

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 3 April 1985****The Council met at half past two o'clock****PRESENT**

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

THE HONOURABLE THE CHIEF SECRETARY  
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY  
SIR JOHN HENRY BREMRIDGE, K.B.E., J.P.

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

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

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE HU FA-KUANG, O.B.E., 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 DISTRICT ADMINISTRATION

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

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

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

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

THE HONOURABLE CHEUNG YAN-LUNG, M.B.E., 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 DAVID GREGORY JEAFFRESON, C.B.E., J.P.  
SECRETARY FOR SECURITY

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

THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, J.P.  
COMMISSIONER FOR LABOUR

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

THE HONOURABLE KIM CHAM YAU-SUM, J.P.

THE HONOURABLE KEITH LAM HON-KEUNG, J.P.

THE HONOURABLE CARL TONG KA-WING

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.  
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
DIRECTOR OF EDUCATION

THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.  
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E., J.P.  
SECRETARY FOR TRANSPORT

THE HONOURABLE PANG YUK-LING, I.S.O., J.P.  
SECRETARY FOR HOUSING (*Acting*)

**ABSENT**

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

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

**IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR. LI WING

**Papers**

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

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Shipping and Port Control Ordinance.	
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Interpretation and General Clauses Ordinance.	
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Hawker (New Territories) Regulations.	
Restriction of Hawking in Special Areas (New Territories) (Consolidation) (Amendment) Notification 1985.....	75

<i>Subject</i>	<i>L.N. No.</i>
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Tax Reserve Certificates (Fourth Series) Rules. Tax Reserve Certificates (Rate of Interest)(No. 3) Notice 1985.....	78

### **Oral answers to questions**

#### **Confidentiality of Finance Committee items**

1. DR. IP asked:—*Can Government state what are the criteria for classifying certain Finance Committee items as confidential?*

THE CHIEF SECRETARY:—Sir, Finance Committee agenda items are classified confidential if they contain information or material, the public disclosure of which would be prejudicial to the public interest. The fact is that on occasions, when seeking approval for supplementary provision or the acceptance of a new or amended commitment, arguments have to be deployed and evidence produced of a confidential nature. Thus the item itself has to be discussed in a closed meeting, but the actual decision of the Committee is not confidential, obviously, for the published Estimates are, in effect, amended in one way or another.

#### **Treatment of patients in custodial wards**

MISS DUNN asked:—*Would the Government give a full account of the circumstances of the death of an Iranian illegal immigrant while in detention and state the normal procedures for:*

- (a) the provision of interpreters for those who do not speak English or Chinese;*
- (b) the provision of medical assistance for those in need;*
- (c) the use of restraining devices for medical purposes, and*
- (d) whether any steps are being taken to implement the Coroner's recommendations?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, according to medical records, Mr. Azodi Hamid REZA, a 23-year-old Iranian, who was detained under the Immigration Ordinance, was admitted into the Queen Mary Hospital

custodial ward in the early hours of 3.10 a.m. on 21 July 1984, under the care of the University of Hong Kong Medical Unit, for 'rapid breathing, sweating and fever'. On admission, the patient was found to be mentally alert. He had a mild fever and a relatively rapid pulse rate. No other abnormality was detected on physical examination. X-rays and laboratory investigations were also carried out, the results of which were essentially normal. Although the patient did not speak English on admission, the attending physician was able to obtain the necessary medical history from the referral letter which accompanied the patient from the prison doctor. In the afternoon of the same day, the full medical history was obtained by the doctor in charge through interpretation by his brother and friend who spoke English and who subsequently visited him almost everyday. He was tentatively diagnosed as a case of 'viral respiratory tract infection'.

His condition remained satisfactory after admission and in fact his fever subsided the next day. However, during the ward round on the third day after admission, he behaved strangely during a physical examination in that he was observed to press himself against the chest of the doctor who was examining him. Afterwards, he also took off all his clothes. When the nurses tried to put his clothes on again, he became aggressive. Apart from his relatively rapid pulse rate, his condition was stable. On another occasion on the fifth day after admission, he was observed to be banging his head against the wall. Because of his occasionally strange behaviour and persistent rapid pulse rate, further investigations were deemed necessary including psychiatric consultation.

On the next day, i.e., the sixth day after admission, the patient was examined by the psychiatrist in the presence of his brother who acted as the interpreter. The psychiatrist was of the opinion that the patient might possibly be suffering from swings of mood which might arise mainly in persons with neurotic and vulnerable personalities, a condition known as 'acute reactive psychosis'.

On the evening of the same day, the patient had a sudden bout of high fever and was immediately seen by a doctor. Further investigations of his blood and urine were carried out, the results of which did not show anything abnormal. In view of the fact that he had signs of mental disturbance as well as infection, it was thought that viral infection of the lung affecting the heart and the brain was a possible diagnosis at this stage. On the next day, except for the fever and reluctance to take food, his general condition was stable.

However, on the 28 July 1984, i.e. on the eighth day after admission, the patient took a turn for the worse. He was still running a high fever and became drowsy. His condition deteriorated rapidly. He was given immediate and active resuscitative measures, in spite of which he succumbed.

The cause of death as shown by the post-mortem examination was bronchopneumonia.

With regard to Miss DUNN's four specific questions:

- (a) it is existing practice within the government hospitals that whenever there is a need for an interpreter, assistance is sought in the first instance from the patient's relatives and friends or from other members of the hospital staff who may be conversant with the patient's language or dialect. If these sources are unavailable, assistance may then be sought from outside the hospital such as the consulates.
- (b) Patients in the custodial ward, like any other patients in the hospital, are placed under the care of an appropriate specialty unit. Any medical assistance that is needed, including emergency treatment, is provided by the medical staff of that particular unit under whose care the patient has been placed.
- (c) As part of nursing and medical care, restrainers are used from time to time as a normal part of the treatment procedure. The principle and practice of the use of restrainers are inherent in the training and qualification of nursing personnel. Thus, restrainers are used at the discretion of the nursing staff in the interest of the patients themselves, to prevent them from injuring themselves or interfering with certain modes of treatment.
- (d) Yes, Sir. In the first instance, a Board of Inquiry has been established to examine the Coroner's recommendations to see whether these are practicable and, if so, what specific action should be taken in order to implement them, and if the recommendations were in reference to existing practices and procedures, whether they could serve as a basis for improvement. Secondly, I have also requested a copy of the transcript of the complete proceedings of the Coroner's Court which inquired into the case. The relevant documents are still being awaited.

When the inquiry is completed, a formal response will be made to the Coroner regarding his recommendations and inform him of any action taken to implement them.

MISS DUNN:—*Sir, is there any difference in the treatment given to patients who are in custodial wards and those who are in general wards? For example, are patients in custodial wards visited as often as patients in general wards; are normal records kept of patients' conditions between doctors' visits; and is the Government satisfied that the staff do not adopt a less caring attitude simply because the patients concerned are in a custodial ward?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, the direct answer to Miss DUNN's question is no. There is no difference between the treatment given to patients in custodial wards as compared to those in the general wards. They are put under the care of a specialist unit which gives them the same amount of care*

that would normally be given to other patients. Normal records are kept and of course, the staff are expected to see to it that the proper procedures are carried out in consistency with their professional judgement.

MISS DUNN:—*What about the attitude of staff?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—They are expected to behave themselves as doctors or nurses to any patients. To them, a patient in a custodial ward is the same as a patient in a general ward.

MISS DUNN:—*While I accept that the Director of Medical and Health Services is conducting an internal enquiry on the recommendations of the Coroner's jury, would it not be sensible in the meantime to make it a matter of routine to provide interpreters, a matter of routine, not looking around and seeking help from relatives; and secondly, is it not a fact that the use of restrainers is detrimental sometimes in certain conditions and would it not be sensible to establish guidelines now for the use of these devices?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the intention is that even during the course of the enquiry if it is found that certain measures could be taken immediately, they will be taken, for example, guidelines for use of restrainers are being actively considered. As for the interpreters, there is already an arrangement whereby friends or relatives could be used to act as interpreters; if not, there is a list of interpreters which is being provided in the hospital so that they may be called for when necessary.

### **Safety of L.P.G. cylinders**

3. MR. SO asked in Cantonese:—

鑑於過去的洩漏石油氣及石油氣爆炸事件，政府可否告知本局，已採取什麼措施去確保一般石油氣罐的安全？

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

*In view of past incidents of liquefied petroleum gas leakages and explosions, could Government inform this Council what measures have been taken to ensure that L.P.G. cylinders in common use are safe?*

SECRETARY FOR SECURITY:—Sir, L.P.G. cylinders are required by law to be of a type approved by the Director of Fire Services and to meet the specifications laid down in the relevant British Standards or their equivalent. The law also lays down certain requirements for testing cylinders once they are in use.

Further to improve the safety of L.P.G. cylinders, a number of other measures have been introduced over the last two years:

- (a) As a result of an agreement reached between the Director of Fire Services and the oil industry, each cylinder is subjected to a leakage test after re-filling. In addition, the Director of Fire Services and the Gas Adviser are negotiating with the oil industry to introduce further improvements in the inspection of cylinder bodies and cylinder valves before re-filling.
- (b) Additional safety requirements have been introduced on dim sum trolleys using L.P.G. as fuel. Failure to meet these requirements would result in the Director of Fire Services issuing Fire Hazard Abatement Notices against the restaurant operators.
- (c) For the third year running, a major publicity campaign on safety will be mounted in 1985-86. Publicity on the safe storage and handling of L.P.G. cylinders will be included.

In addition to these measures, comprehensive legislation is being drafted to regulate the manufacture, storage, transport and distribution of L.P.G. and other gas fuels. The bill should be introduced into this Council by the end of this year.

MR. SO asked in Cantonese:—

閣下，請問保安司手頭上有沒有資料顯示香港現在可以再充氣的石油氣罐大大小小一共有多少個？

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

*I would like to ask the Secretary for Security whether he has information on hand as to the number of such cylinders in existence in the territory at the moment?*

SECRETARY FOR SECURITY:—No, I'm afraid I have not. If that information is available to the Government I shall certainly pass it on to my honourable friend.

