

OFFICIAL REPORT OF PROCEEDINGS**Thursday, 18 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 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.

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

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

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

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

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

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

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING

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

THE HONOURABLE 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 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 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 DAVID ROBERT FORD, L.V.O., O.B.E., J.P.
SECRETARY FOR HOUSING

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

ABSENT

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

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

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

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

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

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

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR. LI WING

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

Second reading of bills

PUBLIC FINANCE (AMENDMENT) BILL 1985

THE FINANCIAL SECRETARY moved the second reading of:—'A bill to amend the Public Finance Ordinance'.

He said:—Sir, I move the second reading of the Public Finance (Amendment) Bill 1985.

It is a requirement of Annex III to the Joint Declaration on the future of Hong Kong that premium income from land transactions should be paid directly into the Capital Works Reserve Fund instead of being passed through general revenue as at present. The Public Finance (Amendment) Bill 1985 seeks to amend the principal Ordinance under which the Capital Works Reserve Fund is established in order to enable this Council to specify by resolution that certain moneys shall be credited directly to a fund without the need for appropriation.

On enactment of the Bill, I intend to move a resolution under the amended section 29 that will cause land revenue to be paid directly into the Capital Works Reserve Fund. Such moneys will be deemed to be appropriated. For the avoidance of doubt, the provisions of the Bill will extend to resolutions already passed that specify the crediting of certain moneys directly to funds.

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

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

Question put and agreed to.

AUDIT (AMENDMENT) BILL 1985

THE FINANCIAL SECRETARY moved the second reading of:—'A bill to amend the Audit Ordinance'.

He said:—Sir, I move the second reading of the Audit (Amendment) Bill 1985.

The use which is to be made in future of the Capital Works Reserve Fund is laid down in Annex III to the Joint Declaration on the future of Hong Kong. It is important that the status of its accounts should be placed beyond question so as to demonstrate clearly that the terms of the agreement are being complied with.

Accordingly, the Audit (Amendment) Bill 1985 seeks to amend the principal Ordinance to provide for annual accounts of the Capital Works Reserve Fund to be transmitted by the Director of Accounting Services to the Director of Audit. He will examine and audit these accounts, prepare a report thereon and submit it to you, Sir, as President of the Legislative Council, together with a copy of the accounts, duly certified by him. The Bill is to come into operation when the Joint Declaration enters into force.

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

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

Question put and agreed to.

PRIVILEGES AND IMMUNITIES (JOINT LIAISON GROUP) BILL 1985

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to grant privileges and immunities in Hong Kong to the Chinese members of the Joint Liaison Group and for matters connected therewith and incidental thereto’.

He said:—Sir, clause 10 of Annex II to the Sino-British Joint Declaration provides that the members of the Joint Liaison Group shall enjoy diplomatic privileges and immunities as appropriate when in the three locations for meetings of the group, which are Beijing, London and Hong Kong. The purpose of this Bill is to fulfill the Hong Kong Government’s obligation under the terms of Annex II to provide diplomatic privileges and immunities for the five Chinese members of the Joint Liaison Group for meetings in Hong Kong. This must be done before the exchange of instruments of ratification can take place.

A separate and self-contained ordinance is required because there is no existing legislation which could be amended to provide the necessary privileges and immunities. The Schedule of the Bill sets out the privileges and immunities to be enjoyed. These are in accordance with standard international practice as laid down in the Vienna Convention on Diplomatic Relations.

Some further provision may later have to be made for the experts and supporting staff of the Joint Liaison Group, as well as for the Chinese members and supporting staff of the Land Commission to be established in accordance with clause 7 of Annex III to the Joint Declaration. Discussions are continuing with the Chinese Government about such arrangements. It may be necessary to introduce either amendments to this Bill, or later a Supplementary Bill to deal with those further matters.

Sir, I move that the second reading of this Bill be now adjourned.

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

THE ATTORNEY GENERAL.

Question put and agreed to.

