

OFFICIAL REPORT OF PROCEEDINGS**Friday, 7 June 1985****The Council met at six o'clock****PRESENT**

HIS HONOUR THE DEPUTY TO THE GOVERNOR (*PRESIDENT*)
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.

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 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 ALLEN LEE PENG-FEI, 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 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.

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 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 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

ABSENCE

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

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

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING

THE HONOURABLE CHAN YING-LUN

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR. LI WING

Statement

HIS HONOUR THE PRESIDENT:—Honourable Members, in accordance with Standing Order 7(3), I have changed the day and hour of the next sitting of the Council from 2.30 p.m. Wednesday, 12 June 1985 to 6.00 p.m. today.

And in accordance with Standing Order 7(2), I dispense with the written notice for this sitting of the Council and declare the Council now in session.

Government Business**First reading of bill****OVERSEAS TRUST BANK (ACQUISITION) BILL 1985**

HIS HONOUR THE PRESIDENT:—I have directed that the Overseas Trust Bank (Acquisition) Bill 1985 should not be published in the *Gazette* before it is read a first time.

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

Second reading of bill**OVERSEAS TRUST BANK (ACQUISITION) BILL 1985**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to provide for the acquisition by the Government of the Overseas Trust Bank, the compensation payable in respect of such acquisition and the carrying on of the business of that Bank and for connected purposes’.

He said:—I move that the Overseas Trust Bank (Acquisition) Bill 1985 be read the second time.

At 4.30 p.m. on Thursday, 6 June the Overseas Trust Bank Limited notified the Commissioner of Banking that it was insolvent. After consultation with me, the Commissioner exercised his powers of control under section 13(1) of the Banking Ordinance and has directed the bank and its board of directors to desist from undertaking any business whatsoever in its branches and offices in Hong Kong or elsewhere overseas until further notice. In effect the bank’s operations were frozen. So was trading in the bank’s shares on various stock exchanges.

This development followed an intensive examination of the bank's books by four teams of examiners from the Commissioner's office during the past two months and an urgent study by a merchant banker. There have also been prolonged consultations with executives and directors of the bank. The results of the examinations indicated that the bank's problem went beyond imprudent management or misfortune and that the extent of provisions which ought prudently to be made in respect of existing bad and doubtful loans was such that the capital of the bank was more than wholly lost.

Although banking supervision can always be improved upon, the problems of Overseas Trust Bank appear to have arisen from criminal actions and not from lack of prudential supervision by the Banking Commission.

It is Government's firm view that the interests of depositors with banks licensed in Hong Kong, the integrity of Hong Kong's financial system and its international reputation must be safeguarded. There are various courses of action which can be taken by the Government. The safest to take over the bank, giving complete protection for all depositors and creditors.

It is not possible yet to quantify what the costs will be to the Exchange Fund, from which expenses will be met. The Overseas Trust Bank is somewhat larger than the Hang Lung Bank, but by taking early decisive action the eventual costs to public money will be minimised.

The Hongkong and Shanghai Bank have agreed to provide senior full-time management and an executive director. The Chairman will be the Secretary for Monetary Affairs. Additional directors will be appointed, but the Government will in the first instance call upon the services of those who are currently directors of the Hang Lung Bank because there are useful experiences to be drawn upon. The future structure of the bank will require a full study.

The Bill is modelled on the Hang Lung Bank (Acquisition) Ordinance. It provides for the acquisition of the Overseas Trust Bank Limited by the Government and the subsequent carrying on of its business. I wish specifically to draw Members' attention to clause 8 of the Bill which enables the Financial Secretary, on behalf of the Government, to guarantee the debts of the bank. Obligations under the guarantee are charged on the Exchange Fund. In the absence of such a guarantee the newly appointed directors could not continue to operate the bank, as to do so would result in contravention of the bankruptcy laws because the bank is insolvent. Provision is properly made in the Bill for possible compensation. I shall be very surprised if any is due.

What this means to the public and to financial institutions who have deposits with the Overseas Trust Bank Limited is in effect that their money is now held by a bank wholly owned by the Hong Kong Government, similar to the Hang Lung Bank. There is therefore no cause for further anxiety. If this Council accepts this Bill, the Overseas Trust Bank will re-open for business on Monday

under new ownership. I know that the staff of the bank will respond accordingly and give their full support for the new management.