SECRETARY FOR ECONOMIC SERVICES:—I have a note before me that says the current L.P.G. cylinder population is estimated to be about 1.3 million.

MR. SO asked in Cantonese:—

閣下，假如有百餘萬之多的用戶，這些氣體再充氣之後，怎樣去試驗有沒有漏氣及試驗是否由消防事務處做或供應商做呢？

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

*If we have over one million such cylinders how can you test them before refilling, and is the test usually conducted by the Fire Services Department or the supplier?*



SECRETARY FOR SECURITY:—Well, Sir, the testing is done by the oil companies which are filling the cylinders. But the fact of the matter is that with so many millions of cylinders, there are relatively few oil companies and they are prepared to work in close cooperation with the Director of Fire Services on the basis of a code of conduct.

MR. SO asked in Cantonese:—

閣下，市面上現在流行有些石油氣罐用完就不再用，尤其是用來食火鍋的，請問這些不再充氣的石油氣罐，怎樣試驗它有沒有漏氣？

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

*Now in the market something is very popular, that is the disposable type of cylinders used for hot pots, for instance. How do you test the leakage of such cylinders then?*

SECRETARY FOR SECURITY:—The point is that the cylinders are filled by the oil companies and it is at that point in time that they are tested for leakage. Once they are out in the market and if they are misused by the people who have them, I'm afraid that's their worry.

#### **Fringe benefits for local directorate officers**

4. DR. IP asked:—*What are the maximum costs to Government for providing to a local directorate officer (say a person on D1 of the Directorate pay scale who is married and has four children studying in the United Kingdom) the following fringe benefits:*

- (a) private tenancy allowance;*
- (b) overseas education allowance and school passages; and*
- (c) leave passages?*

THE CHIEF SECRETARY:—Sir, the theoretical costs are as follows:

- (a) private tenancy allowance: \$97,200 per annum;*
- (b) overseas education allowances and two return school passages for each child each year: \$158,500 per annum; and*
- (c) leave passages every second year for the officer and dependants excluding those in receipt of school passages: \$12,613 per annum.*

If Dr. IP wishes to have the actual calculations on which these figures are based, I shall send them to her.

However, I should say, though, the *actual* number of children for whom overseas education allowances and school passages are currently being paid works out at an average of 1.09 children per claimant officer. I would add for good measure, in order to demonstrate that Dr. IP's example of a D1 officer with four children being educated overseas is a little unrealistic, that there are no officers, local or overseas, of any rank, claiming overseas education allowances for four dependent children. In fact, 80 per cent of the 2 060 officers (1 650 local officers and 410 expatriate officers) claiming overseas education allowance claim for one child only, 19 per cent claim for two children and 1 per cent claim for three.

### **Use of restrainers on children**

5. DR. IP asked:—*Would the Government make a statement on the use of restrainers on children in government and government subvented hospitals?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I am grateful to Dr. IP for providing this opportunity for me to comment on the use of restrainers on children in the public hospitals. I have been following with great interest the recent discussions on radio as well as the media on this subject which reflect the concern from certain quarters over the use of restrainers on children in our public hospitals.

I should like to assure honourable Members from the outset that I share this concern and would wish to keep an open mind on this subject, which understandably must be one that is foremost in the minds of all who have the welfare of children at heart.

I think it is fair to say that as a common ground for agreement, all concerned are anxious to see that the young patients in our hospitals are given good medical and nursing care and brought back to health as soon as possible in safety and without undue harm in the treatment process. I therefore wish to put this subject of restrainers in perspective.

Restrainers are used from time to time in our public hospitals as an aid to medical and nursing care at the discretion of the attending nursing personnel and in the interest of the patient himself. I am assured by staff working in the paediatric wards that the restrainers are used in accordance with the principle and practice for the use of such and which are inherent in the training of nursing personnel. Therefore, restrainers are used in particular for three main reasons:

- (a) as part of good nursing and medical care so as to prevent the patient from interfering with the life supporting devices and modes of treatment and to promote the healing process;
- (b) to prevent the patient from injuring himself; and
- (c) to prevent the patient from falling.

I am further assured that these restrainers are used with due care and only when considered necessary by trained staff and even then they are not regarded as a substitute for personal observation by the staff. The word 'restrainer' perhaps does not adequately describe this aid to nursing as it may conjure up an image of confinement and complete immobilisation. In fact, the usual form of restrainers used in the wards is a vest which is worn in such a way that the patient is allowed a comfortable range of movements consistent with his condition and it is removed as soon as it is no longer required.

It has been suggested that a better nurse-staffing ratio may minimise or even eliminate the use of restrainers entirely.

I am given to understand by my staff that in practice it may not be possible to dispense with the use of restrainers altogether. This is because of the fact that there will always be situation or circumstances which will require the use of restrainers irrespective of the numbers of staff in the wards.

Further, there must be a limit to increase in staff ratio in practice by reason of the fact that manpower resources are finite. Improved staff ratio therefore cannot be considered as an alternative to the use of restrainers which are applied for specific purposes.

On the other hand, the extent to which restrainers are used may vary with different circumstances, different types of patients, different age groups, etc.

Further, it has been suggested that mothers who are allowed to stay with their children may be of help to minimise the use of restrainers. I am inclined to agree with this view and honourable Members may be pleased to know that visiting hours of our children wards are very flexible and considerably longer than those of adult wards. In appropriate cases, mothers are also allowed to remain with their children overnight.

Again, in all our future major hospitals, special mother-rooms are incorporated. This will help to improve the situation further.

In any case, in view of the great concern that has been expressed in public over the use of restrainers on children, I have requested the administrations of our public hospitals to monitor and to review the use of restrainers on children with a view to ensuring that the principles governing the use of restrainers are observed and to taking any practical measures necessary to minimise such use in their hospitals.

DR. IP:—*Sir, would the Director of Medical and Health Services consider drawing up guidelines for the use of child restrainers to be useful and if so, could this be done?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir, when I say that I have asked the hospital administration to review the practices this will be one of the matters under review.

DR. IP:—*Sir, excluding thoses cases where restrainers are required for medical reasons and excluding the reality of financial constraints, would Government consider that with a higher nurse/child ratio restrainers need to be used less frequently?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—As I said, more staff in the ward are always welcome, but there must be a limit to increase in staff. While I would accept the principle that if a good case is made for increase in staff this will be considered I would also caution that this by itself will not practically eliminate the use of restrainers.

DR. IP:—*Sir, my last question. Do parents with children in government hospitals have the absolute right to refuse to have his or her child to be in restrainers, and if they do, could Government consider this as good grounds for allowing the parents whose child is very agitated to stay with the child at night rather than to risk the child falling out of its cot?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—As I said earlier, mothers are welcome to stay in the wards, especially in appropriate cases where the child is fretful or if there is a real need for the mother to be present.

### **Flooding in Shau Kei Wan Main Street East**

6. MR. CHAN YING-LUN asked:—*Can Government inform this Council the cause of flooding of Shau Kei Wan Main Street East on 11 March 1985 and what short and long term measures are being taken to solve this problem?*

SECRETARY FOR LANDS AND WORKS:—Sir, the recent flooding in Shau Kei Wan Main Street East was caused by the blockage of the drainage system in the vicinity. This blockage is attributed to a number of factors.

With the extensive redevelopment and an increase in population in this area, there is a corresponding increase in the demand placed on the capacity of the existing drainage system which is old. Over the years, the build-up of solid matters on the inside of the pipes has further reduced the capacity of the drainage system. Additionally, extensions to the system to cater for the Aldrich Bay reclamation works, currently in progress, have decreased the hydraulic gradient, thereby reducing the efficiency of the gravity flow. Illegal dumping at the temporary outfall, and damage to the outfall pipe as a result of settlement which adversely affects the discharge into the sea, have further exacerbated the problem of blockage.

Clearance operations to unblock the particular section causing flooding in Shau Kei Wan Main Street East are in hand by the Highways Office and the flooding problem has for the time being been alleviated. Additionally, plans are

in hand to construct an extension to the existing drain pipe of the outfall so as to eliminate the possibility of the drain being blocked by illegal dumping of rubbish. This project is scheduled for completion in September this year.

However, such clearance operations are but short term measures. The basic problem of the old drainage system in low-lying areas will remain unless longer term solutions are introduced. The longer term solution involves the widening and raising in level of Shau Kei Wan Main Street and at the same time replacing the present drainage system by one of adequate capacity. This is dependent on the redevelopment of the remaining properties in the area, the timing of which is uncertain. However, the feasibility of replacing the critical segment of the drainage system servicing this area is being examined with a view to effecting a significant improvement in the medium term.

MR. CHAN YING-LUN:—*Sir, while I am satisfied with the reply by the Secretary for Lands and Works, can he further explain the reasons for the build up of solid matters on the inside of the pipes as mentioned in paragraph 2 of the reply?*

SECRETARY FOR LANDS AND WORKS:—It is normal over the years that various matters such as grit and grease do get into the drainage systems and solidify. The problem is exacerbated by construction activities where people wash down the cement slurry into the drainage system and the cement slurry solidifies inside the pipes.

### **Personal data of District Board voters**

MR. CHAN YING-LUN asked:—*Can Government inform this Council what sort of research, if any, is being conducted into the District Board elections on 7 March 1985 and to establish the personal data such as age, sex, etc., of the voters on the electoral roll?*

SECRETARY FOR ADMINISTRATION SERVICES AND INFORMATION:—Sir, it is an established practice for Government to conduct an internal review of the electoral procedures after the conclusion of each election.

The review for the 1985 District Board election will be carried out this month.

Apart from the mechanics and details of electoral arrangements, the review will cover other related matters such as rate of turn-out and whether there is any need for stricter control of the campaign activities outside polling stations. Comments from the public, the media, the polling staff and district office staff will all be taken into account.

As regards breakdown of personal data by age, sex, etc., the register of electors, or the electoral roll, only contains minimum information necessary for conducting elections. It contains ID card number, name, sex and residential address and nothing more. The requirement in respect of age is that the person

is not less than 21 years old, and this fact is established when the voter makes an application to register. It is therefore not possible to establish either from the application form or from the electoral roll the age of voters.