HONG KONG INDUSTRIAL ESTATES CORPORATION (AMENDMENT) BILL 1985

THE SECRETARY FOR TRADE AND INDUSTRY moved the second reading of:—‘A bill to amend the Hong Kong Industrial Estates Corporation Ordinance’.

He said:—Sir, I move that the Hong Kong Industrial Estates Corporation (Amendment) Bill 1985 be read the second time.

The main purpose of the Bill is to provide that the size of the Corporation’s Board be increased by one, and changed to permit an unofficial majority. The opportunity is also taken to make clear that the Chief Executive of the Corporation may be a public officer.

The Industrial Estates Corporation was established in 1977 with the basic purposes of developing, letting and managing the industrial estates to be constructed at Tai Po and Yuen Long. During the first three or four years of its life, demand for sites at the Tai Po Estate, the first to be developed, was brisk. Subsequently, however, interest among industrialists slackened for a number of reasons. These included the drop in property prices which made land in the industrial estates, the price of which was linked to the costs of development, less competitive with sites and premises elsewhere. (I am pleased to add however there has been a significant increase in interest recently.)

Also, the physical development of the estates is now nearing completion, and the Chief Executive since the establishment of the Corporation is due to retire on 31 May 1985.

Therefore towards the end of last year, the Board of the Corporation decided that it did not wish to appoint a new permanent Chief Executive, and that for the time being it would be appropriate if the Director of Industry was appointed as Chief Executive as well, because of his responsibility for promoting industrial investment.

At the same time, it was realised that this appointment would result in an official majority on the Board, because section 7 of the Corporation’s Ordinance as it stands does not permit the appointment of more than three unofficial members, whereas sub-section 1(d) permits the appointment of four public officers in addition to the Chief Executive, who is at present not a public officers.

Accordingly, the Bill before Council seeks to increase the size of the Board by one, and through not providing for any limitation on the number of unofficial members who may be appointed, within the overall size of the Board prescribed, will give the desired flexibility in the mix of members.

Sir, you have asked me to emphasise that these various changes are not intended to convert the Hong Kong Industrial Estates Corporation into a part of the Industry Department, or another department. Indeed, I am to stress it is your intention that:—

- (a) the Chairman will remain an unofficial;
- (b) subject to the enactment of this Bill, two additional members will be invited to join the Board to give it an unofficial majority;
- (c) all important decisions, including the allocation of land, will continue to be taken by the Board; and
- (d) the appointment of the Director of Industry as Chief Executive of the Corporation will be reviewed by 30 June 1986.

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

Motion made. That the debate on the second reading of the Bill and adjourned—
SECRETARY FOR TRADE AND INDUSTRY.

Question put and agreed to.

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 1984

Resumption of debate on second reading (15 February 1984)

Question proposed.

MR. BROWN:—Sir, three Bills introduced into this Council during the 1983-84 Session were held over on the request from Unofficials Members for one reason or another to this Session—it is pure coincidence that I am Convener of all three of the Legislative Council Groups examining these pieces of legislation. The Professional Accountants (Amendment) Bill 1984 is one of these delayed Bills, and I speak this afternoon as Convener of the Legislative Council Monetary Affairs Working Group, which has now reached agreement with the Administration as to how to resolve the various issues involved.

When this Bill was first introduced its main purpose appeared to be no more than a straightforward, reasonable proposal to tighten up on the residential requirements for auditors—in simple terms to ensure that those signing certificates were physically in Hong Kong to supervise the work in their offices and render expert advice to their clients.

The Bill had the strong support of the Council of the Hong Kong Society of Accountants, but not unfortunately of all auditors. No one seems to object to the principle of a residential requirement, but to do so by legislation—as opposed to the internal rules of the Hong Kong Society of Accountants—seems to raise objections, to put it mildly, of those who believe this Bill, by removing certain vested rights by law, would be at least inequitable, and at worst seriously weaken the community's faith in our legal framework and the rule of law.

