SECRETARY FOR SECURITY:—Sir, corporal punishment was administered on 14 occasions in 1981; on 13 occasions in 1982; on 19 occasions in 1983 and on 17 occasions in the first six months of this year. In over 90% of these cases the punishment was awarded on conviction for the offence of possessing an offensive weapon in a public place.

The effectiveness of corporal punishment as a deterrent to criminal activity has been studied on two separate occasions by committees in the United Kingdom. These committees, which reported in 1939 and 1960, concluded that there was no evidence to suggest that corporal punishment was a more effective deterrent than any other form of punishment.

There has been no major study of this nature carried out in Hong Kong, although in 1983 the Commissioner of Correctional Services carried out a limited study on a small sample of young and adult offenders who had been caned for the offence of possessing an offensive weapon in a public place. In the study, the reconviction rates of those who were caned were compared with those who were imprisoned or detained in a detention centre. Of those young offenders who were caned, a significantly higher proportion were subsequently reconvicted. For young offenders, in particular, the findings of this study were clearly in accord with the conclusions reached by the U.K. committees.

Having said this, Sir, I must stress that the effectiveness of any punishment as a deterrent requires an assessment of its psychological effect on the mind of a potential criminal. It is extremely difficult to obtain any accurate statistical evidence to assess this effect and any assessment must ultimately contain a large element of subjectivity on the part of the assessor.

Whether corporal punishment would be more frequently administered in future is entirely a matter for the courts and not a matter over which the Government can exercise any control except by the passage of legislation. The Government is currently reviewing the range of offences for which corporal punishment is a sentencing option with a view to identifying those for which it may no longer be an appropriate option.

MR. CHEUNG YAN-LUNG:—*Sir, has any directive ever been issued to judges or magistrates concerning the use of corporal punishment?*

SECRETARY FOR SECURITY:—*Sir, there are two directives or rules that have been laid down within the judiciary regarding the use of corporal punishment. Firstly that a medical examination of the offender should be called for before any decision to impose corporal punishment is made. And secondly that in cases where substantial terms of imprisonment are imposed, corporal punishment will not be used unless there had been aggravating factors such as gratuitous violence in offences of robbery and rape. Beyond that there is a statutory framework that provides in detail for the types of offences for which corporal punishment is available as a sentencing option. It would of course be in-appropriate for Government to interfere directly in any way with the exercise of judicial power within the statutory framework.*

MR. CHEUNG YAN-LUNG:—*Sir, is sparing use of corporal punishment the result of directive or political pressure from Britain similar to that applied to discourage capital punishment?*

SECRETARY FOR SECURITY:—*Sir, as I have said there is and can be no directive to the judiciary in H.K. from outside its own structure. No representations from the U.K. have been directed at the courts of H.K. or passed onto the courts through the Government. Such representations that have been made by the U.K. have been to confirm the position with regard to the development of case law within the European Court of Human Rights. As a result of this case law, Her Majesty's Government asked the Hong Kong Government to review its policy on the retention of corporal punishment in the local penal system. Several reviews have been undertaken in Hong Kong of the desirability of retaining corporal punishment as a sentencing option. On each occasion, it has been decided that on balance it would be inappropriate to abolish this form of punishment in Hong Kong. A review has recently been completed and as I have said, consideration is, as a result, being given to reducing the range of offences for which it is currently a sentencing option. It is the Government's intention to continue to monitor statistics relevant to its use and public opinion in this regard. I am not in a position, Sir, to predict whether ultimately circumstances would arise in which the Government would consider it appropriate to abolish corporal punishment altogether.*

## Written answers to questions

### Private recreation/sports clubs

8. DR. IP:—*In view of the fact that facilities of private recreation/sports clubs are enjoyed mainly by its members as opposed to the general public, will Government state:—*

- (1) the number and names of such clubs on the Hong Kong Island;*
- (2) the length and the period of crown lease granted to each of these clubs;*
- (3) the area granted;*
- (4) the premium paid in respect of each of these lease; and*
- (5) the current crown rent and rates if any payable by each of these clubs and whether Government have the power to alter the crown rent?*

SECRETARY FOR HOME AFFAIRS:—Sir, private recreation and sports clubs have, by their very nature, memberships which are restricted by factors such as the size of available facilities, and the general interest in the activities which each club seeks to promote. Nevertheless, the majority of such clubs hold private recreational leases which include, *inter alia*, special conditions stipulating that:—

- (a) a club's membership policy must not discriminate on the grounds of race, religion or sex.*
- (b) a club should make its grounds available to outside bodies, such as schools and welfare organisations, when required to do so by the Director of Education, the Director of Social Welfare and the Director of Urban Services as appropriate.*

These provisions are designed to serve the broader interests of the community and to widen the usage of the club grounds.

As for the specific questions raised by the honourable Member, the information is as follows:—

- (a) the number of clubs holding leases for recreational purposes on Hong Kong Island is 23. A schedule of the names of the clubs is to be found at Annex A;*
- (b) the terms and periods of the leases held by the clubs are at Annex A. It is to be noted that under current policy, a new private recreational lease is granted for a period of 21 years and a renewed lease for a 15 year period;*
- (c) the total area of land on Hong Kong Island granted for private recreational purposes is approximately 41 hectares. Details of the area of land granted to specific clubs are available at Annex A;*

- (d) under existing policy, a private recreational lease is granted at nil premium. Details of the premia paid for the small number of long-standing leases are given at Annex A;
- (e) the clubs in question are obliged to pay rates. Details of amounts of rates payable are not yet available and I shall be pleased to supply these at a later date. The crown rent payable under a private recreational lease is fixed at a nominal amount of \$100 per annum. The crown rent currently payable under other leases is given at Annex A. Government has the power to review these figures upon expiry of the leases, although such a review may occur in the interim should the terms of the individual lease so allow.

## ANNEX A

*Recreational Leases held by Clubs or Associations on Hong Kong Island*

<i>Name</i>	<i>Nature of Lease</i>	<i>Area Premium (sq.m.)</i>	<i>Area Premium \$</i>	<i>Rent p.a \$</i>	<i>Lease Term (Years)</i>	<i>Commencement Date</i>	<i>Expiry Date</i>
Aberdeen Boat Club	Recreational	2 276	Nil	100	21	26.12.1970	25.12.1991
Boy Scouts Association	Recreational	471	Nil	100	21	26. 9.1977	25.9. 1998
Chinese Recreation Club	Recreational	16 490	Nil	100	15	26.12.1981	25.12.1996
Graigengower Cricket Club	Recreational	12 533	Nil	100	15	26.12.1981	25.12.1996
Girl Guides Association	Recreational	4 410	Nil	100	15	26.12.1981	25.12.1996
Hong Kong Country Club	Recreational	21 090	Nil	100	15	4.4.1982	3.5.1997
Hong Kong Cricket Club	Recreational	13 843	Nil	100	21	1.7.1973	30.6.1993
Hong Kong Federation of Youth Groups	Recreational	361	Nil	100	21	9.9.1977	8.9.1998
Hong Kong Football Club	Recreational	19 330	Nil	100	24	26.12.1972	25.12.1996
Indian Recreation Club	Recreational	11 854	Nil	100	15	26.12.1981	25.12.1996
Jardine's Lookout	Recreational	12 403	Nil	100	15	26.12.1981	25.12.1996
Residents Association Ladies' Recreation Club	Normal (with premium)	10597	12,617	1,310	150	25.12.1883	24.12.2033
Police Recreation Club	Recreational	10 115	Nil	100	21	1.7.1976	30. 6.1997
Post Office & Cable & Wireless Recreation Club	Recreational	7 800	Nil	100	15	26.12.1981	25.12.1996
Royal Hong Kong Golf Club (Deep Water Bay)	Recreational	74 880				(currently under review)	
Royal Hong Kong Jockey Club (Happy Valley)	Private Treaty Grant	78 468	Nil	1	150	24.6.1884	23.6.2034
Royal Hong Kong Yacht Club	Private Treaty Grant	19 510	Nil	1,000	150	20.2.1906	19.2.2056
Shek O Club	Normal	2 044	Nil	50	75	9.10.1924	8.10.1999
					(renew-able)		
Shek O Golf Club	Normal	3 549	Nil	88	75	9.10.1924	8.10.1999
South China Athletic Association	Recreational	32 479	Nil	100	15	26.12.1921	25.12.1996
University of Hong Kong	Private Treaty Grant	55 442	Nil	1,000	75	31.7.1978	30.7.2053
Victoria Recreation Club	Recreational	372				(currently under review)	

### **Fresh platelets, frozen plasma and cryoprecipitate**

9. DR. IP:—*Regarding fresh platelets, fresh frozen plasma and cryoprecipitate, would Government inform this Council:—*

- (1) which hospitals/organisation cater for their production;*
- (2) whether the provision is adequate to meet the needs of all government, government subsidised and private hospitals;*
- (3) whether there are special provisions for such blood elements during non-office hours, for all three types of hospitals; and*
- (4) whether there is a 24-hour hot line for doctors to contact and what are the arrangements necessary for such emergencies?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—The following are my answers to the question regarding fresh platelets, fresh frozen plasma and cryoprecipitate:—

- (1) At present the Queen Elizabeth Hospital and the Sai Ying Pun Institute of Pathology are responsible for their production. The service will be transferred to the Hong Kong Red Cross Blood Transfusion Service in phases from October 1984, where the production of blood components will be centralised.
- (2) For fresh frozen plasma and cryoprecipitate the provision is adequate to meet the needs of all government, government-assisted and private hospitals. For platelets, the provision meets about 50% to 60% of the needs from these hospitals. After the Blood Transfusion Service has taken over the production of blood components, it is anticipated that all requests for blood components will be met.
- (3) The blood banks at Queen Mary Hospital, Queen Elizabeth Hospital and Princess Margaret Hospital are open 24 hours a day and keep stock of blood components for issue to the three types of hospitals upon request during non-office hours.
- (4) The blood banks at the government regional hospitals are open on a 24 hour basis throughout the year. Doctors can call on them for the blood products in case of emergencies.

H.K. Region—Queen Mary Hospital	5-8192128
	5-8192120
Kln. Region—Queen Elizabeth Hospital	3-7102104
N.T. Region—Princess Margaret Hospital	3-7427111
	Ext 243.