The breakdown of electors by sex is as follows: 767 889 male electors and 653 502 female electors.

MR. CHAN YING-LUN:—*Sir, referring to paragraph 5 of the answer, does the Government have the breakdown by sex of those who actually voted?*

SECRETARY FOR ADMINISTRATION SERVICES AND INFORMATION:—No, Sir.

MR. CHAN YING-LUN:—*Besides the internal review, are other researches also being conducted by Government with a view to better promoting the next District Board election and to establishing its implications for the constitutional development of Hong Kong?*

SECRETARY FOR ADMINISTRATION SERVICES AND INFORMATION:—Sir, the result of each District Board election will be carefully monitored with a view to making any improvements that might be required.

### **Acquired Immune Deficiency Syndrome (AIDS)**

8. MRS. NG asked in Cantonese:

政府可否告知本局，採取了什麼措施去控制愛滋病，以免其在本港蔓延？

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

*Will Government inform this Council what measures have been taken to contain AIDS in Hong Kong?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, since November last year, an expert advisory committee on AIDS (Acquired Immune Deficiency Syndrome) consisting of medical experts and senior administrators in my department as well as from the Medical Faculties of the Hong Kong University and the Chinese University of Hong Kong has been established to monitor developments on this subject. The committee has, *inter alia*, recommended measures to contain this syndrome. In the course of its deliberations, it has also set up guidelines to medical, nursing and laboratory staff on the diagnosis and reporting of AIDS and precautionary measures to be taken in handling cases. The measures as recommended by the committee and now being implemented by my department are:

(a) *Intensified surveillance*

In Hong Kong, we are fortunate to have an effective surveillance system for the detection, report, investigation and treatment of all communicable

diseases. This consists of the extensive network of public hospitals and clinics which is time-tested and extremely efficient in detecting any cases of communicable disease including AIDS that may occur so that the health authority may be alerted to deal with them.

(b) *Health education*

In Hong Kong, as in other countries, the emergence of AIDS as a newly recognised disease has given rise to considerable press and media publicity. In the circumstances, misconceptions about AIDS and its epidemiology and modes of transmission are bound to be generated. It is important that the public be educated so that they may have a clear understanding of the facts of the disease and that any misconceptions and undue anxieties may be allayed. To this end, my department's Central Health Education Unit has since made AIDS a priority subject for its health education programme. Medical staff in the clinical units as well as the Central Health Education Unit have taken part in press conferences and participated in a series of television and radio interviews. The Central Health Education Unit has also produced special leaflets on this subject for distribution to medical institutions and professional associations. Leaflets and information are made available freely to the general public through three health education centres located in Hong Kong, Kowloon and the New Territories. The locations of the centres have been publicised in the press.

A 24-hour telephone service, the so-called 'hotline', to make available accurate and up-to-date information on this disease to all who are interested has been established since 9 March. The service is now available in both Chinese and English. It also serves as a valuable point of contact for persons who may be specially interested to know more about the subject and who may wish to have access to counselling. I might add that in the short space of three weeks since its inception, this service has been most popular. More than 800 callers have used the service, many of whom have expressed satisfaction with it. Thus, this has proven to be a useful source of information for the public and has been instrumental in clarifying much misconceptions and helped to alleviate undue fear in the community.

(c) *Information and protection for health care staff*

Guidelines to the health care staff who are involved in handling patients and materials have been issued to all public and private hospitals. The management committees in the regional hospitals have been alerted to take steps to ensure that the necessary precautions are followed. Special lectures are organised on the subject for the medical staff and, again, the Central health Education Unit is currently running a number of lectures for nursing and laboratory staff in the major government hospitals.

The Consultant Pathologists in charge of laboratories in regional hospitals have also implemented safety precautions and guidelines in the laboratories. If proper precautions are followed, there is practically little risks of contracting AIDS by health and laboratory workers.

(d) *Safeguards for blood supply*

(i) Since 1983, the Hong Kong Red Cross has introduced a procedure to try and exclude persons belonging to the high risk groups such as homosexuals and drug addicts from donating blood. The procedure is known as the 'green card' system whereby a card is distributed to the potential donors at the blood collection centres specifying that those belonging to the high risk groups should not donate blood. The system, from experience, has worked satisfactorily.

(ii) *Testing of blood for antibodies of the virus*

A test for the presence of antibodies to the AIDS virus is now available commercially. A submission has now been made to the Government for provision of funds to introduce a screening programme for all donated blood at the Hong Kong Red Cross Blood Transfusion Service. Given the support from honourable Members of this Council, the service should be available in about four months' time. This will ensure a safe blood supply to the recipients of blood.

In addition, it is intended to provide facilities at the Government Institute of Pathology for testing the blood of individuals belonging to the high risk groups on a doctor-referral basis.

As AIDS is a newly recognised disease in the world, my department has taken measures to obtain up-to-date information as well as to monitor the latest advances in regard to this disease.

To this end, we are in touch with the World Health Organisation, the Disease Control Centre on AIDS in the United States and the Department of Health and Social Security in the United Kingdom.

Also, one of our senior Consultant Physicians has recently visited the Disease Control Centre on AIDS as well as cities in America where the largest number of AIDS cases are concentrated. He has confirmed on his return that all the measures that we are taking in Hong Kong are similar to those that are now being taken by the advanced countries in the world in regard to this disease.

The situation in regard to AIDS is closely monitored by the expert committee which I have mentioned at the beginning and in the light of new scientific data and knowledge, further recommendations may be made by the committee as and when necessary.



Thus, I am satisfied that we have taken all appropriate and effective measures to contain AIDS in Hong Kong.

MRS. NG asked in Cantonese:—

閣下，很高興知道政府已經有這麼多措施去應付愛滋病，還想知道政府有沒有立例去控制愛滋病患者，來保障其他市民的健康？

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

*I am glad to know that the Government has taken so many measures to contain AIDS. I would also want to know whether the Government has made legislations to control AIDS patients in order to protect public health?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, legislation to control infectious diseases is already provided in the Quarantine and Prevention of Disease Ordinance and the Prevention of the Spread of Infectious Diseases Regulations. AIDS is but one of the infectious diseases that may come under these regulations. However, it is not considered necessary to include AIDS as a notifiable disease yet, in view of its epidemiology and the mode of spread, and because of the fact that there are only two imported cases. We will be monitoring the situation and if necessary we may declare this syndrome notifiable.

### **Visual arts education**

9. MR. YEUNG PO-KWAN asked:—*In view of the growing local interest in the visual arts, will the Government make a statement on:*

- (a) whether there is a need for visual art education both in schools and at the tertiary level; and*
- (b) whether there is a need for arts students to be educated at the tertiary level in such a way that they can fill vocationally-oriented posts in arts administration, curatorial work and secondary school teaching?*

SECRETARY FOR EDUCATION AND MANPOWER:—Visual arts education is being provided in both schools and at the tertiary level.

Art and Craft and Art and Design are taught in schools on the basis that creative endeavour through observation, tactile experience and simple, practical techniques, is an essential part of education. The syllabuses are designed to cultivate aesthetic appreciation and develop a pupil's imaginative and creative powers, through use of a wide variety of materials and techniques, with equal emphasis placed on the creative process and an appreciation of the finished product.

Art and Craft is taught in primary schools and the syllabus covers picture-making through drawing, painting and collage; print-making; basic design; three-dimensional work and art appreciation through an introduction to both Chinese and Western art.

Art and Design is taught in about two thirds of junior secondary and one-third of senior secondary classes. The syllabus includes drawing, painting, sculpture, graphic design, crafts, three-dimensional design, calligraphy and lettering, and art appreciation. Most schools follow the recommended allocation of three periods per week for this subject.

Since 1981, all public sector primary schools have been provided with a special room for arts and crafts. In secondary schools, well-equipped art rooms are a feature of the current design.

With the introduction of these new syllabuses in 1979 and improved resources and facilities in schools, there has been a ten-fold increase in the number of pupils taking art in the Certificate of Education Examination in the past five years. Art is also offered as a subject in the Higher Level Examination and there are plans to offer it at Advanced Level in the near future.

As regards the tertiary sector, both of our universities have a Department of Fine Arts providing under-graduate training aimed, among other things, to promote a general appreciation and understanding of the visual arts and to provide knowledge of major trends in the evolution of the visual arts in both East and West. The current enrolments are 56 at the Hong Kong University and 71 at the Chinese University of Hong Kong. Graduates are well placed to fill vocationally-oriented posts in arts administration, curatorial work and secondary school teaching.

To provide intending teachers with additional training, the Chinese University of Hong Kong also runs a post-graduate training course for fine arts graduates. The Hong Kong University through its Extra-mural Department has, since September 1982, been running extra-mural post-graduate certificate courses in arts administration for practising administrators in both the public and private sectors.

Furthermore, the Hong Kong Polytechnic, through its Swire School of Design, offers a variety of courses in this field. The Bachelor of Arts Degree Course in Design is offered for the first time in this academic year with an intake of 54 students. In addition, the school offers a Higher Diploma Course as well as a Diploma Course in Design and eight part-time evening programmes at Certificate and Higher Certificate levels, e.g. creative screen printing, studio ceramics and applied photography.

Finally, the Colleges of Education run by the Education Department also provide training for both intending and practising teachers. At the pre-service level, Art and Design is an elective subject and at the advanced level, practising teachers may enroll in the one-year full-time Advanced Course of Teacher Education in Art and Design.

MR. YEUNG PO-KWAN:—*Sir, apart from the offer of the Bachelor of Arts Degree Course in Design, will Government consider introducing a Degree Course in Visual Arts in the Hong Kong Polytechnic wherein the philosophy is not dedicated primarily to academic art history, as offered by the Fine Arts departments of the two universities?*

SECRETARY FOR EDUCATION AND MANPOWER:—A Polytechnic proposal has been put to the University and Polytechnic Grants Committee. Indeed, they have consulted us for Government's view on this. We supported such a course in principle, and the Polytechnic no doubt are now considering whether this course can go ahead in the light of the resources available.