In picking its way through the minefield of emotions raised by these issues the Legislative Council Group has gone into them in some depth—which is why the examination has taken a long time—and the position in a 'nutshell' is as follows:—

Firstly, when the Professional Accountants Ordinance was first enacted it took into account the existence of the then existing Authorised Auditors who were listed under section 131(3) of the Companies Ordinance.

These Authorised Auditors were recognised under section 30(4) and became entitled to be issued with a practising certificate. There was no residential requirement for this group of professionals who were permanent residents of Hong Kong. This is their so called 'vested rights'. All other auditors, which includes newcomers to the profession in Hong Kong both Chinese and non-Chinese, became subject to a residential requirement.

Secondly, since the Professional Accountants Ordinance first came into effect as long ago as in 1973, time itself will gradually reduce to zero the number of Authorised Auditors, for even accountants are not immortal.

Thirdly, although in theory an Authorised Auditor could—under the law— spend most of his time out of Hong Kong, and continue to hold a practising certificate, which would be withheld normally from other auditors as they would fail the residential requirement in these circumstances, on enquiry we could not furnished with any known abuse of this privilege.

Fourthly, it is within the capability of the Hong Kong Society of Accountants to govern the conduct of *all* its members by way of Codes of Practice.

In summary, Sir, it would seem that in regard to the residential requirement this Bill provides a solution to a problem that doesn't exist. Two weeks ago in this Council the Chief Secretary made reference to common sense and the fact that this admirable quality is shared by both the Administration and the private sector. I am happy to report today we have a good example of that working in practice.

At the committee stage, I shall move an amendment to delete the whole of clause 8 from this Bill, which I understand is acceptable to the Administration. We have suggested through the Administration to the Council of the Hong Kong Society of Accountants that the contentious issue of residential

requirements for *all* auditors might be best handled by means of a Code of Practice issued by the Hong Kong Society of Accountants. With this, we are convinced that the integrity of our commercial activities in Hong Kong will be upheld in what is probably a more appropriate way for a body of professionals.

Sir, what remains of this Bill is a number of non-controversial proposals to make a number of amendments to the Professional Accountants Ordinance in regard to its disciplinary rules and proceedings and the number of members of the council. The opportunity has also been taken to rectify minor defects in the Ordinance and generally attend to matters of a 'house-keeping' nature considered necessary by the Hong Kong Society of Accountants.

Sir, subject to the amendment should move at the committee stage Unofficial Members now support this Bill.

THE FINANCIAL SECRETARY:—Sir, I support the amendment to delete the whole of clause 8 from this Bill which be moved at the Committee Stage by Mr. BROWN. The Council of the Hong Kong Society of Accountants has confirmed its agreement to this approach which will permit the remainder of the Bill to be passed. It will also strengthen the administration and procedures of the Council and clarify, as proposed in clause 7, the requirements for a professional accountant to be issued with a practising certificate under section 29A of the Ordinance.

I take this opportunity to thank the President and Council of the Hong Kong Society of Accountants for their patient and detailed responses to the many questions put to them. May I also thank Mr. BROWN and the Monetary Policy Group in UMELCO for the meticulous yet sympathetic examination of the issues involved. This protracted exercise clearly indicates that this Council is responsive to matters of public concern even where the clause at issue in this Bill would have affected only a small, and decreasing, number of practising accountants. The compromise proposed by Unofficial Members has the Administration's support.

Question put and agreed to.

Bill read the second time.

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

Committee stage of bill

Council went into Committee

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 1984

Clause 1

MR. BROWN:—I move that clause 1 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 1

That clause 1 be amended by deleting ‘1984’ and substituting the following—

‘1985’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 to 7 were amended.

Clause 8

MR. BROWN:—I move that clause 8 be deleted from the Bill for the reasons I mentioned in the debate.

Proposed deletion

Clause 8

That clause 8 be deleted.

The deletion was agreed to.

Clauses 9 to 14 were agreed to.