After the Blood Transfusion Service has taken over the manufacture and distribution of blood components, there will be a night clerk at the Blood Transfusion Service to receive any requests and this will function as a hot line.

## Statement

### **1983 Annual Report by the Commissioner of the Independent Commission Against Corruption and a Review of the First Ten Years**

MR. LOBO:—Sir, among the papers laid today is the I.C.A.C. Report for the year 1983.

This report is specially significant because it has a special chapter which covers the first decade of the Commission's work since its existence.

The Commissioner pays tribute to the various forms of support from other departments and branches, and goes on to say that despite initial scepticism and even antagonism, today the I.C.A.C. is clearly accepted.

This special chapter also highlights the link which the Commission has established with similar agencies overseas to exchange information, for training opportunities and participation in international seminars and conferences on anti-corruption ideas and techniques.

The Commissioner also makes special reference to the support and cooperation of the public, not only in the confidence with which reports of corruption are made, but also in the enthusiastic support, and participation in, the Commission sponsored functions exemplified by the 'Towards a Fuller Life' programme which reached an estimated 120 000 young people.

Its Operations Department points out that the number of reports of corruption remained at about the same level as the two preceding years which demonstrates the need for continuing care and vigilance, particularly in the field of fraud facilitated by corruption in the banking and finance sector where recent cases have shown that staggering amounts of money are involved.

Another interesting feature of the report is an analysis of the length of investigation which refutes criticisms that they are unduly lengthy.

The Community Relations Department continued to enlist support for the work of the Commission, and informs, persuades and educates the public on the evils of corruption.

Two teaching packages were issued for use in schools, and a 13-part 'spot' TV series entitled 'Money Isn't Everything' was also produced.

The Corruption Prevention Department has continued to provide Government, the public and subvented bodies with help and advice to eliminate corruption opportunities. Of particular interest is the department's concern over restaurant licensing because of the complexity of procedures and possibilities of delays; the other is a study of the police units responsible for antivice and gambling enforcement, which began at the end of the year with the full co-operation of the police.

Finally, Sir, I know that the Commissioner would wish me to pay tribute to the unofficial members of the Committees which advise and support the work of the Independent Commission. Without their help, the Commission's work would be less responsive to the needs of both Government and the general public. He expresses, in particular, his gratitude for the work of the unofficial members who sit on the Complaints Committee which considers investigations into allegations of misconduct by the I.C.A.C. itself and who, by their efforts, maintain the credibility of the Commission in the eyes of the public.

## **Government Business**

### **Motions**

#### **BANKRUPTCY ORDINANCE**

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:—Under section 113 of the Bankruptcy Ordinance that the Bankruptcy (Amendment) Rules 1984 and the Bankruptcy (Forms) (Amendment) Rules 1984 made by the Chief Justice on 18 July 1984 be approved.

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

Section 113 of the Bankruptcy Ordinance empowers the Chief Justice, with the approval of this Council, to make rules providing for the carrying into effect of the objects of the Bankruptcy Ordinance.

These amendments are largely consequential upon the enactment of the Bankruptcy (Amendment) Ordinance 1984, and are required to bring the subsidiary legislation into line with the provisions of the principal Bankruptcy Ordinance. The opportunity has also been taken to make a number of technical and procedural amendments considered desirable in their own right.

The Chief Justice made the Bankruptcy (Amendment) Rules 1984 and the Bankruptcy (Forms) (Amendment) Rules 1984 under section 113 of the Bankruptcy Ordinance on 18 July 1984.

Sir, I beg to move.

*Question put and agreed to.*

#### **MAGISTRATES ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:—That—

- (a) the Third Schedule to the Magistrates Ordinance be amended by deleting paragraph 3 and substituting the following—

‘3. *Road Traffic.*

- (Cap. 374.) (1) Any offence against section 41(1), 42(2), 46, 48, 50, 51, 52(1) or 52(2) of the Road Traffic Ordinance.
- (Cap. 374, sub. leg.) (2) Any offence against the Road Traffic (Construction and Maintenance of Vehicles) Regulations.
- (Cap. 374, sub. leg.) (3) Any offence against the Road Traffic (Driving Licences) Regulations.
- (Cap. 374, sub. leg.) (4) Any offence against the Road Traffic (Parking) Regulations.
- (Cap. 374, sub. leg.) (5) Any offence against the Road Traffic (Registration and Licensing of Vehicles) Regulations, other than a contravention of regulation 29.
- (Cap. 374, sub. leg.) (6) Any offence against the Road Traffic (Traffic Control) Regulations, other than a contravention of regulation 53 or 54.
- (Cap. 374, sub. leg.) (7) Any offence against the Road Traffic (Public Service Vehicles) Regulations.
- (Cap. 374, sub. leg.) (8) Any offence against the Road Traffic (Safety Equipment) Regulations.’;

- (b) that the amendments in paragraph (a) of this resolution shall come into operation on the day that the sections of the Road Traffic Ordinance mentioned in the new paragraph 3(1) and the regulations mentioned in the new paragraphs 3(2) to 3(8) inclusive come into operation.

He said:—Sir, I rise to move the motion standing in my name on the Order Paper, under section 18E(4) of the Magistrates Ordinance, Chapter 227, to amend the Third Schedule of that Ordinance.

Section 18E of the Magistrates Ordinance provides that defendants of those offences listed in the Third Schedule may plead guilty by letter without having to appear in court. The aim is to reduce the workload of the courts. The new Road Traffic Ordinance, Chapter 374, with seven sets of subsidiary regulations will come into effect next month. References to the existing Road Traffic legislation in the Third Schedule of the Magistrates Ordinance will therefore have to be replaced by appropriate references to the new legislation, and accordingly, Sir, I beg to move.

*Question put and agreed to.*

**Second reading of bills**

**CHINESE VISA OFFICE (PRIVILEGES AND IMMUNITIES) BILL 1984**

**Resumption of debate on second reading (18 July 1984)**

*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).*

**CONVEYANCING AND PROPERTY BILL 1984****Resumption of debate on second reading (27 June 1984)**

*Question proposed.*

MR. BROWN:—Sir, the Legislative Council *Ad Hoc* Group formed to study this Bill held its first meeting on 9 August 1983, and the one year taken to deliberate on this legislation perhaps appears like undue haste when compared with the decades over which the reform of conveyancing has been given that careful consideration mentioned by the Attorney General earlier in this debate.

A number of representations were received by the *Ad Hoc* Group and these included several suggestions for amendments from the Hong Kong Association of Banks, who liaised in this instance with The Hong Kong Deposit-taking Companies Association in view of their mutuality of interests. I must declare an interest as the Chairman of the Hong Kong Association of Banks.

The end result of the deliberations of the *Ad Hoc* Group—taking into account the representations received—was agreement with the Administration on the Bill now before us, which includes a number of amendments to the original white paper published in 1983. A further careful study of the 1984 Bill published on 15 February, and the latest version introduced into this Council on 27 June, has revealed the need for further amendments of a technical nature, and my learned colleague Mr. Peter C. WONG will explain the reasons for these in his speech and later move them at the committee stage.

The Attorney General has paid tribute to those who have put so much time and effort into these important proposals. I feel I must mention that the bulk of the effort on the Unofficials' side was in fact done by the Legislative Council Legal Scrutiny Group under the chairmanship of Mr. Peter C. WONG. The credit on this side, therefore, is due primarily to him and his legal colleagues.

Sir, subject to the amendments to be proposed by Mr. Peter C. WONG I support the motion.

MR. PETER C. WONG:—Sir, I am grateful to Mr. BROWN for his kind remarks but I consider that it is our duty to do our job as a Member of this Council.

Sir, the enactment of the Conveyancing and Property Bill 1984 may well be a momentous occasion in the long history of our legislative process. The law relating to immovable property and conveyancing in Hong Kong has remained virtually unchanged since 1844. It is mainly based on English legislation of the 16th century and later which apply by virtue of the Application of English Law Ordinance, and some local legislation which may be found, I apologise for having put this on but I think it is for record purpose which would be useful, it may be found in:

1. Part I and section 28 of the Law Amendment and Reform (Consolidation) Ordinance;
2. the Law of Property Amendment Ordinance;
3. Part II of the New Territories Ordinance and the Schedule thereto;
4. the Land Registration Ordinance; and
5. the Law of Property (Enforcement of Covenants) Ordinance.

While these Ordinances are useful in themselves, they are of limited effect. In short, our law relating to conveyancing and property is fragmentary and in certain areas uncertain and confusing, based as it is on out-dated English law, which was completely overhauled some 60 years ago by the Law of Property Act 1925, which has since been modified on several occasions.

After 143 years, we have now before us a fairly comprehensive piece of legislation of our own dealing with conveyancing and property, both movable and immovable. The Bill attempts to embody the best of modern English law and local practice and is designed to meet our own particular needs. To this end, it is, in my view, a typical Hong Kong compromise, one that will preserve continuity while at the same time incorporating useful and practical improvements. This Bill assumes greater importance if it is viewed in the light of the rapid development of Hong Kong as a modern financial and investment centre. In view of 1997, it is essential that we should have our own independent legislation which is not dependent upon English law and practice.

My group as Mr. BROWN has as indicated earlier on has held no less than six lengthy sessions with the Administration since the publication of the Bill and as a result amendments to the following clauses will be moved at the committee stage—

Clauses 2, 9, 25, 35, 38, 44, 45, 47, 50, 51, 53, 56, 59, 62 and 64.

Sir, this Bill as well as the amendments is highly technical and specialised and it is not my intention to dwell on complex legal arguments and justifications. Explanatory notes on the amendments are annexed to the printed copy of this speech which is tabled (see Appendix) this afternoon. Members may however wish to note that it is proposed to delete clause 9 because there is disagreement

in the profession as to the extent to which an assignment of a legal estate should overreach equitable interest. In the result, it is thought that more research should be devoted to this topic before the law is amended. However a new clause 9 creates a presumption that where a tenancy is vested in two or more persons, this tenancy will be presumed to be a tenancy in common. This is the effect of Chinese customary law in the New Territories and of the operation of equity elsewhere in Hong Kong.

The Bill contains eight parts, and is scheduled to come into operation on 1 November 1984. Many provisions are new, such as legal charges contained in Part 5, the capacity of a corporation to hold land as a joint tenant, and the provisions of implied covenants and statutory forms. These and many other changes and improvements deserve careful study.