MR. YEUNG PO-KWAN:—*Sir, as visual arts may also constitute an equally important component of the Hong Kong's cultural life as performing arts, will Government consider asking the Academy for Performing Arts to take on visual arts, and, if this is not viable, will Government consider setting up a new Council to promote deeper appreciation and further understanding of visual arts?*

SECRETARY FOR EDUCATION AND MANPOWER:—I think the second half of the question goes beyond education into the realm of general policy on culture. I think at the moment, it is only fair to say that the Academy for Performing Arts is only just out of the cradle. I think at this time it will be quite unreasonable to expect that it will make any contribution in the visual arts field until at least they have established themselves in the performing arts field.

MR. ALEX WU:—*Is Government satisfied that there are sufficient facilities such as museums, galleries, and contents therein, to cope with the teaching of visual arts, especially in cultivating and understanding aesthetic appreciation?*

SECRETARY FOR EDUCATION AND MANPOWER:—Sir, I am sure we would all like more art galleries and museums. I think it would be fair to say that there are sufficient number of such institutions at least to provide some assistance to the education system.

### **Crimes involving the use of stolen/lost credit cards**

10. MR. CHEUNG YAN-LUNG:—asked in Cantonese:—

政府可否就最近有關使用偷竊得來的信用卡的罪案數字作出聲明？當局可有採取什麼行動去遏止這些罪案？

(The following is the interpretation of what Mr. CHEUNG Yan-lung asked.)

*Can Government make a statement on the level of crimes committed recently involving the use of stolen credit cards? What actions are being taken to combat these offences?*

SECRETARY FOR SECURITY:—Sir, in 1983, 138 cases involving the use of lost or stolen credit cards were reported. In 1984, there were 77 cases. In the first two months of 1985 there were ten. The total value of the property misappropriated was \$1 million in 1983, \$0.98 million in 1984 and \$51,000 in the first two months of 1985.

I must be careful in answering the second part of Mr. CHEUNG's question not simply to provide stealers of credit cards with a guide on how to use them. But I can say that the police have been encouraging the credit card companies to improve their crime prevention measures. Through the regular liaison that exists between the police and these companies the police are encouraging them to improve the security of their systems—

—by insisting on shops, restaurants and so forth obliging card users to produce an identity card or passport before a transaction is conducted;

—by using plain envelopes rather than those with the company name emblazoned on them when sending the cards by post.

MR. CHEUNG YAN-LUN:—asked in Cantonese:—

閣下，政府可否告知本局有否計劃宣傳教導市民如何防止被信用卡作弊及行騙？

(The following is the interpretation of what Mr. CHEUNG Yan-lung asked.)

*Sir, can the Government inform us whether they are planning a publicity campaign to teach the general public how to use their credit cards?*

SECRETARY FOR SECURITY:—No, Sir, this is not part of the publicity campaign as far as the coming financial year is concerned.

### **Teaching centres and regional teachers' centres**

11. MRS. FAN asked:—*Could Government inform this Council:*

- (a) *how frequently and in what numbers are teachers using the six teaching centres run by the Advisory Inspectorate;*
- (b) *is Government satisfied with the present level of utilisation of these centres; and*
- (c) *what progress has been made with regard to the setting up of the first regional teachers' centre proposed by the Education Commission in its first report?*

DIRECTOR OF EDUCATION:—Sir, in answer to the first part of the question, there are at present six teaching centres, three resource/display rooms and a Media Production Services

Unit run by the Advisory Inspectorate. The six teaching

centres are for Chinese Language, English Language, Cultural Crafts, Mathematics, Science, and Social Subjects. The three resource/display rooms are for Activity Approach, Kindergarten Education and Moral Education.

These centres are being used regularly throughout the year. In the 12 months ending February 1985, 8 678 teachers visited and used these facilities, while 10 545 teachers attended various in-service training courses conducted there.

Within the limits of existing staff and other resources, the department is generally satisfied with the present level of usage. More of course can still be done, such as giving wider publicity and offering more in-service training courses. 334 such courses were organised in the past year and 245 have been planned for the next six months.

On the final point of Mrs. FAN's question, a working group has been formed within the department to plan for the setting up of the first regional teachers' centre.

Before the establishment of the Education Commission, there were already plans to set up a teachers' centre on the lower floors of the former Tanner Road Police Primary School at Pak Fuk Road, North Point, which at present also houses the Cultural Crafts, Mathematics, Science, and Social Subjects Teaching Centres. The working group will include, as one of its first tasks, a review of these plans in the light of the recommendations of the Commission.

MRS. FAN:—*Sir, can the Director of Education confirm whether it is a fact that the opening hours of the teaching centres and the resource display rooms mainly fall within office hours during which time teachers are expected to teach in schools; and whether it is also true that there are no full-time professional staff assigned to look after the operation of the centres; and if by and large the answer to both questions is yes, can the Director of Education tell us what means he is considering to improve the situation?*

DIRECTOR OF EDUCATION:—The various centres vary in their opening times. It might be helpful if I list these hours separately:

- (a) the Cultural Crafts and Language Centres are open daily during office hours;
- (b) the Mathematics, Science and Social Subjects Centres are open on all Wednesdays;
- (c) the display rooms are open on Wednesday and Saturday mornings; and
- (d) the Media Production Services Unit is open seven days a week from Monday to Sunday, including Fridays, up to 7 p.m.

It is true most of these centres are not staffed by full-time staff, because we intend to maximise the use of our existing resources. In addition, the public and

the teachers can also organise visits by appointments. So far the visits that have been done by appointments are not in large numbers. However, we are quite prepared to respond to more requests for visits and we might be able to seek additional staff, if the cases justify, to extend the opening hours if necessary.

## **Government Business**

### **Motion**

#### **HONG KONG EXPORT CREDIT INSURANCE CORPORATION ORDINANCE**

THE SECRETARY FOR TRADE AND INDUSTRY moved the following motion:—That the contingent liability of the Hong Kong Export Credit Insurance Corporation under contracts of insurance shall not at any time exceed the sum of 4,200 million dollars.

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

In April 1984 the maximum contingent liability of the Hong Kong Export Credit Insurance Corporation was increased by \$500 million to \$3,500 million. During the past year the Corporation's liability under contracts of insurance has risen by \$560 million and at the end of January 1985 stood at \$3,317 million.

With exports going well, the contingent liabilities of the Corporation are increasing at the rate of approximately \$140 million per quarter. In the circumstances the Corporation's Advisory Board considers that the existing statutory limit may be reached before the end of March 1985. It has thus advised that the maximum contingent liability should be increased by \$700 million to \$4 200 million. Failure to raise the limit could result in the Corporation having to turn away further business and discourage exports. On the basis of the usual gearing of three, up to \$233 million will have to be set aside from the free fiscal reserves as cover for the additional contingent liability.

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

Sir, I beg to move.

*Question put and agreed to.*

### **Second reading of bills**

#### **LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS) BILL 1985**

#### **Resumption of debate on second reading (13 March 1985)**

*Question proposed.*

MR. PETER C. WONG:—Sir, the Bill now before Council marks a further step towards the development of representative government in Hong Kong. The main object of the Bill is to give legislative effect to the proposals set out in the White Paper on the same subject which was debated in this Council early this year.

Unofficial Members are well aware of the importance of this Bill which provides for the establishment of the electoral college constituencies and the functional constituencies from which 24 members of the Legislative Council will be elected in September this year. A special *Ad Hoc* Group comprising some 15 Members was set up to scrutinise the provisions of the Bill, and I am pleased to say that detailed consideration has been given to all the 46 clauses and the two important schedules. Despite the very heavy legislative programme and the many UMELCO commitments, the group managed to complete its deliberations, including receiving and considering representations and discussions with the Administration, within the extremely tight time frame of three weeks. We were told that a slippage of two or three days in the passage of the Bill would almost certainly upset the whole programme and further postponement of the election now scheduled to take place in September would be inevitable.

I realise that the Administration is working under great pressure, but it is nevertheless a matter for regret that such an important Bill should have to be pushed through in the short space of three weeks!

Representations received from organisations affected by this Bill included those from the Hong Kong Association of Banks, the Hong Kong General Chamber of Commerce, the Chinese General Chamber of Commerce, the Federation of Hong Kong Industries, the Chinese Manufacturers' Association of Hong Kong, the Hong Kong Council of Social Services and the Staff Side of the Model Scale I Staff Consultative Council.

These have all been carefully considered and duly forwarded to the Administration, with comments from the group where appropriate. I would like to take this opportunity, Sir, to express the group's appreciation of the views and suggestions made by these organisations.

Detailed discussions with the Administration have achieved broad agreement and resulted in seven agreed amendments which I will move at the committee stage.

Naturally, Unofficial Members were concerned with the principles involved as well as the details of the Bill. I believe Members would like to know that the new concept of 'substantial connexion' in relation to functional constituencies has received the Group's most careful consideration.

In his speech in moving the second reading of the Bill, the Chief Secretary pointed out that this concept was introduced to ensure that candidates standing for election in functional constituencies were properly qualified to represent the interests of their respective constituencies. This I fully endorse. Although clause



2(4) of the Bill attempts to give a broad definition on what constitutes a ‘substantial connexion’, this is not really helpful in deciding whether a particular person has a substantial connexion. It is therefore not surprising that concerns were expressed by various sectors of the community, not the least by Members of my group.

While my colleagues and I do appreciate the difficulties in arriving at an exhaustive list of such connexion, it is important that registration officers should at least be thoroughly briefed on the criteria to be applied. Flexibility should not be confused with lack of clear guidelines. Undoubtedly, the views of the various representative organisations would be useful in the drawing up of guidelines and I believe this is an area which merits further consultation. Reasons for disqualifying a person for not having a substantial connexion should preferably be given. And avenues for appeal against the decision of the registration officer should be available.

Sir, may I now turn to the agreed amendments. There will be technical amendments to clauses 10, 14(2), 15(2) and 36. I shall deal with the rest in some detail:—

1. *Clause 3(2)*

The words ‘3 months’ will be substituted by ‘90 days’. The reason for this amendment is to ensure that the wording in the Ordinance will be in line with that of the Letters Patent and the Royal Instructions. These documents, we were given to understand, are being amended so as to facilitate the implementation of the proposals set out in the White Paper. The group noted that there was nothing in the Bill to indicate how the territory would be governed on the dissolution of the legislature and before new members are elected. Again, we were given to understand that this would be provided for in the Letters Patent and the Royal Instructions. Obviously, the necessary amendments would have to be approved fairly quickly if our election is to take place as scheduled.