Council then resumed.

Third reading of bill

THE ATTORNEY GENERAL reported that the

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 1984

had passed through Committee with amendment, and moved the third reading of the Bill.

Question put on the Bill and agreed to.

Bill read the third time and passed.

Statements

Report of the Finance Committee on the Draft Estimates of Expenditure 1985-86

THE CHIEF SECRETARY:—Sir, laid on the table yesterday was the Report of the Finance Committee on the draft Estimates of Expenditure for the year ending 31 March 1986.

For the second time, the Committee's meetings were held in public over four afternoons. The Controlling Officers responsible for the 71 heads of expenditure submitted written answers to 359 questions; 43 of the Controlling Officers were called to give evidence in person. They gave oral answers to 221 questions of which they had received previous notification and responded to more than 200 supplementary questions. The record of these written and oral answers is annexed to the Report amounting to no less than 393 pages of typescript and, in my view, it amounts to a conscientious and very practical exercise in accountability; and one which might well be noted by students of that subject. At the same time, the Report reflects Members' painstaking examination of the draft Estimates, an examination which is designed to ensure that the funds requested are no more than is absolutely necessary for the execution of approved policies.

Mass Transit Railway Corporation Annual Report 1984

THE FINANCIAL SECRETARY:—Sir, in accordance with section 16(4) of the Mass Transit Railway Corporation Ordinance (Cap. 270), the annual report and accounts of the Mass Transit Railway Corporation for the year ended 31 December 1984 were tabled yesterday.

The Mass Transit Railway carried 411 million passengers in 1984, a slight reduction from 412 million in 1983. Total fare and other recurrent revenues earned by the corporation rose by 13 per cent to \$1,168 million. Operating profit before depreciation increased by 16 per cent to \$647 million, equivalent to 55 per cent of revenue. The profit before interest and finance charges increased to \$318 million, a 26 per cent improvement on 1983. Because of the need to service heavy interest and finance charges, the corporation suffered a loss of

\$355 million, which is 53 per cent less than 1983. The profits realised from property developments and reduced interest charges as a result of the strong Hong Kong dollar in 1984 have contributed significantly to this reduction.

New loan facilities negotiated by the corporation during 1984 totalled \$3.5 billion. By the end of 1984 loans raised by the corporation totalled no less than \$26.5 billion. As a result of the cumulative losses suffered by the corporation over the past five years, shareholders' funds at year end were reduced to \$2,843 million. The Government shares the corporation's concern about the rate at which the shareholders' funds are being depleted and is now considering suitable measures to improve the corporation's financial position.

The Island Line will open to passenger service between Admiralty and Chai Wan on 31 May 1985, some five weeks ahead of schedule. It will be completed within the budget of \$11 billion.

The M.T.R. is the only mass transit system in the world whose unsubsidised fare revenues are sufficient to cover all costs, including depreciation, plus a useful operating profit margin. Members will join me in congratulating the board, management and staff for competently managing for another year what is the most densely utilised mass transit railway in the world.

Hong Kong Polytechnic Annual Report 1983-84

MR. S. L. CHEN:—Sir, among the various papers laid on the table of this Council yesterday is the 12th Annual Report of the Hong Kong Polytechnic for the year ended 31 July 1984.

During the year under review, the Polytechnic's second Director, Dr. Keith LEGG, announced his decision to retire at the end of 1984 on completion of nearly ten years' service as Director. The Directorship was accordingly advertised in January 1984 and by mid-April the post was offered to and accepted by Dr. John Leslie CLARK, then Assistant Director (Academic) of Newcastle Polytechnic in the United Kingdom. Dr. CLARK assumed duties as Director in early January this year.