Sir, while every effort has been made to ensure that the Bill is free from deficiencies, it is inevitable that it would be necessary to introduce refinements and improvements in the light of experience. It would not be possible to consolidate and up-date law which has existed for 143 years in one attempt without error or omission. However, the Bill represents an excellent effort and is the result of the concerted expertise in both the private and public sectors, commencing with the serious attempts of the Registrar General's Department in conjunction with the Law Society to produce a draft Bill in 1976 and culminating in the commendable efforts of the working group mentioned by the Attorney General in his speech to this Council on 27 June 1984.

The Registrar General has agreed to monitor and review the new legislation after it has been enacted. One particular issue which requires attention is that in the event of the dissolution of a corporation holding property as a joint tenant, the legal estate will pass to the other joint tenant. Here, the legislation is silent on the question of stamp duty. The Registrar General has undertaken to request the Commissioner of Inland Revenue to look into this particular issue as it involves public revenue. Members may be aware that on the death of a joint tenant who is a natural person, estate duty is payable in appropriate cases. Other matters which need further attention include the provision of a statutory form where a mortgage or charge involves a third party normally called a requesting party who is entitled to the use of the loan.

Finally, again for the purpose of record it would be useful to emphasise that the Bill would not affect—

1. the law relating to succession to land (except as to the question of survivorship in the case of persons dying in a disaster);
2. Chinese custom as applicable to land in the New Territories under section 13 of the New Territories Ordinance;
3. the provisions of the Land Registration Ordinance;
4. the law relating to land in the New Territories under Part II of the New Territories Ordinance (except to improve the implied covenants and introduce improved conveyancing forms);

5. the law of landlord and tenant as it relates to a tenancy of premises under the Landlord and Tenant (Consolidation) Ordinance; and finally,
6. the provisions of the Limitation Ordinance.

Sir, this Bill is a fine piece of legislation. In my view, it would be an important addition to the Laws of Hong Kong. I have therefore great pleasure in supporting the motion.

## *APPENDIX*

### CONVEYANCING AND PROPERTY BILL 1984

#### *COMMITTEE STAGE*

##### *Notes on Amendments*

#### **Clause 2**

The first amendment ensures that the definition of ‘assignment’ includes the transfer of the whole or part of an undivided share in land.

The second amendment includes ‘conveyance’ in the definition of ‘assignment’ because ‘conveyance’ is a word sometimes used as an alternative to ‘assignment’.

#### **Clause 9**

This amendment proposes the deletion of the existing clause 9 because there is disagreement in the profession as to the extent to which an assignment of a legal estate should overreach equitable interest. In the result, it is thought that more research should be devoted to this topic before the law is amended. The amendment also proposes the substitution of a clause to create a presumption that where a tenancy is vested in two or more persons, this tenancy will be presumed to be a tenancy in common. This is the effect of Chinese customary law in the New Territories and of the operation of equity elsewhere in Hong Kong.

#### **Clause 25**

This clause is intended to relate to all property. The definition of ‘assignment’ makes it desirable to propose an amendment to state expressly that the section applies to all property.

#### **Clause 35**

Like the first amendment to clause 2, this amendment is proposed to mention expressly the whole or part of an undivided share.

**Clause 38**

It is thought that this clause is uncertain in its effect and may go too far in protecting solicitors. Accordingly, the first amendment proposes that the solicitor should be protected only if he has acted with reasonable diligence.

The second amendment recasts subsection (2) only to improve the wording.

**Clause 44**

The first amendment to this clause proposes that a first mortgagee should, normally, be entitled to possession of the title deed. This provision will render unnecessary any provision to a like effect in the mortgage deed.

The second amendment clarifies the intent of subsection (6).

**Clause 45**

This amendment proposes that deposit-taking companies, which take ‘all money’ mortgages should have the benefit of this provision.

**Clause 47**

This amendment proposes that second and subsequent mortgagees should be entitled to inspect and take copies of the title deed.

**Clauses 50 & 51**

These amendments make it clear that the statutory powers apply only to mortgages executed after commencement of the Ordinance.

**Clause 53**

This amendment proposes the extent of the operation of the clause to express powers of sale.

**Clause 56**

The first amendment proposes the deletion of subsection (2) because it is thought that receipt should be accepted as a sufficient discharge without any surrender or release.

The second amendment proposes that the mortgagor should meet the cost of the receipt. This amendment will also enable the deletion of paragraph 2 in Parts B and C of the Second Schedule.

The third amendment is purely formal.

**Clause 59**

This amendment proposes the deletion of the words 'or unfair dealing' because the effect of these words is not certain and extends the effect of the clause to any interest in property.

**Clause 62**

This amendment would limit the operation of the notice provision to dealings in land.

**Clause 64**

This amendment proposes that this Council should decide on amendments to the Schedule.

**First Schedule, Part II**

The first two amendments make it clear that the first paragraph relates to all the subsequent paragraphs.

The third amendment deletes words which are not common in Hong Kong conveyancing documents.

**First Schedule, Part V**

This amendment proposes the deletion of words which are not commonly used in Hong Kong conveyancing documents.

**Second Schedule, Part A**

The first amendment improves the heading to the document.

The second amendment proposes that the paragraph concerned should not apply to inaccurate references to tenancies.

The third amendment proposes an extension of the time limit from seven to 14 days.

The fourth amendment renders the vendor liable to interest if he does not return the deposit within seven days.

The fifth amendment ensures that the purchaser meets only his own expenses of preparing the conveyance.

The sixth amendment proposes the deletion of the word 'marketable' because this word is not commonly used in Hong Kong.

The seventh amendment enables the vendor to recover interest paid or lost in addition to the liquidated damages.

**Second Schedule, Part B**

The first amendment improves the heading to the document.

The second and third amendments remove the provision which is unnecessary having regard to clause 56(3).

**Second Schedule, Part C**

These amendments remove the paragraphs which are unnecessary having regard to clause 56(3).

**Third Schedule, Form 1**

This amendment improves the heading to the form.

**Third Schedule, Form 2**

The first amendment improves the heading to the form.

The second amendment ensures that the deposit is paid to the vendor on completion.

**Third Schedule, Form 3**

The first amendment improves the heading to the form.

The second amendment removes an ambiguity.

The third amendment is consequential on the second and third amendments to Part B of the Second Schedule.

**Third Schedule, Form 4**

This amendment is consequential on the amendment to Part C of the Second Schedule.

**Third Schedule, Form 5**

This amendment is consequential on the amendment to Part C of the Second Schedule.

**Third Schedule, Form 6**

This amendment removes unnecessary words from the form of receipt.

**Fourth Schedule**

This amendment removes an ambiguity in paragraph 10.

THE ATTORNEY GENERAL:—Sir, may I just say how grateful the Administration is to Unofficials for their support over this major piece of legislation.

We thought we have put a lot of work in preparation of this Bill. But even since the second reading there have been a number of amendments put forward by Unofficials and it is clear to you, Sir, that Mr. Peter C. WONG's mastery of the subject has contributed greatly to this.

I would just also add to what Mr. BROWN said. He reminded Members of this Council, because they won't otherwise remember, that progress has been a little slow on this measure since the last draft Conveyancing Bill was presented to this Council in January of 1885, when almost there, (*laughter*) and not a hundred years has passed, and we should all rejoice that even the laziest river eventually reaches the sea. (*laughter*)

*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).*

## **CRIMINAL PROCEDURE (AMENDMENT) BILL 1984**

### **Resumption of debate on second reading (18 July 1984)**

*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).*

## **JURY (AMENDMENT) BILL 1984**

### **Resumption of debate on second reading (18 July 1984)**

*Question proposed.*

MR. BROWN:—Sir, I should like to welcome this Bill.

I have been a critic for sometime, not of the jury system itself, but rather of the ludicrous position where we have an active jury list of only some 25 000 names from a population of over five million people of whom at least 2.7 million are adults, that is to say over 21 years of age. Moreover, the small jury list

includes many foreigners who are frequently called upon to serve within only a few months of residence in Hong Kong. This in itself does not mean they do not make good jurors, but cultural differences do exist and if one is to be judged by one's peers then the longer jurors have been resident in the community the better.

This Bill will extend the jury list to many more of our citizens. In these days when we are all talking of the need for more democracy, we should remember that members of the public have duties as well as rights. The provisions of this Bill will enable many more people to discharge one of the duties associated with our system of law. It is right that they should be called upon to do so.

This is not the time to discuss the wider issue of the language of our law, but the calls for this to be changed to Chinese are not irrelevant to the ability of persons to act as jurors. A correspondent to the South China Morning Post recently made the valid comment that the question of the future of the Chinese language in legislative and judicial activities in Hong Kong is one that must be squarely faced. I understand that the joint committee of the Hong Kong Bar Association and the Law Society, formed to consider the future of our legal system, will address this important issue.

Many will await the result of their deliberations with interest, for although the continued usage of the English language is desirable for matters relating to our international commercial activities, in other areas an inability to speak English should not form a barrier to jury duty.

This Bill is a useful improvement to the present system. In the longer term I hope that circumstances will allow non-English speaking citizens also to shoulder this duty.

Sir, with these observations I support the motion.

*Question put and agreed to.*

Bill read the second time.

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

## **DISTRICT BOARDS AND URBAN COUNCIL ELECTIONS (MISCELLANEOUS AMENDMENTS) BILL 1984**

### **Resumption of debate on second reading (11 July 1984)**

*Question proposed.*

MR. PETER C. WONG:—Sir, in introducing this Bill on 11 July 1984, the Secretary for District Administration lucidly explained the reasons for and the salient points of the new provisions.

I therefore do not propose to cover the same ground. The proposed amendments are necessary as a result of the decision to take the development of district administration a step further. A number of changes will take place after the election in March 1985 and it is therefore essential that the relevant legislative provisions should be amended to accommodate this further development in district administration.

The Bill contains five parts and no less than 47 clauses. The Ordinances affected are the District Boards Ordinance, the Urban Council Ordinance, the Electoral Provisions Ordinance and the Corrupt and Illegal Practices Ordinance.

The Bill has been carefully studied and Unofficial Members are generally happy with the proposals.

There are, however, two amendments which I will move at the committee stage—

1. The first of these amendments involves the deletion of clause 11(*b*) amending section 21 of the District Boards Ordinance by the addition of a new subsection which reads as follows—

‘(3) The Designated Officer may, by notice in writing, disallow any exercise by the Board of its powers under subsection (1) and any such exercise disallowed under this subsection shall be deemed not to have had effect.’