2. *Clause 21*

(a) The words ‘other than as a member of an auxiliary force’ in the existing subsection (b) would be deleted. There is no valid reason why a member of an auxiliary force should not be considered as holding public office.

(b) A new subsection (2) will be added. In the course of our deliberation, it was felt that a person of unsound mind should be disqualified not only from voting, which is provided in the Bill, but also from being nominated as a candidate and holding office, which are not provided in the Bill. The new subsection (2) effectively rectifies these two omissions.

### 3 *Second Schedule*

There was some doubt, Sir, as to the necessity of dividing the labour functional constituency into two equivalent electoral divisions. The amendment abolishes the 'two divisions' concept. Apart from removing confusion, it would bring electors in this constituency in line with other functional constituencies.

Finally, may I deal with a point of principle which Members of my group feel rather strongly. Under clauses 19, 28 and 46, regulations may be made and the schedules amended by the Governor in Council. Obviously, constitutional reform and representative government are matters to which this Council as well as the public attaches great importance. It is therefore desirable that the power to make regulations under this Bill and amend the two schedules should be vested in this Council. The Administration has agreed to re-examine this issue not later than the coming review in 1987 and present indications are that Unofficial Members' request would be met.

Sir, a parallel development to the further development of representative government is the formation of a number of civic and political groups. In my view, this is a healthy sign. In the run up to 1997, when Hong Kong will have to govern itself, it is essential that the right kind of leadership should be fostered. Obviously, the sooner such leadership emerges, the better it will be for an orderly transition. I am sure Hong Kong will again rise to the occasion.

On this optimistic note, Sir, I support the motion.

DR. HO:—Sir, the main purpose of this Bill is to provide a mechanism whereby 24 members will be elected from the electoral college and functional constituencies to the Legislative Council in September this year.

I am happy to note that the provisions in this Bill have taken into consideration, as far as practicable, useful suggestions from consultations with the functional groups and representations of the various organisations concerned. For example, the eligibility to register as voters in the functional constituencies has been relaxed, for the election in 1985, to include those persons who are *entitled* to be registered in the general electoral roll even if they had failed to do so earlier. This is to enable as many members of the functional constituencies as possible to cast their votes in support of the first election of the Legislative Council in our history. I am also given to understand that the procedures and the conduct of election will be evaluated with a view to making improvements to subsequent elections as our constitutional development continues.

The Chief Secretary has briefly outlined to us the method to be adopted for elections from the electoral college and functional constituencies. In my view, the use of the absolute majority preferential voting system in the latter will enhance the representativeness of the members so elected. One possible criticism

in this preferential voting system is that the candidate who has secured the greatest number of first preference votes may not necessarily be elected. Instead, a candidate with a large number of votes evenly distributed in higher preferences (that is, a large number of voters choose him as their first, second or third preferences) will stand a much better chance. In other words, the candidate returned by this system can be assured of a strong general support from his electors, though not necessarily being their first choice. The operational details of the entire electoral process will be drawn up in the subsidiary regulations after the passage of this Bill in the Council. In the interest of a fair and efficient election, I would like to see that the Government should hold as wide and thorough consultations with the functional constituencies as time permits in drafting these regulations.

Having elected the members to the Legislative Council, what must be of concern next is that the elected members should work for the peace and progress of our community. I therefore urge the Administration to consider organising some sort of induction programmes to acquaint the elected members with their new roles in the central political organ, and to facilitate them to work properly and efficiently towards the declared aims of our constitutional reform. Specifically, the induction should aim at:—

- (i) reaffirming the central Government's commitment to the maintenance of social stability and to the promotion of economic prosperity in the context of a free-market economy;
- (ii) highlighting the functions of elected members as a bridge between the masses and the Government, and the need to foster a genuine two-way flow of informed communication between them; and
- (iii) emphasising the need to co-ordinate and harmonise district and sectoral interests with the overall policies at the macro-level, at the same time recognising the financial and other constraints facing policy makers.

In line with the objective of rooting the power of government in the people, the power given to the Governor in Council in clauses 19, 28 and 46 of this Bill should be transferred to the Legislative Council; regulations for registration of voters and election procedures as well as amendments to the schedules should be made by way of a resolution of the Legislative Council. I therefore suggest that proper amendments to these clauses should be seriously considered in the 1987 review.

With these comments, Sir, I support the motion.

MR. SO delivered his speech in Cantonese:—

督憲閣下：二千幾年前，漢高祖平定天下之後，希望永遠保持江山，世世代代奉祀宗廟不絕，便布告天下，由御使大夫把詔令下達給相國，再由相國送達給諸侯王和各郡太守，叫他們招攬地方上有好名聲及好品行的人，並寫明他們的履歷、儀容和年齡，送到相國府去。如果各地有賢能之士而不報告的，一經查出，便立即免官。這個徵求天下賢才的布告便

是寫於公元前一九六年的求賢詔。漢高祖亦鄭重聲明，年齡太大，老病不能行動的，則免送一「年老癯病，勿遣。」

香港要進一步發展代議制，更要保持繁榮安定。顧名思義，代議政制就是讓有代表性和能幹的香港人治理香港，而不希望香港由一些「知少少，做代表」的井底蛙去管治。香港現在雖然安享繁榮安定，不過，若不加以保護和做防禦工作，它便變成脆弱。「安定繁榮」並不是個口號也不是為懶惰的人而設的。它要求賢能、意志和獻奉，更需要困斷、自尊和自信。所以香港人必要珍惜安定繁榮，一如愛護自己家庭和子女，不計較犧牲和恒久的努力。

今天的香港當然跟二千多年的漢朝截然不同，雖然同是求材若渴，但已不能頒佈求賢詔叫布政司和各區政務專員去搜羅人材，然後加以重任。全部民選的立法局將會是管治香港的最高權力機構，今年九月它將要揭開新的一頁。當前的一九八五年立法局（選舉規定）法案就是香港邁向港人治港的第一度求賢詔。列明透過各選舉團選民組，為香港選賢與能，實施「代議政制在香港的進一步發展」白皮書所提出的建議，更為港人治港的目標跨一大步。本人深信，法案的規定必將能為本年九月的立法局，自各選舉團選民組和功能選民組中引進賢能，為香港制定合適的法例。不過，本人希望政府繼這個求賢詔後，在制訂更明確的選舉規則前，積極諮詢各選舉團，以求更公允和更能網羅人材。本人最深慶的就是本港三百八十多個註冊工會將可投票選出兩人加入立法局。香港的繁榮與安定，工人居功不少，香港的良好勞資關係，工會功不可沒，它們的目的是聯合工人，爭取合理工資，改善工作環境，提高或保持工人的生活質素。它們除了提供工人在學術、文化和精神上成長的機會外，亦安排他們為社會作出貢獻。過往它們只能透過合法的協商，爭取勞工法例或參與國際性及地區性的活動以求達成宗旨。長久以來，立法局極缺乏工人階層的代表，今後，他們將可以透過代表，直接參與政府的事務，進一步達成工會的崇高目標了！

漢高祖說：「如今天下有很多有智略有才幹的賢士，難道只有古時的人如此嗎？」李蕭遠的命運論亦說：「古之仕者，蓋以官行其義，不以利冒其官也。古之君子，蓋恥得之而弗能治也。不恥能治而弗得也。」閣下，本人深信香港四處都是賢士和君子，問題是如何去請他們出來為香港做事，以保繁榮安定，以施港人治港！

本人得悉政府已將法案摘要說明內「實質關係」一詞改作「密切關係」。這樣則較為貼切。其實，非官守議員在審閱法案時亦曾就該中文名稱提出質疑。此番政府從善如流，實在令人欣慰。

最後本人希望引用「人類是你的兄弟」的一段話作結，支持本法案：「神的法則告訴我們，假如我們在尋覓自己的繁榮，自己的安定，子女的快樂時，而不同時為他人的幸福設想，就算成功了也只像一個生蟲的果實。死亡已早存在，只有傻瓜才祈望它會長久。過往有些偉大的帝國和享用龐大財富的人，今天他們遺留下來的又是些甚麼呢？讀一讀歷史吧！你將會找到答案！」

督憲閣下，本人謹此陳辭，支持動議。

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

Sir, over two thousand years ago, after suppressing his rivalries, the first emperor and founder of the Han Dynasty, LIU Bang, hoped to keep the empire under his rule and that of his heirs forever. So he issued an imperial edict which was passed down by the imperial censor to the prime minister, who in turn made it known to the feudal lords and the magistrates of the prefectures. The imperial edict ordered that the officials should look for men of virtue and

capabilities in their domains and have them recommended to the emperor by submitting details of their qualifications, appearance and deportment and age to the prime minister's office. If an official was found to have failed to recommend any known capable local talent in his domain, he would be dismissed forthwith. Such pronouncement of Emperor LIU Bang was known as the 'Edict Seeking The Virtuous And The Capable' issued in the year 196 B.C., which, among other things, also solemnly specified that the elderly and the sick, not being able to move about with ease, need not be recommended.

While the further development of representative government is essential to Hong Kong, it is of equal importance that it should be able to maintain its prosperity and stability. Literally, a representative government means one formed by people with representation. It is hoped that Hong Kong will eventually be administered by people who besides being representative are also highly capable and not by people with limited knowledge and experience.

The prosperity and stability that Hong Kong now enjoys will weaken unless protective and preventive measures are taken. 'Prosperity and stability' is not merely a slogan and it will not come naturally to the lazy people. Its attainment requires capability, determination, dedication as well as self-respect and confidence. Therefore, people of Hong Kong must strive hard and at all cost to maintain their prosperity and stability as they would to protect their family and children.