I would like to pay tribute to many of my colleagues who have worked throughout the night so that this matter can be handled expeditiously.

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

THE ATTORNEY GENERAL:—Sir, you have indicated that it might be helpful to Members who have had scarcely any time to study the text of this Bill if I were to speak briefly upon it. As my friend the Financial Secretary has said, its main purpose is to enable shares in the bank to be transferred as a matter of law from previous shareholders to the Government, or more strictly, to the Colonial Treasurer Incorporated, and that would be the immediate effect if this Bill is passed into law. And the second is to enable this bank on Monday to continue to trade and to overcome its present difficulty of declared insolvency by reason of the guarantees which under clause 8 the Financial Secretary is empowered to give, charged on and issued out of the Exchange Fund. Sir, the nature of the legislation is founded almost entirely, except for clause 8, upon the model that was before this Council some 20 months ago when the Hang Lung Bank was in similar circumstances taken over, so to speak, by the Government. That model has been found satisfactory because no experience of the Board of the Hang Lung Bank points to the need to improve the method that was then chosen, and tonight would be repeated if this Bill is passed.

If I may draw attention then to the main clauses of the Bill. Clause 3 is the key to the transfer of all the shares in the capital of the company from whomsoever presently holds them to the Colonial Treasurer Incorporated, and with it all their rights, privileges and advantages and all the liabilities and obligations arising from the holding of those shares. Subclause (3) provides for that transfer to be registered so that the Colonial Treasurer shall become the registered owner of those shares.

Clause 4 is a convenient clause to include because it means that the bank will continue to occupy any premises which it does not presently own and in that way there will be no interruption in the business or the activities of the bank by reason of the fact that the share holding has entirely changed. It would not for example be open to any previous director or any previous shareholder to deny the bank the use of premises after the passing of this Bill. That use would continue on the same terms and conditions as enjoyed previously.

Then under clause 5 there is a determination of any right to acquire shares, so that if anyone at the present time had some right to purchase any shares in this company, that right would be determined and so would any right to nominate directors or exercise control.

Then under clause 6 are the provisions which can be exercised by the Financial Secretary. Any uncommercial disposal of assets by the bank in the last

12 months, any disposal not made in good faith in the ordinary course of business could be disregarded and a claim could be brought against the directors, managers and officers of the bank in respect of any such disposal. And similarly under subclause (3) any burdensome transaction entered into by the company over the last 12 months could be set aside.

Sir, under clause 7, directors are to be appointed, the Secretary for Monetary Affairs under subclause (2) becomes the Chairman as soon as this Bill is passed, and the Financial Secretary has the power also to appoint other persons to act as directors of the company.

Under clause 8 is the provision for the guarantee, the crucial provision to enable this bank to continue in business on Monday morning.

Under clause 9 there is provision for claims for compensation. Whether or not those will prove to be valuable claims is quite a different thing, but it would be in my submission quite wrong for this Government to be confiscating any asset without providing any right to claim compensation if indeed those assets have a value. The method by which the compensation will be assessed will be provided in regulations which the Government, through the Financial Secretary, has the power to make to govern the method of assessing compensation, the basis on which compensation should be calculated, and the like.

Sir, clause 10 gives the Financial Secretary power to make regulations providing for the management and control of the company. So he would, as the sole shareholder, be in a position to direct the manner in which the bank carries on its business. Similarly under clause 11 the Governor has a power to give direction to the directors of the company so that it can be certain that they exercise their powers in the public interest.

Lastly, under clause 12, because the Bill itself does things which are in particular respects inconsistent with the Companies Ordinance or the Banking Ordinance or the Deposit-taking Companies Ordinance or indeed the memorandum or articles of association of the company, it is provided that the provisions of this Ordinance override those. So it is this Ordinance which has the effect of transferring the shares, installing the directors and ensuring that this corporation is properly constituted to carry on business come Monday morning.

6.15 p.m.

HIS HONOUR THE PRESIDENT:—At this point, Members might like a short break.

6.40 p.m.

HIS HONOUR THE PRESIDENT:—Council will resume.