The sweeping power given to the Designated Officer in the new subsection is considered to be both undesirable and unnecessary. I am happy to report that the Administration has agreed to its deletion. To compensate for this deletion, section 21(*b*) will be amended so that standing orders made under this subsection will have to be ‘necessary and reasonable’.

2. The amendment to clause 45 is purely technical.

The Secretary for District Administration will be moving an amendment to clause 1. This amendment is also purely technical.

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

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, I am grateful to Mr. WONG for his very sound suggestion to amend clause 11 of the Bill, which indeed represents another positive step to facilitate the effective operation of the District Boards.

The amendment that I will move to clause 1 at the committee stage relates to a technical device which allows the transitional provisions regarding the declaration of the numbers of appointed and elected District Board members to take effect immediately after enactment of the Bill.

Sir, I beg to move.

*Question put and agreed to.*

Bill read the second time.

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

## **ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1984**

### **Resumption of debate on second reading (11 July 1984)**

*Question proposed.*

MR. PETER C. WONG:—Sir, I rise to support the Road Traffic (Amendment) (No. 2) Bill 1984.

This is one of a series of amendments in a tidying up exercise since the new Road Traffic Ordinance was enacted on 23 December 1982. The new legislation is scheduled to come into operation on 28 August this year.

The Bill generally receives the support of Unofficial Members. However, I will be moving an amendment to clause 8 of the Bill at the committee stage. Section 63 of the principal Ordinance empowers the police to require a driver suspected of having committed an offence on demand within three months of the offence to give to the police the particulars stated in the relevant subsection. Clause 8 of the Bill removes the three month limitation, thus allowing a longer period to ask for the particulars. However, the extended period is not stated in the Bill. Under the Magistrates Ordinance, any information should be laid before a Magistrate within six months of the commission of a summary offence. The committee stage amendment will make it absolutely clear that this statutory power should be exercised within six months of the date of the offence or accident.

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

SECRETARY FOR TRANSPORT:—Sir, it is gratifying that Unofficial Members generally support this tidying-up Bill, and I accept Mr. WONG's amendment in the spirit of emphatic clarity in which it is 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).*

## **BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1984**

### **Resumption of debate on second reading (11 July 1984)**

*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).*

## **FOREIGN MARRIAGE (AMENDMENT) BILL 1984**

### **Resumption of debate on second reading (11 July 1984)**

*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).*

## **LEGITIMACY (AMENDMENT) BILL 1984**

### **Resumption of debate on second reading (11 July 1984)**

*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 Committees.

### **CHINESE VISA OFFICE (PRIVILEGES AND IMMUNITIES) BILL 1984**

Clauses 1 to 5 were agreed to.

The Schedule was agreed to.

### **CONVEYANCING AND PROPERTY BILL 1984**

Clauses 1, 3 to 8, 10 to 24, 26 to 34, 36, 37, 39 to 43, 46, 48, 49, 52, 54, 55, 57, 58, 60, 61, 63, 65 and 66 were agreed to.

Clauses 2, 9, 25, 35, 38, 44, 45, 47, 50, 51, 53, 56, 59, 62 and 64

MR. PETER C. WONG:—I move that the clauses specified be amended as set in the paper circulated to Members for reasons stated on the notes attached to the printed version of my speech.

#### *Proposed amendments*

#### **Clause 2**

That clause 2 be amended in the definition of ‘assignment’—

(a) in paragraph (a), by inserting, immediately after ‘interest in land’, the following

—  
‘,or in the whole or part of an undivided share in land,’; and

(b) in paragraph (f), by inserting, immediately after ‘assurance’, the following—

‘or conveyance’.

#### **Clause 9**

That the Bill be amended by deleting clause 9 and substituting the following—

‘Presumption in favour of tenancy in common.      9. (1) Where a tenancy in the same estate or interest in land vests in 2 or more persons under an instrument or a will, it shall be presumed, unless the contrary intention is expressed in that instrument or will, that the tenancy vests in those persons as tenants in common rather than as joint tenants.

(2) This section shall not apply to any instrument or will made before the commencement of this section.’

#### Clause 25

That clause 25 be amended—

- (a) in subsection (1), by deleting ‘property’; and
- (b) by inserting, immediately after subsection (4), the following—

‘(5) This section shall apply to assignments, agreements and covenants relating to land and other property.’

#### Clause 35

That clause 35(1) be amended in paragraph (a) by inserting, immediately after ‘interest in land’, the following—

‘,or in the whole or part of an undivided share in land.’

#### Clause 38

That clause 38 be amended—

- (a) in subsection (1), by deleting ‘an instrument in terms appropriate to the circumstances and a solicitor, acting in good faith’ and substituting the following—

‘the appropriate instrument and a solicitor, acting in good faith and with reasonable diligence’; and

- (b) by deleting subsection (2) and substituting the following—

‘(2) A person acting in a fiduciary position, whether with or without a solicitor, shall be entitled to the protection afforded to a solicitor by subsection (1).’

#### Clause 44

That clause 44 be amended—

- (a) by inserting, immediately after subsection (5), the following—

‘(5A) Unless the contrary intention is expressed, the mortgagee under the first mortgage of a legal estate shall be entitled to possession of the deeds of title relating to the mortgaged land.’; and

(b) in subsection (6), by inserting, immediately after ‘mortgage’, the following—  
‘,including a mortgage by sub-demise,’.

#### **Clause 45**

That clause 45(1) be amended in paragraph (c) by inserting, immediately after ‘Banking Ordinance’, the following—

(Cap. 328.)            ‘or a deposit-taking company (as defined in the Deposit-taking Companies Ordinance)’.

#### **Clause 47**

That clause 47 be amended by deleting subsection (1) and substituting the following—

‘(1) A mortgagor and a mortgagee not having possession of the deeds of title relating to the mortgaged land, for so long as they have an interest in that land, shall be entitled at any reasonable times to inspect and make copies of those deeds in the possession of a mortgagee.’.

#### **Clause 50**

That clause 50 be amended by inserting, immediately after subsection (8), the following—

‘(9) This section shall not apply to any mortgage executed before the commencement of this section.’.

#### **Clause 51**

That clause 51 be amended by inserting, immediately after subsection (4), the following—

‘(5) This section shall not apply to any mortgage executed before the commencement of this section.’.

#### **Clause 53**

That clause 53(1) be amended by deleting ‘a statutory’ and substituting the following—

‘an express or statutory’.

#### **Clause 56**

That clause 56 be amended—

(a) by deleting subsection (2);

(b) in subsection (3), by inserting, immediately after ‘entitled’, the following—

‘at his cost and charge,’; and

(c) in subsection (7), by inserting a comma immediately after ‘commencement of this section’ where it first occurs.

### **Clause 59**

That clause 59(1) be amended by deleting ‘or unfair dealing, of any reversionary’ and substituting the following—

‘,of any’.

### **Clause 62**

The clause 62(1) be amended by inserting, immediately after ‘notice’, the following—

‘relating to land’.

### **Clause 64**

That clause 64 be amended by deleting ‘The Governor in Council may by order in the *Gazette*’ and substituting the following—

‘The Legislative Council may by resolution’.

The amendments were agreed to.

Clauses 2, 9, 25, 35, 38, 44, 45, 47, 50, 51, 53, 56, 59, 62 and 64, as amended, were agreed to.

First to Fourth Schedules

MR. PETER C. WONG:—I move that the First to Fourth Schedules be amended as set out in the paper circulated to Members for the reasons explained on the notes attached to the printed version of my speech.

*Proposed amendments*

### **First Schedule**

That Part II of the First Schedule be amended—

(a) by deleting ‘1.’;

(b) by renumbering paragraphs 2. to 6. as paragraphs 1. to 5.; and

(c) in paragraph 3. (as renumbered), by deleting, ‘with the concurrence of any person assigning by his direction,’.

### First Schedule

That Part V of the First Schedule be amended, in paragraph 3, by deleting ‘,with the concurrence of any person charging by his direction,’.

### Second Schedule

That Part A of the Second Schedule be amended—

(a) in the heading, by deleting ‘Flat’ and substituting the following—

‘Residential, Commercial, Industrial’;

(b) in paragraph 5(1), by deleting ‘, incomplete or inaccurate’ and substituting the following—

‘or incomplete’;

(c) in paragraph 7—

(i) in sub-paragraph (1), by deleting ‘7’ and substituting the following—

‘14’; and

(ii) in sub-paragraph (2), by deleting ‘interest, costs or compensation’ and substituting the following—

‘costs or compensation and, if that return is made within 7 days, without interest’;

(d) in paragraph 8, by deleting ‘and at the expense of’;

(e) in paragraph 9, by deleting ‘marketable’; and

(f) in paragraph 10, by inserting, at the end, the following—

‘This clause shall not prevent the vendor recovering, in addition to liquidated damages, damages representing interest paid or lost by him by reason of the purchaser’s failure.’.

### Second Schedule

That Part B of the Second Schedule be amended—

(a) in the heading, by deleting ‘Flat’ and substituting the following—

‘Residential, Commercial, Industrial’;

(b) by deleting ‘1. ON THE PART OF THE BORROWER’; and

(c) by deleting paragraph 2.

**Second Schedule**

That Part C of the Second Schedule be amended—

- (a) by deleting ‘1. ON THE PART OF THE BORROWER’; and
- (b) by deleting paragraph 2.

**Third Schedule**

That Form 1 in the Third Schedule be amended in the heading by deleting ‘Flat’ and substituting the following—

‘Residential, Commercial, Industrial’.

**Third Schedule**

The Form 2 in the Third Schedule be amended—

- (a) in the heading, by deleting ‘Flat’ and substituting the following—  
‘Residential, Commercial, Industrial’; and
- (b) in paragraph 3, by inserting at the end, the following—  
‘The deposit shall be paid to the vendor on completion.’.

**Third Schedule**

That Form 3 in the Third Schedule be amended—

- (a) in the heading, by deleting ‘Flat’ and substituting the following—  
‘Residential, Commercial, Industrial’;
- (b) in paragraph 4(b), by deleting ‘execute’ and substituting the following—  
‘accept’; and
- (c) in paragraph 5, by deleting ‘respectively on the part of the Borrower and the Lender’ and substituting the following—  
‘on the part of the Borrower’.