Hong Kong today is, of course, different from the Han Dynasty more than two thousand years ago. Though there is now an equally strong need for talents, it is no longer possible for the Government to issue an 'Edict Seeking The Virtuous and The Capable' with instructions for the Chief Secretary and all District Officers to hunt for talents and assign them posts of great responsibility. A completely elected Legislative Council will ultimately emerge at the top of the administrative hierarchy of Hong Kong and the Council will be turning to a new page in its history this coming September. The Legislative Council (Electoral Provisions) Bill 1985 will in fact be the first edict calling for talents whereby Hong Kong may progress towards the system of 'Hong Kong people ruling Hong Kong'. It spells out the details to elect worthy and capable people to serve Hong Kong from various electoral college constituencies so that the proposals in the White Paper on the Further Development of Representative Government in Hong Kong may be implemented and one big step be made towards the target of Hong Kong people ruling Hong Kong. It is my firm belief that the provisions in the Bill can effect an introduction of worthy and capable people from various electoral college and functional constituencies into the Legislative Council this September for the enactment of proper laws for Hong Kong. However, I hope that after making this call for worthy talents but before the enactment of more specific electoral provisions, the Government will hold active consultations with various bodies of electors in order to bring about a fairer and more effective search for talents.

I am most pleased to note that the 380-odd registered trade unions in Hong Kong may now elect two representatives to join the Legislative Council. Workers have indeed made a tremendous contribution towards the prosperity and stability of Hong Kong and trade unions should be credited with the prevailing amicable industrial relations. The aims of the trade unions are to unite workers, to fight for reasonable pay, to improve working conditions and to raise or maintain the workers' standard of living. Besides providing workers with opportunities to develop academically, culturally and intellectually, trade unions also make arrangements whereby workers can contribute to society. In the past, trade unions could only fight for certain labour laws through legitimate consultations or attain their goals by taking part in international and regional activities. The Council has been in want of representation from the working class for a long time. From now on, the workers will be able to take part in the business of Government through their representatives and thus further fulfil the lofty aims of their trade unions.

The founder of the Han Dynasty, LIU Bang, said, 'I am sure we have at present, as we did in the past, many wise and virtuous people of capabilities.' It was also quoted in LI Xiaoyuan's essay 'On Fate': 'Officials of the past made use of their official position to champion a righteous cause. They did not seek official position to make profits. For men of virtue in the past felt shame at being given an official position and yet incapable of discharging the duties. They felt no shame at not being given an official position if they were capable.' Sir, I believe there is no lack of men of virtue in Hong Kong. The question is how to persuade them to come forward and offer their service to the community, to help maintain Hong Kong's prosperity and stability and to pave the way for an autonomous region.

I note that the Chinese translation for the term 'substantial connexion': '實質關係' in the Explanatory Memorandum of the Bill has been changed to '密切關係'. The amended term is more appropriate. In fact, Unofficial Members had already queried that Chinese term when they studied the Bill. I am most glad that the Government is willing to accept sound advice.

I shall end my speech with a quotation from 'Man is Your Brother' to support the Bill: 'The law of God tells us that if we seek our prosperity, our security, the happiness of our children; if we seek these things without linking them with the happiness of others, our success will be like a fruit eaten by a worm. Death will already be there, and only a fool could expect it to last. There have been great empires in the past; peoples who have enjoyed fantastic wealth. What remains of all that today? Read a little history and you'll find the answer.'

Sir, with these remarks, I support the motion.

MR. BROWN:—Sir, this is an important Bill which deserves close attention, and in examining its provisions I have asked myself a number of questions. The Bill's main objective is to provide for this year's indirect election of members to

this Council. It will certainly achieve that, but will it do so in a way that leaves no confusion in the minds of both electors and candidates as to their various rights and obligations? Moreover will it place on the statute book legislation that we shall feel comfortable with in 1988 and subsequent election years?

The Bill raises a number of issues that require clarification. Mr. Peter C. WONG and my other Unofficial colleagues have just dealt with most of these in their speeches, and I would endorse their comments. Some definitions in the Bill—such as the meaning of substantial connexion in regard to functional constituencies—will require both the electorate and the Administration to exercise common sense. Fortunately common sense is not a quality particularly lacking in Hong Kong, and I do not believe this will be a real problem area provided those concerned are adequately briefed.

Even citizens with common sense, however, can be confused by the special meanings words often acquire in legislation, and our bankers, for example, have expressed confusion as to whether the designated representatives of member banks, who will be the individuals casting their votes on behalf of corporate bodies, will qualify to do so in the event they themselves—as individuals—have been in Hong Kong for less than seven years. The Administration has confirmed that the word ‘individual’ in clause 13(2) means human beings—which as a layman somewhat restores my faith in legal drafting—and an individual acting on behalf of a corporate body in a functional constituency is not an individual within the meaning of clause 13(2). To remove any doubt, and to have it on the public record, I should be grateful if the Chief Secretary would confirm during his winding-up speech that this is indeed the case.

Looking to the future the whole concept of functional constituencies will doubtless be reassessed, but if we continue with this method of indirect election—or something akin to it—I believe much more thought needs to be given to the selection of both electors and candidates. Why, for example, should foreign corporate bodies who may only have been in Hong Kong a few months qualify as voters—through membership of an association—whilst foreign businessmen, who may have spent most of their careers in Hong Kong, be disqualified as being candidates unless they have ten years continuous residence? In my view Hong Kong belonger status would be a more equitable qualification in the latter circumstance.

On a more fundamental issue one could query the rationale for framing this Bill to be broadly similar with existing electoral law insofar as it relates to the Urban Council Ordinance, and the District Boards Ordinance. The only real rationale would seem to be expediency—and indeed I would accept this as being valid given time constraints—but the functions of the law making legislature are so different from the other councils that existing procedures should do no more than act as guidelines. In the longer term is it really appropriate for regulations covering such vital issues as the nomination of candidates, the procedures for voting and even the qualifications of electors, to be determined by the Governor in Council by way of regulations?

Subsidiary legislation must of course be laid on the table of this Council, but for issues of this importance it would seem to me, with the greatest respect, Sir, that Mr. Peter C. WONG and my other Unofficial colleagues must be correct and formal resolutions of the Council would be more open and more appropriate.

In summary, Sir, I am supporting this Bill because I believe its provisions will be interpreted with common sense, and it will achieve its main purpose of providing the required framework for indirect elections this year. Just as the further development of representative government itself will be reviewed prior to the elections scheduled for 1988, I believe concurrently with that review we should re-examine our electoral provisions. I am sure that given time both the Administration and Members of this Council will be able to improve on the legislation we are placing on the statute book today.

Sir, I support the motion.

MR. STEPHEN CHEONG:—Sir, as responsible citizens of Hong Kong the general committee members of the four commercial and industrial organisations which are named in the Second Schedule of the Bill as the Commercial and Industrial functional constituencies have spent much time jointly and severally in studying Government's proposals as set out in the Bill. It is very much regretted that the time period allowed for consultation is so short as to preclude more in-depth deliberations. Yet the commercial and industrial community do appreciate the constraint under which Government is working in order to meet the target date of September elections to the legislature. Thus the business community supports the Bill in principle, and has no qualms over elections by secret ballot with suitable supervision.

The main concern of the business community as represented by the four organisations is that the procedures proposed for the election of their four Legislative Council members would not necessarily ensure representation by those having the confidence of their membership and of the general committee who after all has also been democratically elected. As drafted, any person having a substantial connection with a functional constituency can submit himself as a candidate for election provided he obtains ten sponsors, has the necessary residential qualifications, and pays a deposit. Substantial connection is defined in the Bill as any person who is a member, partner, director, officer or is concerned in the management of any body which is an elector in a particular constituency. This is a very broad and sweeping definition, which could open the door to political opportunists who have no detailed knowledge of the sector which they wish to represent, and have no record of service to that organisation, or even to the larger community of which they form a part. Some may say that, under these circumstances, such a candidate would not be able to secure the necessary support to ensure his election. Yet it must be remembered that experiences in other parts of the world has taught us that with elections anything can happen. There is therefore legitimate concern within the



leadership of the organisations that, through a combination of charm and wellorganised canvassing, such a person *could* secure election and yet be quite unable to represent the views and real interests Hong Kong's commerce and industry generally and of their members in particular.

The four commercial and industrial organisation therefore believe that specific guidelines should be established which will ensure that candidates offering themselves for election as representatives of the two constituencies enjoy the full confidence of the members of the constituencies concerned. These guidelines should define the terms 'substantial connection' more precisely than in the Bill, and should be used by the Registration Officer in considering whether or not a candidate should be permitted to stand for election. Such details would necessarily be published so that prospective candidates might measure their credentials against them before registration as a candidate. Due to the time constraint, such proposed guidelines cannot be included in the Bill before us today but consideration should be given to including such guidelines in the regulations to be made later or through an administrative procedure governing the conduct of the elections including the approval of candidates.

All four organisations are working towards preparing guidelines for the registration of candidates for their respective electoral divisions of the two functional constituencies. The common objective, Sir, is to require a candidate to show that he has a record of service to the organisations and to Hong Kong's commerce, industry and the community. He could identify such a record through his election, to the general committee of the four organisations, and/or by service on the Executive and Legislative Councils, by membership of the various statutory or non-statutory boards and committees listed in the Civil List, or by his membership of the organisations' internal committees.

Such criteria, if accepted by the Government and included in the requirements for approval of candidates for the four constituencies, would go a long way to ensure that all candidates approved by the Registration Officer to stand for election to the Legislative Council will have the confidence of the membership of the respective functional constituency.

With these remarks, Sir, I support the motion.

DR. IP:—Sir, I wish to speak with particular reference to clause 21 of the Legislative Council (Electoral Provisions) Bill 1985 which provides for grounds of disqualification of persons nominated as candidates in an election to or holding office as an elected member of Legislative Council. In the Bill there are seven grounds of disqualification such as where a candidate of a functional constituency ceases to have a substantial connection with that constituency, or where he has been convicted of treason, etc. etc. There is no provision for disqualification on the ground that the candidate or the elected member is certified under section 10 of the Mental Health Ordinance of having an unsound mind. Considering that under clause 15(2)(b) of the same Bill a person shall be

disqualified as a voter if he is alleged to be a mentally disordered person under the Mental Health Ordinance where the court has decided that he is of unsound mind and incapable of managing himself and his own affairs, it is extraordinary that an equivalent provision does not appear under clause 21 as a ground for disqualification of candidature or holding office as a Legislative Council member. After all, it must be more important to have Legislative Council members with sound mind and judgement to advise on the management of public affairs, be they elected members or appointed members. Also there must be a way to remove a person of unsound mind from office so that his constituency can elect a really competent representative to serve their interest. I am pleased to know that the Administration has agreed to amend the Bill to meet this point.