DR. FANG:—Sir, this Bill has come to us at very short notice, but the Administration has earlier explained to us the circumstances.

Naturally, most of us are not happy that the Government is forced to take this action and my colleagues who will be speaking after me will be expressing their reservations and they will be seeking certain assurances before we can support the Bill.

MR. S. L. CHEN:—If we were to defend the principle of free enterprise, which has long been the major driving force that makes Hong Kong tick, then we must necessarily have some reservations in the proposed Government rescue action. In other words, just as the Government would not intervene, let alone rescue, any company which gets into trouble, it is arguable that there is no reason for the Government to use public funds to rescue one particular bank. Indeed, had the bank become insolvent as a result of mis-management, I would have no sympathy with the proposal before us, and I would have no hesitation to urge the Government to let the bank, like any other commercial organisation in Hong Kong, face the natural commercial consequences of bankruptcy or liquidation.

However, the problem of O.T.B., as stated by the Financial Secretary, was due to criminal acts on the part of the senior executives of the bank. Under the circumstances, in the interest of depositors and creditors, and above all, ensuring minimal disruption to the banking business in Hong Kong, I am prepared to support the Bill before Council.

MISS DUNN:—Sir, the Government's swift action to safeguard the interests of depositors and Hong Kong's reputation as a financial centre of international standing is to be commended. Although, as the Financial Secretary said, banking supervision can always be improved with changing circumstances, it is important to emphasise that this sorry state of affairs is *not* due to inadequate prudential supervision. It is, apparently, the result of criminal acts. Sophisticated commercial crimes are not easy to detect. That having been said, Sir, I hope that justice will be brought to bear on the criminals concerned. In particular, I hope that the bank's shareholders will not be given any compensation for the Government's takeover of the bank.

Finally, Sir, whilst the course of action which this Bill proposes is necessary in the circumstances, the Government must *not* be seen to have any implicit commitment to bail out any bank at the expense of public money. The financial community will be well advised to exercise prudence and discretion in their businesses dealings and I would like an assurance that the Government will make it clear that it will *not* lightly come to the rescue of other banks which get into trouble.

I support the motion.

MR. ALLEN LEE:—Sir, I rise to support the Overseas Trust Bank (Acquisition) Bill 1985. In support of this unfortunate Bill I want to make two points which in my opinion are of vital importance to Hong Kong:—

- (1) Hong Kong must maintain its position and reputation as one of the world's financial centres. If there are doubts in the international community as to our credibility in the financial circles we must put this doubt to bed.
- (2) We must strengthen our banking supervision, even though the discovery of the fraud was by the staff of the Banking Commissioner's Office; but it is always too late after the problems have surfaced. We must look into every aspect thoroughly and carefully and establish a system under which the general public feel that they are comfortably protected. It is the interest of the general public that I am thinking about in supporting this Bill.

MR. STEPHEN CHEONG:—Sir, I came very very close to opposing this Bill. The balance was only tipped by the possible adverse effects on Hong Kong's international image as a financial centre. Given the intertwined transcontinental relationship that exists nowadays between Hong Kong, New York, London and Zurich, Hong Kong's image will be irrevocably damaged by any signs of possible collapse and this will definitely not be good for Hong Kong's long-term interest.

In supporting the Bill reluctantly, therefore, I wish to make briefly two points to the Government and one to the industry. First, for the Administration, we have to develop further our supervisory mechanism so as to be able to continue to weed out the unhealthy elements of the finance industry and to be assured that we will be able to detect any possible problems earlier. Second, I would like to echo Miss DUNN's remarks that it cannot be taken as a precedent that the Administration will come to the aid of any troubled financial institutions using the excuse or the reason of preserving Hong Kong's financial image and for the interests of the depositors.

As far as the industry is concerned, I read in the newspapers that the present Banking Commissioner is already devising ways and means and in consultation with the industry for a lot of self-regulating supervisory steps and controls to be taken. I was given to understand through rumours that there are and have been a lot of squabbles within the industry itself taking odds with certain possible control measures to be taken by the Commissioner of Banking. I certainly hope that such squabbles would now cease because it is unheard of and in fact the element of positive non-interventionism has been now broken twice for the finance industry and we certainly hope that the industry now will regulate themselves a lot better than it has been shown in the past.