**Third Schedule**

That Form 4 in the Third Schedule be amended—

- (a) in paragraph 2, by deleting the square bracket immediately after ‘\$’ and substituting a square bracket immediately before ‘Notwithstanding’; and
- (b) in paragraph 3, by deleting ‘respectively on the part of the Borrower and the Lender’ and substituting the following—  
‘on the part of the Borrower’.

**Third Schedule**

That Form 5 in the Third Schedule be amended in paragraph 6 by deleting ‘respectively on the part of the Borrower and Lender’ and substituting the following—

‘on the part of the Borrower’.

**Third Schedule**

That Form 6 in the Third Schedule be amended by deleting ‘intended to be’.

**Fourth Schedule**

That the Fourth Schedule be amended in paragraph 10(b) by deleting ‘execute’ and substituting the following—

‘accept’.

The amendments were agreed to.

First to Fourth Schedules, as amended, were agreed to.

The Fifth Schedule was agreed to.

**CRIMINAL PROCEDURE (AMENDMENT) BILL 1984**

Clauses 1 to 3 were agreed to.

**JURY (AMENDMENT) BILL 1984**

Clauses 1 to 13 were agreed to.

**DISTRICT BOARDS AND URBAN COUNCIL ELECTIONS (MISCELLANEOUS AMENDMENTS) BILL 1984**

Clauses 2 to 10, 12 to 44, 46 and 47 were agreed to.

Clause 1

SECRETARY FOR DISTRICT ADMINISTRATION:—I move that clause 1 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 1**

That clause 1(2) be amended by deleting ‘5’ and substituting the following—  
‘5(a)’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 11 and 45

MR. PETER C. WONG:—I move that clauses 11 and 45 be amended as set out in the paper circulated to Members.

*Proposed amendments***Clause 11**

That clause 11 be deleted and replaced by the following—

‘Amendment of section 21.	<b>11.</b> Section 21(1) of the first principal Ordinance is amended—  (a) by deleting “and the approval of the Designated Officer”; (b) in paragraph (b), by deleting “make standing orders” and substituting the following— “make such standing orders as are necessary and reasonable”.’.
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**Clause 45**

That clause 45 be amended in new section 29A(1) by deleting ‘\$2.00’ and substituting the following—

‘\$2’.

The amendments were agreed to.

Clauses 11 and 45, as amended, were agreed to.

First to Third Schedules were agreed to.

**ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1984**

Clauses 1 to 7 and 9 to 13 were agreed to.

Clause 8

MR. PETER C. WONG:—I move that clause 8 be amended as set out in the paper circulated to Members.

*Proposed amendment*

**Clause 8**

That clause 8(a) be amended in the new subsection (1) by inserting after ‘on demand’ the following—

‘made within 6 months after the date of the alleged offence or accident’.

The amendment was agreed to.

Clause 8, as amended, was agreed to.

**BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1984**

Clauses 1 to 10 were agreed to.

**FOREIGN MARRIAGE (AMENDMENT) BILL 1984**

Clauses 1 to 5 were agreed to.

**LEGITIMACY (AMENDMENT) BILL 1984**

Clauses 1 and 2 were agreed to.

Council then resumed.

**Third reading of bills**

THE ATTORNEY GENERAL reported that the

CHINESE VISA OFFICE (PRIVILEGES AND IMMUNITIES) BILL

CRIMINAL PROCEDURE (AMENDMENT) BILL

JURY (AMENDMENT) BILL

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL

FOREIGN MARRIAGE (AMENDMENT) BILL and the

LEGITIMACY (AMENDMENT) BILL

had passed through Committee without amendment, and the

**CONVEYANCING AND PROPERTY BILL**

DISTRICT BOARDS AND URBAN COUNCIL ELECTIONS (MISCELLANEOUS AMENDMENTS) BILL and the

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

had passed through Committee with amendments. He then moved the third reading of the Bills.

*Question put on the Bills and agreed to.*

Bills read the third time and passed.

**Adjournment**

*Motion made. That this Council do now adjournment*—THE ATTORNEY GENERAL.

4.07 p.m.

HIS HONOUR THE PRESIDENT:—Five Members have given notice of their intention to speak. Although I am sure they will speak concisely, I do not think we can finish this in a half-hour. So I proposed to exercise my discretion under Standing Orders 9(7) and 9(8) to allow Members such time as is necessary to complete their speeches and such time as is necessary for the Official Members to reply to those speeches, before putting the question on the adjournment.

**Freedom of Movement**

MR. LO delivered his speech in Cantonese:—

首先，我可以肯定地說，社會主義和資本主義在理論上絕對可以在一個統一的國家裡共存。我們在香港正面臨這項重大的實驗，我相信如果我們能夠成功，世界將可以變得更美好、更富裕和更穩定。

我們首先要消除大多數人的憂慮，引導他們把精力用於這項令人興奮的工作上，作出貢獻。

讓我們一起創造一個環境，使香港人能夠計劃將來，並以香港為他們自己及子女的家。我們首先要坦誠討論今日的憂慮，以示我們對明日的信心。

當人們生活過得不錯的時候，往往害怕轉變。香港人過去算是生活得不錯，但突然之間，他們要面對一個未卜的前途。故此，他們必會去找尋安全網、太平門、或其他出路。而且，並不是所有香港人都覺得前途未卜那麼簡單，有些人更擔心另一個政權會重蹈覆轍，再次採用它初掌權時的激烈手段。許多人希望英國政府可以給他們一些指引，以加強他們對前途的信心；但他們見到的祇是英國靜靜地通過了精心制訂的法律，把英籍華人拒諸門外。

現在不是適當的時候，這裡也不是適當的場合，去討論英國對香港英籍人士在道義和憲法上的責任，但卻是最適當的時刻和場合去考慮我們是否可以彌補英國國籍法對信心所造成的嚴重打擊。不管是甚麼國籍的香港人，在回想一九八一年英國頒佈國籍法時，都不期然心存憤懣，進而對前途產生焦慮，因為他們不免忖度：

「英國是否早已預料到有大批香港人想離開香港，所以才把大門關上？」

想通了這個問題的答案之後，香港人便不得不找尋大平門、安全網，和其他出路了。

在這方面，我們不需要關心那些大富人家，因為他們一定有方法去求取他們想要的出路。目前香港不能夠忽視的是那些事業有成和具備專長的中產階級。他們正在為自己和家人找尋出路，為此，其中很多人需要離開香港數年，被迫分散家庭、事業半途而廢、子女學業中斷、儲蓄用盡。當這些人獲得他們所想要的出路——一個外國護照，再次返回香港時，他們的一切都要從頭開始。故此，一些人不會接受這項挑戰。這些人突然離開香港，對本港是很大的損失，因為他們是香港卓越成就的支柱，是本港企業的中層管理人才。這些企業提供的就業機會，養活了本港五百多萬人。

而且，這些人雖然不怕艱苦和花費時間去找尋出路，但未必成功。領事館並不一定有他們所需的資料，而資料又可能已過時。律師會索取高昂的費用，甚至很多時對他們執業資格以外的移民條例，所知不多。再者，很多人在尋求出路時可能為投機份子有機所乘，購買一些並不能賦予他們在他國居留權的物業，或花錢買到不一定有效的外國護照。如此一來，他們把精力消耗便沒有餘力去應付本份的工作，而社會的需要，正是各盡所能，各守本份。

更差的是，我們千方百計去尋求出路，會被西方人和西方國家誤解為我們希望即時移民。事實上，他們低估了我們對香港這個家園的依戀。試問他們怎會瞭解我們對香港的繁忙喧鬧、麻雀耍樂、中外食品、以及生動活潑的廣東話的親切感？他們忘記了我們現在擁有高度生活水準，但在外國便不可能再這樣。他們沒有親身體會到香港辦事的速度和效率。他們更不會瞭解那些自我放逐在外國的人不斷感受到的種族歧視。

西方人低估了我們渴望留在香港的心願，以為我們如果有權去外國，便一定會去。因此他們對香港旅客的疑慮日增。這樣一來，便逐漸妨礙了我們的出入自由，無論我們是出外公幹、旅遊、求學或者是移民。數日前有人告訴我一些國家的移民官員已經對香港旅客採取歧視態度，包括學生在內。

我們能否迅速採取行動，令香港居民在外國旅行時，能夠以香港人的身份為榮？我們能否設法令外國明白到實際上我們是希望留在香港？我們可否對於那些認為需要為他們自己和子女找尋出路的人，加以援手？對於以上種種問題，我們是否束手無策？

現在是我們需要自力更生的時候。我們不能期望香港政府會採取可能被視為抵觸英國政府政策的積極行動，亦不能期望其他政府會採取可秦 Q 視為干預香港政制的行動。

我們自己能夠做到的，就是盡力促成一個由私人集資的機構，去執行一些特定的工作，例如：

- (一) 調查是否可以向各國提出保證，出外旅遊的香港居民不會成為他們所到國家納稅人的負累。如果可行的話，世界各地的移民官員便可減低憂慮，港人的地位亦可大大提高。
- (二) 設法使其他國家相信，事實上我們都寧願選擇留在香港，祇不過想在他們的國家尋求一條出路而已。如果成功的話，那些對香港旅客，例如香港學生的不利限制，便可立即獲得放寬，而我們的「難民形象」亦會消除。
- (三) 在一個公開辦事處，為港人提供有關移居世界各地的最新詳盡資料。如果能夠做到可靠有效和費用低廉，便可使那些正在尋求太平門或安全網的人感到沒有那麼徬徨。

為確保這個機構能夠按照原旨辦事，應該設立一個免稅的信託基金，專責處理這個機構的財政開支。基金應該部份來自該機構所收取的低廉費用，而其餘則來自各位社會人士的捐款。

閣下，無可否認，香港是一個奇跡。它在世界出口國中排名第十七，同時是世界第三大金融中心。我們能夠創造這個奇跡，一個主要因素是香港的商人和公務員可以自由出入，到外地去爭取訂單、排解誤會或解決難題。而且往往在出現機會或發生問題後二十四小時內，他們即可到達倫敦、日內瓦、紐約、渥太華或華盛頓等地，為香港爭取或維護重大的利益。我相信在座各位中，亦曾有過以上的經驗。如果當地政府不是即時接受他們的旅行證件，他們怎可以這樣快捷地辦妥事務？閣下，我們必須盡一切努力，維持出入自由。

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

Sir, I shall begin this debate by stating firmly that conceptually it is perfectly possible to have the co-existence of socialism and capitalism within one unified country. We are entering into this great experiment in Hong Kong and I believe if we are successful, the world will be better, richer and more stable.