There will be a new clause 21(2) which reads:—

‘A person shall be disqualified—

- (a) from being nominated as a candidate in an election if there is in force a decision under the Mental Health Ordinance that he is of unsound mind and incapable of managing himself and his affairs;
- (b) from holding office as an elected member if a decision is made under the Mental Health Ordinance that he is of unsound mind and incapable of managing himself and his affairs, but a person disqualified under this paragraph shall be eligible for re-election if under that Ordinance it is subsequently found that his unsoundness of mind has ceased.’

I hope consideration will be given to amending the equivalent ordinances relating to the District Board and Urban Council so as to bring them both in line with this Ordinance.

Sir, I understand that the regulations governing the method of vote counting for functional constituencies shall be by way of ‘an absolute majority’ and I was given to believe that the voters may indicate on the ballot paper his first, second, third choices, etc. of candidates. When the votes are counted, the first candidate to obtain over 50 per cent of the the first-choice votes will be elected. If no candidate manages to win in this first count, the second-choice votes will also be counted so as to identify the first person to get over 50 per cent of the total votes of both the first and the second choices. This process will continue until a successful candidate is produced.

I believe that unless the votes are, by law, required to indicate their second and subsequent choices on the ballot paper, it might defeat the purpose of adopting the ‘absolute majority’ principle, for example, if no voter should put down his second choice and subsequent choice there will be a real danger that no candidate will pass the 50 per cent mark in a pretty even-handed contest. If this were to happen I fear that re-voting may be necessary and it will be timewasting. I also consider that to be fair first-choice votes should score more than second-choice votes and likewise for the subsequent votes, whether such calculations are done manually or by computer it should still be possible.

I support the procedure of election to choose a representative be it to the Urban Council, District Board, Legislative Council or, in the future, Executive Council as well as advisory boards. I hope all these will come about very soon.

With these remarks, Sir, I support the Bill before Council.

MR. CHAN YING-LUN delivered his speech in Cantonese:—

督憲閣下：現在距離今年的立法局選舉，只有四個多月，各有關方面也在密鑼緊鼓地，籌備一切，務使這次歷史性的選舉，能夠順利進行。政府爲了推行代議政制，也下了不少功夫。繼白皮書的發表後，在短短的數月間，便要把它一套完整的選舉規條提交本局通過。一九八五年立法局（選舉規定）法案，可算是爲香港代議政制之發展，揭開新的一頁。亦正如我多位同寅所指出，法案主要是要爲立例設立地區劃分的多個選舉團與及按社會功能劃分之團體，和從而互相推舉所產生的多位立法局議員。本人身爲港島東部選舉團的成員，也將會參與本年九月的選舉，挑選一名代表進入立法局。

本人十分支持這項法案，尤其欣賞法案之基本原則。推行代議政制其中一個很重要的宗旨，是要逐步建立一個權力穩固地立根於香港的政制，使這政制更加能夠直接向香港市民負責。要達到這個目標，整個選舉制度亦必須能夠符合民主開放之精神；在一定程度上，使所有符合某些基本資格的人士，都可以自由參選。本人在詳細審閱法案條文後，認爲這法案確實爲本年立法局選舉，提供了一個以民主開放爲原則的法制架構。

自法案在本局首讀以來，有不少人士，包括多個功能團體，對法案內規定候選人及當選議員所需資格有所保留。尤其是在功能團體方面，他們擔心「密切關係」一辭的界定不夠詳盡，恐怕將來所選出之立法局議員並不足以代表他們的利益！另外有人也許會問，立法局議員所要求承擔的責任那麼重大，法案爲何沒有規定參選者的質素，或保證當後的議員，能夠真正繼續代表其選舉團或功能團體的意見呢？

其實法案第五部份已有就候選人和當選議員所需的資格作出有關之規定。雖然對於某些人而言，條文沒有就候選人的品格及資歷有所限制，會使他們感覺到整個制度的「品質控制」嚴重地短乏，但是我們不可忽視在一個民主政體內，「品質控制」工作是由選民擔任的。若要希望將來當選議員的人士能真正爲香港之安定繁榮作出貢獻，最重要的工作還是要驅使每一個選民履行他們的責任。法案第十三條規定，就一九八五年所舉行的選舉，按選舉規定條例可能符合登記爲選民的人士，亦可予接受登記爲本法案所規定之選民。本人謹在此呼籲，所有功能團體內合符資格而並沒有登記之選民，切勿錯失良機，盡早進行登記。

閣下，選舉的精神在於選民的選擇權與監察權。選擇會產生競爭，競爭則會帶來進步，這是香港成功的要訣。要當選爲立法局議員，必須通過選舉團或功能團體的考驗。民選議員爲其代表的區或功能團體爭取利益，是很自然的事，但最終的決定應能照顧到各方面的利益。競爭會產生互相制衡的作用，不過這並不是百分之百保險的。要議員避免惡性競爭，並以香港大局爲重，最後的防線是選民的監察。

選民的選擇權及監察權要運用得好，選舉才有價值，只有要這兩個權利掌握得好，立法局是不會脫離一向以來謀求全港利益的目標。本人相信選民能根據此法案的規定將這兩個權利發揮到最大的效果。因此，我對新的立法局是樂觀的。

閣下，本人謹此陳詞，支持動議。

*(The following is the interpretation of what Mr. CHAN Ying-lun said.)*

Sir, it is only four months from this year's Legislative Council elections. All parties concerned are busily preparing to ensure that this historical election could be smoothly carried out. In developing representative government in Hong Kong, the Administration had put in a lot of effort. Just a few months after the publication of the White Paper, a full set of electoral provisions is now submitted to this Council for approval. The Legislative Council (Electoral Provisions) Bill 1985 starts a new page in the development of representative government in Hong Kong. As many of my colleagues have pointed out, the Bill mainly provides for the establishment of the electoral college constituencies and the functional constituencies, from which members of the Legislative Council would be elected. As a member of the East Island electoral college division, I would also participate in this year's election to choose a representative to Legislative Council.

I fully support this Bill, and in particular, its underlying principles. One of the major objectives of developing a representative government is to have a system firmly rooted in Hong Kong and more directly responsible to the people. To achieve this aim, the whole electoral system must be democratic; and to a certain extent, anybody who meets certain basic qualifications should be allowed to stand for elections. After carefully studying the Bill, I am of the opinion that it does provide a legal framework for a democratic process.

Since the first reading of this Bill, many people, including some functional groups, have raised reservations regarding the qualifications for candidates and elected members as provided in the Bill. The functional groups are particularly worried that with a loose definition of what constitutes a substantial connexion, members so elected would not be able to represent their interests. Some people may also query the reason why the Bill given the important responsibilities of the Legislative Council members, does not stipulate the quality of candidates, or ensure that elected members could continue to represent the views of their respective electoral college or functional constituencies.

In fact, Part V of the Bill has already laid down the qualifications of candidates and elected members. Although to some people, the provisions do not specify the experiences and the personalities of candidates and they felt that the 'quality control' mechanism in the system is highly inadequate, we could not, however, overlook the fact that in a democratic system, the role of quality control really is performed by the electorate. If it is hoped that elected members could truly contribute to the stability and prosperity of Hong Kong, the most important task is to get each voter to discharge his duty. Clause 13 of the Bill provides that persons who are entitled to be registered under the Electoral Provisions Ordinance could do so under this Bill for the 1985 elections. I would like to call on all qualified voters who had failed to register to do so as soon as possible.

Sir, the spirit of election rests on the power of the elector to choose and supervise. Selection means competition and competition brings about improvement, this is the key to Hong Kong's success. An elected Legislative Council member must be able to stand the test of the electoral college and functional constituencies. Naturally elected members must represent the interests of their respective electoral college or functional constituencies as the case may be. But more importantly, they must be also to look after the interests of the community as a whole. Competition would act as a checking mechanism, although this might not always be the case. To prevent unhealthy competition among members and to put the interests of the community in the forefronts of their minds, the ultimate safeguard must rest with the supervision of the electorate.

Only when the power of the electorate in selecting and monitoring the system is sensibly exercised would the election be meaningful. And with this, the Legislative Council would not depart from the objective of fostering the interests of Hong Kong. I believe that the electors could exercise to the fullest extent the powers of monitoring and selecting of legislators under the provisions of this Bill.

Sir, with these remarks, I support the motion.

THE CHIEF SECRETARY:—Sir, I am grateful for the support given to this Bill by my Unofficial colleagues and also for their understanding of the very tight time constraints under which we have all been labouring. These constraints arise, of course, from the fact that the White Paper on the Further Development of Representative Government was not laid on the table of this Council until 21 November 1984, leaving only nine months for all the necessary practical arrangements for elections to be held in the Autumn of 1985 to be put in hand, for consultations with organisations making up the functional constituencies, and for enabling legislation to be drafted. This is because actual elections by both the electoral colleges and functional constituencies have to take place before the end of September leaving a month for the Governor to complete the composition of the new Legislative Council with the requisite number of appointed members.

It is a fact, and I know that Members are aware of this, that unless the registration of electors for inclusion in the Provisional Register can begin on 15 April, and no later, and unless the publication of notices of elections inviting nomination of candidates are published in the official gazette on 2 August, and no later, we shall not be able to complete either the registration cycle or the electoral cycle in time for election day.

The Bill before Members would not have been easy to frame even if the Law Draftsmen concerned, Messrs. O'GRADY and GRIFFEY, had not been working under time constraints and it is gratifying, therefore, as Mr. Peter C. WONG has mentioned, that the discussions on the clauses of the Bill by the *ad hoc* group have resulted, at the end of the day, in only seven alterations being sought.