In the academic year 1983-84, the total full-time equivalent student population of 11 990 represented only a very small increase over that of the previous year. There has been a notable change, however, in the mix of enrolment on different levels of the academic programmes offered. Five Degree programmes were introduced for the first time in 1983. This, together with the continued transfer of Certificate and Diploma level course to the Technical Institutes, resulted in an appreciable increase in the percentage of students enrolled on higher level programmes. During the year under review, 1.5 per cent were registered on Bachelor Degree courses, 20.5 per cent on Associateship and

Professional Diploma, 47 per cent on Higher Diploma and Higher Certificate and the remaining 31 per cent on Diploma and Certificate programmes.

With regard to the employment situation of graduates, the employment survey conducted annually by the Polytechnic's Student Affairs Unit again showed encouraging results. The export-led economic recovery in Hong Kong was reflected in more and better job opportunities for many graduates in disciplines such as textiles, clothing, engineering, accountancy and computing studies. Of a total of 2 454 graduates from full-time courses, 74.5 per cent found employment in various fields mainly in commercial and industrial organisation, 17.6 per cent pursued further studies, and only 7.7 per cent were still unemployed as at 25 October 1984 but many were at that time being actively processed for employment. The overall average monthly salary of these graduates in their first employment was 9.4 per cent more than that of the previous year's graduates, while the inflation rate for the year ending September 1984 was only about 7.1 per cent.

The year covered by the Report, Sir, was one of consolidation and transition. Strong emphasis was placed on curriculum review and development, on improved teaching and validation process, and on research and consultancy. The Polytechnic is well-poised to move forward in a new era of development in which the main thrust of its work lies in the quality of its academic contributions and services to the community.

Consumer Council Annual Report 1983-84

MRS. CHOW:—Sir, due to the belated tabling of the Consumer Council Annual Report for the year 1983-84, I would like to take this opportunity to bring this Council, and the public, up to date on a number of key developments within the Consumer Council.

April 1984 marked the tenth anniversary of the Consumer Council. During these ten years the Council has firmly established itself as the champion of consumer rights as well as sound advisor to consumer queries. The number of complaint cases in '83-84 stood at 9 600, as against 4 800 in its first years of operation, and enquiries multiplied almost ten-fold over eight years from about 6 000 in 1976-77 to a near 60 000 in '83-84. This successful link between the Council and the public will be built on and further expanded as we continue with our policy of setting up two district advice centres each year until each and every district will have a centre of its own. We have now 12 such centres.

At this point I would like to pay special tribute to my predecessor, ex-chairman of the Consumer Council, Mr. Gallant Ho Yiu-tai, whose extraordinary good sense and dedication not only steered the council to its position of strength today during his four and a half years as chairman, (almost half the life span of the council if I might add), but was also most generous in his advice and

guidance to me immediately prior and subsequent to my taking over the chairmanship. He was the one who identified the solution to the problem which haunted the council for many years, that is, that the long delays experienced in the passing of consumer protection legislation could best be resolved by the appointment of a member of this Council onto the Consumer Council.

This has undoubtedly been one of the more frustrating aspects of the council's work. For instance the proposal to enact the Hire Purchase Ordinance was initiated by the Consumer Council in 1977. A bill to control malpractice by travel agencies has been in the works for three years since 1982, and that was after five years of repeated requests from the Consumer Council, which first put forward the arguments for legislation in 1978. Both bills have yet to be introduced into this Council. I am however grateful to the Secretary for Economic Services who has sympathetically recognised the problem and has been most encouraging in expediting the solution. A case in point which I find particularly gratifying is his swift action to study possible legislation to curb malpractice by retailers of electrical and electronic appliances which he announced yesterday. For much as I share his view on the power of persuasion, there comes a time when anything short of a prison sentence or a criminal record would be too mild a deterrent for the die-hard fraudulent retailer.

Before I close I believe a vote of thanks is due to Miss Ophelia CHEUNG who served as Chief Executive of the council until the end of 1984. She was responsible not only for establishing the council's leading position in the forefront of the Consumer Movement in Hong Kong, but also for placing Hong Kong on the map of international consumer campaign.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on 1 May 1985.

Adjourned accordingly at three o'clock.