First, we must dissipate the worries of the bulk of the people, free their creative energies and redirect these energies to our exciting venture.

Let us create an atmosphere in which our people will plan a future in Hong Kong which is their home for themselves and for their children. Let us begin at the beginning and show the confidence that we have in tomorrow by talking openly about the worries of today.

Few people welcome the prospect of change when they are having a reasonably good life. Hong Kong people were having a reasonably good life in the past and they are suddenly confronted with an uncertain future. They are bound to look for safety nets, fire exits or other way out. Moreover, not all of them think that what they are facing is merely unknown. Some fear the repetition of the excessive measures of another regime so evident in its formative years. Many turn to Britain looking for signs that may instill in them the confidence they need for the future. However, what they find is the stealthy passage of elaborate laws which effectively shut out from Britain, British nationals of Chinese race.

This is neither the right place nor the right time to discuss Britain's moral and constitutional obligation towards its nationals in Hong Kong, but this is both the right place and the right time to consider whether we can repair some of the devastating effects on confidence that her Nationality Acts have had. The people of Hong Kong, whatever their nationality, have been driven by recent events to look back in anger at the 1981 British Nationality Act. Their anger has quickly been replaced by deep concern for the future and inevitably they ask the rhetorical question:

'Did Britain close her doors because she anticipated a high demand of the people of Hong Kong to leave the place?'

The answer that they give themselves has led them to search for a fire exit, a safety net or some other way out.

We need not concern ourselves with the very rich, for they will always have the resources to seek the options they want. What Hong Kong cannot afford to ignore at present is the middle class who are successful in business or are professionals. They are looking for exits for themselves and their families; so many would have to leave Hong Kong for a few years; families will be split; careers will be arrested in mid-stream; children's education disrupted and savings spent. When they ultimately return to Hong Kong after getting what they want, a foreign passport, they will have to reconcile themselves to making another fresh start in life. Some will no longer accept that challenge. The loss to Hong Kong caused by their sudden departure is great for they are the backbone of Hong Kong's phenomenal success, and they are the expertise in the middle management of the enterprises of Hong Kong. Such enterprises provide job opportunities and hence support the livelihood of over five million people.

Moreover, not all of them will be successful in the long and arduous pursuit which ultimately leads to the exit. Few consulates have all of the updated information they need. The fees for consulting lawyers are high and the lawyers sometimes know very little about the immigration rules outside the jurisdiction of their own practice. Many in their search for exit may fall prey to sharks and pay for property that does not give them any right of residence or buy foreign passports of doubtful validity. The search will sap much of their energy and there will be little left for the creative work for which they are capable and of which Hong Kong needs.

Worse, our frantic search for exits is being misinterpreted by Western people and Western countries as a desire to emigrate today. They have underestimated the immense attachment that we have for our home here. They underestimate our affinity to the bustle and the noise, to the mahjong games, the varied food and the rich Cantonese language. They forget the very high standard of living that we now have but cannot expect to keep up with abroad. They have not experienced the speed and efficiency of getting things done here. They do not understand the racial discrimination which is experienced by those who are in 'self-exile' abroad.

Underestimating our desire to stay in Hong Kong, Western people think that we would definitely stay abroad if we have that right. Thus they look upon all Hong Kong travellers with increasing suspicion. This will gradually erode our freedom of movement whether we travel for business or for pleasure, for schooling or for immigration. I was told only a few days ago that immigration officials in some foreign countries are already discriminating against the Hong Kong traveller including the Hong Kong student.

Is there nothing we can do to make the Hong Kong believer justly proud of his status whenever he travels abroad? Is there nothing that we can do to make

foreign countries see the truth that we all want to stay in Hong Kong? Is there nothing that we can do to give a helping hand to those who feel in need of an exit for themselves or for their children?

This is the moment when we have to rely on ourselves. We cannot expect the Hong Kong Government to take any positive action that might be construed as being in conflict with the policy of the British Government. We cannot expect any other government to take any positive action that might be construed as interfering with the administration of Hong Kong.

What we can modestly do on our own is to encourage the establishment of a privately funded institution charged to carry out specific tasks such as the following:—

- (1) Investigate the practicalities of guaranteeing all foreign countries that the Hong Kong belonger travellers will not be a liability to the taxpayer of that country. If practicable this would reduce the concern of immigration officers throughout the world and greatly enhance the status of the Hong Kong belonger.
- (2) Convince foreign countries of the fact that all we want from them is just an option and that we much prefer Hong Kong. If it is successful it would immediately ease any discriminatory restrictions against the Hong Kong traveller such as the Hong Kong students and wipe off our refugee image.
- (3) Provide, in an accessible office, comprehensive and up-to-date information on immigration matters throughout the world. If this is done efficiently, reliably and at a low cost, it would ease the minds of everyone searching for that elusive fire exit or safety net.

The expenses of the institution should be funded purely by means of a charitable trust established to ensure that the institution keeps to its original purpose. The trust should be funded partly by receiving the very modest fees collected by the institution and partly by donation from the community.

Sir, undoubtedly, Hong Kong is a miracle. She ranks seventeenth in the World League of Exporters and is also the world's third largest international financial centre. An essential part of that miracle is the freedom of movement of the civil servants and the businessmen, they are free to travel to clinch a deal, resolve a misunderstanding or defuse a problem. Many in our community, including some Members of this Council, have been able to arrive in London or Geneva, New York, Ottawa or Washington within 24 hours when opportunity emerges or the problem arises, to secure or safeguard a vital Hong Kong interest. This has only been possible because their travel documents are immediately accepted wherever they may have to go. Sir, we must do everything we can to maintain such freedom of movement.

MR. CHARLES YEUNG:—Sir, the concept of freedom of movement in a civilised society has a very long history. In the 13th century it was enshrined in the famous English Magna Carta which provides:

‘It shall be lawful to any person, for the future, to go out of our Kingdom, and to return, safely and securely, by land or by water, saving for allegiance to us, unless it be in time of war, for some short space, for the common good of the Kingdom.’

It has since become the paragon of the imprescriptible personal right of the subject of the Crown.

Apart from the right to travel freely, freedom of movement in the context of human rights and fundamental freedom has a significant connotation of freedom of residence within a political sovereign state, otherwise such rights will be illusory.

The Universal Declaration of Human Rights of the United Nations, therefore, promulgates in its Article 13 that everyone has the right to freedom of movement and residence within the borders of each state and has also the right to leave any country, including his own, and to return to his country. This general declaration has since been strengthened by more definitive and detailed provisions of the International Covenant on Civil and Political Rights imposing an absolute and immediate obligation on each of the state parties to respect and to ensure such rights to all individuals within its territories and subject to its jurisdiction.

The American and European countries, as the protagonists of human rights, have further bonded together respectively for the furtherance and enforcement of such human rights by such conventions and conferences as the American Convention of Human Rights and the Council of European Convention for the Protection of Human Rights and Fundamental Freedoms. As an illustration, by article 2 of protocol 4 of the European Convention of Human Rights and Fundamental Freedoms, nearly all the European participating countries (except a few who have failed to ratify it) have submitted their nationality sovereignty to the jurisdiction of the European Court of Human Rights to ensure that everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

As Mr. Lo has spoken fully and boldly on the full spectrum of the immigration insurance syndrome prevailing in H.K. today and my other colleagues will be elaborating on the other aspects of the importance of preservation of freedom of movement, I shall confine myself to illustrate its importance as reflected in the historical scenario in the incarnation of such rights in the legal form which transcends the sovereignty of nations.

MR. CHEUNG YAN-LUNG:—Sir, on 20 April last in Hong Kong, the British Foreign Secretary, Sir Geoffrey HOWE, said Britain's chief concern in the Sino-British negotiations was to preserve the way of life of Hong Kong. He went on to say, 'We know that the preservation of that way of life depends upon continuity—continuity in the essentials of the legal, economic, social and administrative systems, and maintenance of the freedoms that people in Hong Kong now enjoy . . . freedom from arbitrary arrest, freedom of religion, assembly and speech, freedom of travel, and freedom of the press.'

One of the freedoms we now also enjoy in Hong Kong is a right to naturalisation. Our population is 98 per cent Chinese by origin, and, as Lord GEDDES told the House of Lords during the Hong Kong debate last May, and I quote, '... there are excluding Her Majesty's Forces, some 18 000 British citizen passport holders in Hong Kong—18 000 only. They have the right of entry into and abode in the United Kingdom. In addition there are currently about 1.1 million British Dependent Territories citizens who are passport holders. They have the right of entry into and abode in Hong Kong but not in the United Kingdom. They are, however, entitled to British consular protection and can travel without visas to most Western European and Commonwealth countries. There are also a further two million who are eligible for British Dependent Territories citizen passports but who have not yet applied, of whom one million—one-half—have no travel documents of any kind. Finally, statistically, there are a further 1.1 million who have just travel documents, mainly certificates of identity, under which holders are not entitled to British consular protection and have to apply for visas for all countries.'

All over the world, nationality is a source of pride and joy, to its nationals, instilling them with a sense of security and belonging and giving them the right of entry, abode and work, let alone the right to vote. Everywhere it seems but in Hong Kong.

No doubt all Hong Kong people, and in particular British Dependent Territories citizens have good cause to ponder the changing concept of their British nationality, and the uncertain continuity of their present status after 1997. When Hong Kong ceases to be British territory, so will British Dependent Territories citizenship become a thing of the past. And then, where will British Dependent Territories citizens stand in the eyes of China, which does not recognise dual nationality?

Early April this year, I put this question to Mr. Ji Pengfei, Director of China's Hong Kong and Macau Office. Mr. Ji replied that China is prepared to grant Hong Kong British Dependent Territories citizens dual nationality for two generations after 1997, because of our unique historical circumstances. He said that China would not be opposed to British Dependent Territories citizens holding British Overseas citizens passports as well as Chinese passports, *provided* that Her Majesty's Government agrees.