These have been discussed at length with the Law Draftsmen and the Councils and Administration Branch of the Government Secretariat and I am happy to say that the Government will support them when Mr. WONG moves the appropriate amendments at the committee stage.

In this connection it is also gratifying that we have succeeded to an extent in restoring Mr. BROWN'S faith in the Attorney General's colleagues in the Drafting Division of the Legal Department. The position is, indeed, as Mr. BROWN has been advised namely, that an individual acting on behalf of a corporate body in a functional constituency is not an individual within the meaning of clause 13(2) of the Bill, but simply an ordinary human being, not all that dissimilar from the rest of us. (*laughter*)

From their speeches, I detect, put it mildly, detect Members have a degree of concern over the definition of 'substantial connexion'. I should therefore emphasise that the definition contained in clause 2(4) of the Bill is not exhaustive, nor is it intended to be. The object of introducing this concept is to ensure, as I explained when moving the second reading on 13 March, that candidates for election to the Legislative Council are competent to represent the interests of that constituency as a whole by virtue of their personal experience and involvement in the functional area concerned and so avoid a situation in which a person with no connection with the functional area is elected. The term 'substantial connexion' is incapable of being precisely defined for its meaning embraces a host of variables and permutations. This is the reason why we have sought to explain the concept by way of examples. However, Members may be assured that, in the unlikely event of the Registration Officer being called upon to determine whether or not an aspirant candidate does have a 'substantial connexion', he will be well briefed and will apply common sense (and we Civil Servants are not entirely lacking in that admirable quality). I say 'in the unlikely event', for we propose in the upcoming Legislative Council (Electoral Provisions)(Procedure) Regulations to provide that a candidate will need to be endorsed by ten electors in the constituency before he may stand which, in itself, will go a long way to establishing that there exists a 'substantial connexion', for presumably those electors will also exercise common sense when taking a view on the candidate's claim to have a substantial connexion.

As for Dr. Ho's and Dr. IP's technical point, we shall have to wait to see how it is proposed that the Procedure regulations, when they come forward in a few weeks' time, will define the mechanics of the electoral process itself in order to throw up a candidate with an absolute majority.

All Members who have spoken have strongly expressed, Sir, the view that subsidiary regulations under the Bill should desirably be made, in future, by resolution of the Legislative Council. This view has been noted carefully by the Government and will be carefully, and I dare say sympathetically, considered in the review of the electoral arrangements which we shall be conducting in 1987 *pari passu* with the review of how the 1984 White Paper proposals have worked

out in practice so that consideration can be given to any further developments such as, for example the introduction of a directly elected element.

I have had to write this speech as the afternoon has worn on and I hope that Members will forgive me if this further example of time constraint has meant that I have not covered all points raised, but I think I have dealt with the main ones.

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).*

## **PROTECTION OF WAGES ON INSOLVENCY BILL 1985**

### **Resumption of debate on second reading (13 March 1985)**

*Question proposed.*

MR. CHAN KAM-CHUEN:—Sir, on 24 July 1984, we enacted in this Council legislation to levy \$100 on each business registration certificate to finance the Protection of Wages on Insolvency Fund. Today, we are debating on the main legislation itself. I support this Bill as it is another big step by Hong Kong in the right direction for the protection of our hardworking labour force which have contributed significantly to the success of our community.

In insolvency cases, workers are simultaneously hit by the shock of unemployment, by the often futile efforts to find alternative employment quickly and by the threat of subsistence which are all real and immediate pressure on their families.

Whilst claims or applications filed with the courts or the Social Welfare Department may or may not yield results, the administrative procedures and verification are time-consuming. This desperate situation could best be described by the Chinese expression (遠水不能救近火) i.e., distant water cannot be used to fight a nearby fire.

If enacted, this piece of legislation would achieve, *inter alia*, two important objectives longed for by workers.

- (1) It can make good wages up to four months subject to a maximum of \$8,000 per worker. This would eliminate the bitterness of workers who in the past found that their hard earned blood and sweat money may only be partly recovered or unrecoverable after a lot of efforts;

- (2) It is immediate help since application procedures are streamlined and the worker could be paid within one month. Hardship is therefore kept to an acceptable minimum when one considers that wages are not paid daily but half-monthly and salaries paid monthly.

This Bill is generally welcomed by employees including pressure groups with the usual rider for more and retroactive effect. I must remind them that Rome is not built in one day. It is important to get the funds started and tested first. Improvement, if any, may be the outcome of reviews in future. As a matter of principle, retroactive legislation should be kept to a minimum. For example, I would dread to see legislation for an increase in salaries tax with retroactive effect even for one year.

This Bill is the tripartite effort of the Government, the employers and the employees. Contributions to the fund cannot obviously come from the employees, nor is it fair to dip into the public coffers for expenditure which does not benefit all members of the public. This small levy has to come from employers or businessmen to cover their 'fallen' business associates. This has been done to a varying degree in the share market and tourist industry. Fairminded employers who were representatives in the relevant working group had graciously accepted this concept.

However, I do not agree with a self-employed person who complained in the press about this levy of 27.4 cents per day for a worthy cause on the grounds that he has no employees to cover and he should be refunded the \$100 with interest. I must say that firstly although he may not use direct labour, I am quite sure that no one can claim in Hong Kong that one does not use indirect labour, that is, supportive service, without even being aware of it. Secondly, by the same token, he should ask the Government for the refund of \$30 TAVAS (Traffic Accident Victims Assistance Scheme) if he does not run someone down with his car in a year.

With these observations, Sir, I support the motion.

COMMISSIONER FOR LABOUR:—Sir, I would like to thank Mr. K. C. CHAN for his warm support for this Bill.

I would also like to take this opportunity to mention that I will be moving at the committee stage amendments to clause 18 of the Bill. The amendments proposed are of a purely technical nature and have been drafted, on legal advice, to bring the wording of clause 18 of the Bill more in line with that of clause 16 and corresponding provisions in the Bankruptcy Ordinance. No change of substance in the intention of the Bill is involved.

*Question put and agreed to.*



Bill read the second time.

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

### **Committee stage of bills**

Council went into Committee.

## **LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS) BILL 1985**

Clauses 1, 2, 4, to 9, 11, 12, 13, 16 to 20, 22 to 35, 37 to 46 were agreed to.

Clauses 3, 10, 14, 15, 21 and 36

MR. PETER C. WONG:—I move that the clauses specified be amended as set out in the paper circulated to Members for the reasons stated in my speech.

### *Proposed amendment*

#### **Clause 3**

That clause 3(2) be amended by deleting ‘3 months’ and substituting the following—

‘90 days’.

#### **Clause 10**

That clause 10 be amended by deleting ‘Except in the case of a vacancy occurring in any period of 3 months referred to in section 3, where’ and substituting the following—

‘Where’.

#### **Clause 14**

That clause 14(2) be amended by deleting ‘; but nothing in this subsection shall prevent a person specified in the third column of item 4 of the Second Schedule from being registered in more than one functional constituency specified in that item’.

**Clause 15**

That clause 15(2) be amended—

(a) in paragraph (a), by inserting after ‘substituted’ the following—

‘therefor’; and

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

(Cap. 136.)      ’(b) there is in force a decision under the Mental Health Ordinance that he is of unsound mind and incapable of managing himself and his affairs;’.

**Clause 21**

That clause 21 be amended—

(a) by being renumbered as subsection (1);

(b) in subsection (1)(b), by deleting ‘(other than as a member of an auxiliary force)’; and

(a) by inserting, after subsection (1), the following—

‘(2) A person shall be disqualified—

(Cap. 136.)      (a) from being nominated as a candidate in an election if there is in force a decision under the Mental Health Ordinance that he is of unsound mind and incapable of managing himself and his affairs;

(b) from holding office as an elected Member if a decision is made under the Mental Health Ordinance that he is of unsound mind and incapable of managing himself and his affairs, but a person disqualified under this paragraph shall be eligible for reelection if under that Ordinance it is subsequently found that his unsoundness of mind has ceased.’.

**Clause 36**

That clause 36(8) be amended by inserting before ‘case’ the following—

‘the’.

The amendment were agreed to.

Clauses 3, 10, 14, 15, 21 and 36, as amended, were agreed to.

First Schedule was agreed to.

Second Schedule

MR. PETER C. WONG:—I move that the Second Schedule be amended as set out in the paper circulated to Members for the reasons stated in my speech.

*Proposed amendment*

**Second Schedule**

That the Second Schedule be amended by deleting item 4 and substituting the following

—

<p>'4. Labour functional (Cap. 332.) constituency.</p>	—	<p>Trade unions registered under the Trade Unions Ordinance of which all the voting members are employees.</p>	<p>2'</p>
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The amendment was agreed to.

Second Schedule, as amended, was agreed to.

**PROTECTION OF WAGES ON INSOLVENCY BILL 1985**

Clauses 1 to 17, 19 to 29 were agreed to.

Clause 18

THE COMMISSIONER FOR LABOUR:—I move that clause 18 be amended as set out in the paper already circulated to Members and for the reasons I have already explained.

*Proposed amendment*

**Clause 18**

By deleting sub-clause (1)(b) and substituting the following—

'(b) sufficient evidence exists to support the presentation of a petition in that case on the ground—

- (i) if the employer is a company, that he is unable to pay his debts; or

(ii) if the employer is a person other than a company, that he has committed an act of bankruptcy; and’.

By deleting sub-clause (2) and substituting the following—

‘(2) Where the Commissioner exercises his discretion under subsection (1) to make payment, he shall give notice in the *Gazette* stating that, in his opinion, sufficient evidence exists to support the presentation of a petition on the ground—

- (a) if the employer is a company, that he is unable to pay his debts; or
- (b) if the employer is a person other than a company, that he has committed an act of bankruptcy.’.

The amendment was agreed to.

Clause 18, as amended, was agreed to.

First to Fifth Schedules were agreed to.

Council then resumed.

### **Third reading of bills**

The Attorney General reported that the

LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS) BILL and the

PROTECTION OF WAGES ON INSOLVENCY BILL

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

*Question put on the Bills and agreed to.*

Bills read the third time and passed.

### **Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 17 April 1985.

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