During the House of Lords debate on the Hong Kong question in May, Lord GEEDES took up the case for British Dependent Territories citizens passport holders when he said, and may I quote, ‘. . . would it be acceptable to Her Majesty’s Government to write into any agreement with Beijing that all British Dependent Territories citizens of Hong Kong on the date of hand over would automatically become British Overseas citizens for such a period, under the terms of Part III of the British Nationality Act, as suitably amended to include such persons?’

So far, the official British silence on the subject has been deafening. I personally feel the time has come for the silence to be broken, and in this context, I urge the H.K. Government to support the case of British Dependent Territories citizens and to recommend to Her Majesty’s Government that their rights and the rights of all H.K. people to freedom of movement be clearly outlined in the Sino-British agreement.

Lord GEDDES has pointed out that such a move is most unlikely to ‘. . . open the floodgates of immigration’ from Hong Kong to Britain, but that ‘. . . it could well tip the balance in persuading those who might have thought otherwise to remain in Hong Kong both up to and beyond 1997, thereby maintaining in turn that all-important confidence.’ I personally believe also that such positive action would prove Britain is sincere in her declared objective to preserve continuity and personal freedom in Hong Kong beyond 1997.

Britain is well aware that thousands of Hong Kong people, the majority from the New Territories, have worked hard in the U.K., setting up and running Chinese restaurants and other successful businesses there. Many still have family roots in our New Territories. After 1997, what is the likelihood that their family members still residing in Hong Kong will not be able to be reunited with their family members living and working in the U.K.? What will be the use of freedom to travel for Hong Kong people, without the appropriate documents to do so, and what will be the use of travel documents without the freedom to do so?

While 57.2 per cent of our population was born in Hong Kong, many others came here from different parts of China during the 1940s and 1950s, and indeed more recently. The earlier settlers were mostly refugees and immigrants. They are the hardworking people who first set us on the road to prosperity and stability. Surely they and their families are owed the assurance of freedom of movement in or out of Hong Kong after 1997? The same assurance is vital to our business and financial sectors whose representatives must travel all the time. Freedom to travel is a must for them, and must be assured for all the people of Hong Kong after 1997.

So far, we have heard a lot of talk about our future. But verbal assurances are not enough to convince Hong Kong people. As we await the written draft agreement, we hope it will spell out clearly the continuity of freedoms to which we are accustomed now and to which we must be entitled in the future.

Sir Geoffrey HOWE has stated categorically that Britain's objectives are 'to secure agreement for all the people of Hong Kong'. Meanwhile China has already consented to grant dual nationality to British Dependant Territories citizens, if Britain will agree to let them become British Overseas citizens. Is the ball now not in the British court?

When Sir Geoffrey was asked a pointed question about honouring the eventual agreement by either party, he replied, 'This agreement is going to have particular importance—namely it is a formulation and embodiment in an international agreement between two countries that have got good bilateral relationships with each other, between two countries, each of which will have an interest in upholding its own side of the agreement: interest arising from what it actually wants to secure, arising from its concern for its own reputation before the world, and international opinion. Those are the circumstances which are foundations of the assurance that internationally-binding agreements is the right way concluding this matter.' High sounding words indeed.

Let us hope that the same high standard of honour and integrity is applied to clarifying and safeguarding the personal freedoms, especially the freedom of travel of 5.3 million Hong Kong people, including all British Dependent Territories citizens, and their freedom of movement after 1997, matters still awaiting a Sino-British conclusion.

MISS TAM delivered her speech in Cantonese:—

代理港督閣下：香港啓德機場，去年有三百七十多萬人乘機抵港，其中有二百多萬人是遊客，帶來賺取的收益達一百一十億二千六百萬元。

另一方面，去年香港本產出口貨物之總值，達一千零四十四億零五百萬元。由於這是一個出入自由的城市，外國的買手，可隨時到來訂貨，香港的工商業人士，亦隨時可到外國做推銷，考察工作，以保持與國際市場之聯繫和競爭的實力。

在香港許多的家庭成員，一部份已移居或留學外國或如羅德承議員所說，有各散東西的情形出現。香港出入自由，亦可讓這些家庭成員互相探訪，聚天倫之樂。

香港居民所持的旅遊證件，分為英國屬土公民，(B.D.T.C.)及身份證明書(C.I.)兩種，目前估計，英國屬土公民約有二百五十萬人，其中有一百一十萬人已經領有該種護照。而持有 C.I.者，亦有一百零五萬人。他們均是以香港為家，享有在此永久居留(RIGHT OF ABODE)之權利。

目前持香港政府發出之英屬土公民護照者，可以不必簽證，進入七十多個國家(附表一)。其中包括加拿大、義大利、法國、南韓、菲律賓、比利時、星加坡、瑞士、英國等與香港貿易關係緊密之國家，其他六十一國的名字在我講辭的附表，不再詳述。而持 C.I.者，若要進入澳洲、馬來西亞、新加坡，第十八個國家(附表二)，則通常不獲得簽證。但持 C.I.證者，除可進入中國外，要到東歐國家一遊，卻比持有英國屬土公民護照者容易。因此，英國屬土公民護照與身份證明書，是各有勝長的。

為使香港人在一九九七年後，可繼續出外旅行、營商、和探親，英國在一九九七年之後，對所有現在持有英國屬土公民護照者及其下一代之權利，一定要承擔。雖然屆時持有英籍公民資格，再無「屬土」成份。但該等英籍人仕，必要能繼續保持其受英使節保護之權利。

另一方面，香港資源缺乏，培育人才，是保持繁榮重要因素。一九八一年至一九八三年間，每年平均有一萬二千香港青年，出國留學。其中百份之八十以上，持英國屬土公民護照。到中一九九七年後，香港仍需不斷與世界各國作學術、文化、科技、教育之交流，出入自由，對維繫此種交流，極為重要。

閣下，中英會談對香港前途所達成之協議，應有足夠細節，列明如何保障港人出入自由。而居港之中國籍人士，亦應有特區政府發之護照。另一方面，不論是英籍或中國籍的香港人，均可照現在之香港法例，第一一五章之香港歸屬者(HONG KONG BELONGERS)之釋義，在香港特區仍有永久居留權(RIGHT OF ABODE)。就算違法服刑，除非其自願者外，不能將其解出香港服刑。

如此，能自由出入，能有家可歸，香港人方可保持對此地前途之信心。人心安定，方可繼續繁榮。

國家	無須簽證入境	必須簽證方可入境或過境
	英國屬土公民護照持有人	身份證明書持有人
澳洲		×
巴哈馬	×	×
巴巴多斯	×	×
比利時	×	×
百慕達		×
博茨瓦納		×
巴西		×
文萊		×
加拿大	×	
開曼群島	×	×
哥倫比亞		×
科克群島	×	
塞浦路斯	×	
吉布地	×	
薩爾瓦多	×	
斐濟	×	×
法國	×	
圭亞那	×	
波利尼西亞	×	×
印度群島	×	
岡比亞	×	
直布羅陀	×	
希臘	×	
格林納達	×	
圭亞那	×	
冰島	×	

國家	無須簽證入境	必須簽證方可入境或過境
	英國屬土公民護照持有人	身份證明書持有人
印度	×	
愛爾蘭	×	
以色列	×	
意大利	×	
牙買加	×	
肯雅	×	
吉里巴斯	×	
南韓	×	
幾內亞	×	
菲律賓	×	
葡萄牙	×	
卡塔爾	×	
留尼汪島	×	
塞舌爾	×	
新加坡	×	×
所羅門群島	×	
斯里蘭卡	×	
聖蘆西亞	×	
蘇利南	×	
斯威士蘭	×	
瑞士	×	
坦桑尼亞	×	
泰國	×	
多哥	×	
湯加群島	×	
萊索托	×	
盧森堡	×	
澳門	×	
馬拉維	×	×
馬來西亞	×	×
馬爾他	×	
毛里求斯	×	
蒙地塞納島	×	×
摩洛哥	×	
荷蘭	×	
安地列斯群島	×	
新喀里多尼亞島	×	
尼加拉瓜	×	
尼日爾	×	
巴基斯坦	×	
巴拿馬		×
托貝哥	×	

國家	無須簽證入境	必須簽證方可入境或過境
	英國屬土公民護照持有人	身份證明書持有人
突尼西亞	×	
土耳其	×	
圖瓦盧	×	
烏干達	×	
英國	×	
贊比亞	×	
桑給巴爾	×	
津巴布韋	×	

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

Sir, last year, a total of 3.7 million passengers arrived in Hong Kong by air, 2.7 million of them were tourists, bringing to Hong Kong earnings of \$11,026 million.

On the other hand, the total value of domestic exports in 1983 amounted to \$104,405 million. As Hong Kong is a city with a high degree of freedom of movement, overseas buyers can easily come to Hong Kong to place their orders while local industrialists and businessmen can also travel abroad at any time for marketing or inspection purposes and to maintain links with overseas markets as well as to keep a competitive edge.

Many families in Hong Kong have family members settled or studying abroad. The freedom of movement in Hong Kong also enables members of these families to exchange visits with each other.

Travel documents held by Hong Kong residents fall into two categories, namely: British Dependent Territories citizen (BDTC) passports and Certificates of Identity (CI). At present, it is estimated that there are 2.5 million people in Hong Kong who belong to the category of British Dependent Territories citizens, of whom 1.1 million are currently holding BDTC passports. There are also as many as 1.05 million CI holders. All these people regard Hong Kong as their home and are entitled to the right of abode here.

At present, holders of BDTC passports issued by the Hong Kong Government may travel without visas to some seventy countries (see column I of the table attached) including Canada, Italy, France, South Korea, the Philippines, Belgium, Singapore, Switzerland, Britain and other countries with close commercial ties with Hong Kong. As for CI holders, they usually cannot obtain visas to travel to eighteen countries (listed in column II of the table attached) including Australia, Malaysia and Singapore. However, CI holders, apart from being permitted to enter China, also have advantage over BDTC passport holders in obtaining visas for visiting East European countries. Hence, the BDTC passport and CI each has its own merits.

To enable Hong Kong people to continue to enjoy the freedom of movement after 1997, for the purpose of travel, business or visiting relatives, Britain must take up its responsibility of safeguarding the rights of BDTC passport holders and their next generation. Although the kind of British nationality they are holding now will no longer be related to a British dependent territory after 1997, their right to British consular protection should be retained.

As Hong Kong is lacking in natural resources, the training of local talents has become a paramount factor in maintaining our prosperity. From 1981 to 1983, there were about 12 000 youths who went abroad for further studies each year. And 80% of them were BDTC passport holders. After 1997, there will still be a need for Hong Kong to maintain interflows with various countries in academic, cultural, technological and educational fields. Freedom of movement is vital for such interflows to continue.

Sir, may I suggest that the Sino-British agreement must be detailed enough in delineating clearly how freedom of movement of Hong Kong people can be protected, while passports should be issued to Chinese subjects residing in Hong Kong by the government of the Special Administrative Region. Furthermore, all the citizens of Hong Kong, be they British or Chinese by nationality, should continue to enjoy the right of abode in the Hong Kong Special Administrative Region according to the interpretation of 'Hong Kong belongs' spelt out in the Laws of Hong Kong (Chapter 115). In this respect, a convicted offender should not be subjected to serving his sentence outside Hong Kong, unless he chooses to do so.

The guarantee of freedom of travel and the right of abode in Hong Kong would certainly help to establish Hong Kong people's confidence in the future of the territory. And it is this confidence that helps to sustain the prosperity of Hong Kong.

<i>Country</i>	<i>Entry without visa allowed to</i>	<i>Entry without visa or transit privilege specially excluded</i>
	B.D.T.C.	C.I.
AUSTRALIA		X
BAHAMAS	X	X
BARBADOS	X	X
BELGIUM	X	X
BERMUDA		X
BOTSWANA		X
BRAZIL		X
BRUNEI		X
CANADA	X	

<i>Country</i>	<i>Entry without visa allowed to</i>	<i>Entry without visa or transit privilege specially excluded</i>
	B.D.T.C.	C.I.
CAYMAN ISLANDS	X	X
COLOMBIA		X
COOK ISLANDS	X	
CYPRUS	X	
DJIBOUTI	X	
EI SALVADOR	X	
FIJI	X	X
FRANCE	X	
GUIANA	X	
POLYNESTA	X	X
INDIES	X	
GAMBIA	X	
GIBALTAR	X	
GREECE	X	
GRENADA	X	
GUYANA	X	
ICELAND	X	
INDIA	X	
IRELAND	X	
ISRAEL	X	
ITALY	X	
JAMAICA	X	
KENYA	X	
KIRIBATI	X	
KOREA (SOUTH)	X	
GUINEA	X	
PHILIPPINES	X	
PORTUGAL	X	
QATAR	X	
REUNION	X	
SEYCHELLES	X	
SINGAPORE	X	X
SOLOMAN ISLANDS	X	
SRI LANKA	X	
St. LUCIA	X	
SURINAME	X	
SWAZILAND	X	
SWITZERLAND	X	
TANZANIA	X	

<i>Country</i>	<i>Entry without visa allowed to</i>	<i>Entry without visa or transit privilege specially excluded</i>
	B.D.T.C.	C.I.
THAILAND	X	
TOGO	X	
TONGA	X	X
LESOTHO	X	
LUXEMBOURG	X	
MACAO	X	
MALAWI	X	X
MALAYSIA	X	X
MALTA	X	
MAURITIUS	X	
NONTSERRAT	X	X
MOROCCO	X	
NETHERLANDS	X	
ANTILLES	X	
NEW CALEDONIA	X	
NICARAGUA	X	
NIGER	X	
PAKISTAN	X	
PANAMA		X
TOBAGO	X	
TUNISIA	X	
TURKEY	X	
TUVALU	X	
UGANDA	X	
UNITED KINGDOM	X	
ZAMBIA	X	
ZANZIBAR	X	
ZIMBABWE	X	

DR. IP:—I have listened attentively to my colleagues in their presentation why freedom of movement is so important to the people of Hong Kong and I endorse all that they have said. I have nothing more to add as I cannot foresee that anyone would and could contradict that such freedom is so important to us. It seems to me that the crux of the matter lies in whether Hong Kong is considered important enough for us to be granted what we feel is important. In this respect I would like to say a few words to sell Hong Kong.

Hong Kong is a gateway which connects the East and West where bilingualism of English and Chinese helps to breakdown any communication barrier. Hong Kong sped ahead in a fast development. Now and after 1997 Hong Kong has an obligation and the ability to help modernise China. We are a blossoming flower on Chinese soil attracting people internationally like bees to a flower. For cross pollination to occur we need freedom of movement; to upkeep our standard of modernisation technology and experience we need to have the freedom to travel to and fro. So for those who hold the power to our destiny, give us a chance and we will bring them blossom in return. Thank you.

4.44 p.m.

THE ATTORNEY GENERAL:—Sir, anyone coming to Hong Kong for the very first time, as I did some 13 years ago, has a first impression of a bustling city of people on the move. In no other place that I have visited does everyone seem to be perpetually in a hurry, jostling and weaving about the streets to get somewhere with no time to spare. And this is not just true of movement within Hong Kong. As Miss TAM has pointed out, referring to a number of figures, very many people here are on the move, both in and out. Last year, as she said, some 12 000 students went abroad to study. More than nine million people moved through Kai Tak airport. Nearly ten million people crossed the Chinese border. More than half the population have come to Hong Kong from China to make their homes and they travel regularly outside Hong Kong to link up with their families. Most of these travellers belonged to Hong Kong because the total number of tourists visiting Hong Kong last year was less than three million.

Sir, it is no surprise therefore, at this time of prospective political change, that my Unofficial colleagues should express their concern, as they have done with great sincerity this afternoon, about preserving their right to travel after 1997. Businessmen of course travel abroad from Hong Kong to make contacts with overseas investors, manufacturers and traders. But many more bring here their commercial skills and their designs here because they find in Hong Kong workers who are willing to work and investors who are willing to take risks. So Hong Kong simply has to let people move in and out. To build a wall around Hong Kong, to confine its people to its 400 square miles, would throttle their drive and their energy and condemn this place to become a desolate backwater.

So, it is surely obvious, Sir, that the two Governments who are in negotiation to devise arrangements that will enable Hong Kong to maintain its stability and prosperity must have a common aim to maintain those freedoms. As Mr. CHEUNG Yan-lung reminded us just now. Sir Geoffrey HOWE announced in this Chamber on 20 April last that Britain's chief concern in the negotiations was to preserve the way of life in Hong Kong and in that regard he specifically mentioned in that context the maintenance of the freedom to travel and the continuity of the legal system.

Mr. Charles YEUNG has reminded Members of those provisions of international law which spell out the features of the freedom to travel which has been the subject of this debate, each of these, of course, protected under International Covenants which apply to Hong Kong.

In essence there are four aspects—four freedoms if you will. Freedom to move, freedom to leave, freedom to belong and freedom to return. I'd like to say something about each of these because aliens do not enjoy these freedoms to the same extent as Hong Kong belongs.

Except within areas used for security purposes, all persons lawfully here— both aliens and citizens—can move and reside and buy property where they like in Hong Kong. The only real exception is the case of the Vietnamese refugees in closed camps, a special case to which different principles apply. The right of aliens to buy property in Hong Kong, regardless of nationality, contrasts quite markedly with other places in the world and in this region. A minor factor perhaps, but, it has been provided by law for more than a century and it has significantly contributed to the growth of trade and industry here.

It should be noted that the right to leave Hong Kong gives no right to enter any other territory. Whether that other territory will admit people from Hong Kong is a matter for them and increasingly this century the trend has been working against the free movements of peoples. Governments around the world can no longer keep their doors open to new arrivals. Economic, racial and social pressures from within have produced, as we know, restrictive attitudes.

The third freedom of belonging lies in the right of those who belong to a territory not to be removed or deported from it. Citizens of Greece and citizens of Rome could be banished, but the present position is that once you are a citizen there can be no withdrawal of full rights. With aliens it is another matter. There are gradations but every one in Hong Kong can be deported by due process of law *except* Hong Kong belongs.

The fourth freedom is connected with the third—it is the freedom of the belonger to return from abroad after he has left. No-one can be stripped of their right of abode or be made stateless in his absence.

Sir, these four freedoms are not unqualified but the restrictions on them that are authorised by the International Covenants are heavily circumscribed: only those which are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, *and* are *consistent* with the other rights in the Covenant.

Thus there can be a number of lawful restrictions in Hong Kong. For example the civil debtor, the tax dodger and the fugitive criminal may be prevented from leaving Kai Tak under this umbrella of qualifications.

So far, Sir, I have spoken about the rights and freedoms generally enjoyed by persons in Hong Kong but several Members of this Council have referred to the

special position of British nationals who enjoy resident status in Hong Kong. These rights of nationality depend of course upon British law and ultimately upon a decision of the U.K. Parliament. I understand the wish of British nationals to press their cause upon Her Majesty's Government, particularly at a time of anxiety about the future of this territory. And I would like to pay tribute if I may to the imaginative plan of Mr. T. S. Lo to encourage all governments overseas to be more generous to immigrants from Hong Kong.

Mr. CHEUNG Yan-lung said that there had been a deafening silence from the British side on the issue of the future of British Dependent Territories citizens after 1997. I would however draw his attention to a written answer given in the House of Commons only yesterday which said that question of nationality are under discussion in the talks on the future of Hong Kong being held in Peking between the British and Chinese Governments. Sir, the issues involved are complicated and it would not be appropriate for me to go into details of what is being discussed: but Members of this Council may rest assured that the negotiators have the interests of the whole of Hong Kong's people at heart and will be seeking to incorporate in the agreement clear and detailed provisions for resolving this important issue. The objective which they have in mind is the need to ensure continuity in the freedom of movement which Hong Kong people now enjoy.

But at the same time, Sir, it will be apparent to Members of this Council who take the trouble to read the report of the debate in the House of Commons on 16 May that there was no support expressed by Members of Parliament for wholesale and open-ended guarantees of permanent immigration from Hong Kong into the United Kingdom. The anxieties which give rise to demands for such undertakings are very understandable but the facts of political life appear to me to rule them out. Anyhow, the objective of the negotiators is to produce an agreement which will enable Hong Kong people to go on enjoying the same rights and freedoms which they enjoy today. So let us hope that those who are negotiating will hear the words expressed in this Council and let us hope that the outcome of the talks will succeed in removing their anxieties.

*Question put and agreed to.*

### **Adjournment and next sitting**

HIS HONOUR THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Thursday, 2 August 1984.

*Adjourned accordingly at seven minutes to five o'clock.*