With these remarks, Sir, I support the motion.

MRS. CHOW:—The Financial Secretary told us a while ago that there is no cause for further anxiety. I cannot agree. For it was only 20 months ago, when we

were asked in this Chamber to pass the Hang Lung Bank (Acquisition) Bill, and here we are, faced with a similar decision although the causes may be different. What seems to me to be the main cause for anxiety this time is that Government states that it cannot quantify what the costs will be to the Exchange Fund from which expenses will be met. In other words, we do not know at this point to what extent we are committing public funds in order to facilitate this acquisition.

Furthermore, when we passed the Hang Lung Bank (Acquisition) Bill, I had heard assurance that the Government would take every step to prevent a repetition of similar commitment. But here we are, facing an almost identical situation. What has the Government done to prevent this recurrence? What will the Government do to prevent another or other recurrences in the future?

I am supporting the Bill reluctantly, as I accept that the interests of depositors, the integrity of Hong Kong's financial system and its international reputation must be safeguarded, and the only safe course open to us at this point in time is acquisition. However, the Government must give its assurance and firm commitment that it will do its utmost to prevent further recurrence of to-day's scenario.

MRS. FAN:—Some 20 months ago, we assembled in this Chamber at short notice and passed the Hang Lung Bank (Acquisition) Bill 1983. The impression given by the Administration on that occasion was that the acquisition of Hang Lung Bank was a one-off exercise. In view of the strength of the Hong Kong dollar and the confidence crisis at that time, i.e. September 1983, we voted in favour of the acquisition, although we were fully aware of, and also very dissatisfied with, the fact that the taxpayer was actually taking over the burden of bad management and possibly unethical and unprofessional behaviour of some of the senior staff of the Hang Lung Bank.

One would have expected that a lesson has been learnt, and appropriate steps have been taken to prevent similar occurrence in future. Regrettably, this is not the case. To-day, we are once again faced with the dilemma of choosing the lesser of the evils.

It goes without saying that I am most dissatisfied with the present state of affairs. However, I shall support the Bill, due to the reasons already covered by my colleagues. But I have to state quite clearly that I cannot envisage lending my support to another acquisition of this nature in future, because such a move can easily turn into an open-ended commitment by the taxpayer. In my view, it is only fair that the Administration should give this Council an assurance that the monitoring effort exercised by the Banking Commissioner is sufficient and the power given to the Commissioner to carry out his role is adequate. It would be most welcome if the Administration is able to give an assurance that similar bills will not be introduced into this Council in future, as effective steps should have been taken to remove the need for such bills.

MR. KIM CHAM:—Sir, the introduction of the Overseas Trust Bank (Acquisition) Bill 1985 is undoubtedly a needed measure. Failing this, the implication of the liquidity squeeze arising from bank runs will be detrimental to our banking system since depositors' confidence may be eroded. Furthermore, with the operation of the multiplier effect through the liquidity ratio, the resulting squeeze on banks may be devastating. I am, therefore, in support of the Bill. In particular, I would like to pay tribute to the Banking Commissioner, Mr. Robert FELL, for the speedy detection and swift action on this matter. However, let me remind the Council that this is a second lesson which we have learnt from experience, the first one being the Hang Lung Bank. I am appreciative of the efforts of the Commissioner of Banking on his recent efforts to improve banking supervision and I am confident of his ability for some improvements. Yet, I am concerned of the principle that the Exchange Fund has to shoulder the consequence of the insolvency of a bank. For the stock-brokers and commodity dealers, there is a Compensation Fund in operation which is used to meet defaults, jointly as an industry. Why should the Exchange Fund be required to bear such mishaps alone? I am of the view that the industry together with the Banking Commissioner's Office should be asked to examine the viability of other methods such as deposit insurance schemes to restore depositors' confidence and share the financial effects of such a grave consequence. This should be examined with priority so that the consequence of future failure would be shouldered by the industry, perhaps less by the public.

With these marks, Sir, I support the motion.

MR. TONG:—Sir, company acquisitions are normally something to rejoice about but not this one. I am however in support of the Bill because I believe it imperative that prompt action be taken to prevent any damage to Hong Kong's reputation as a leading financial centre and more importantly to protect the interest of all the depositors.

There are, however, many questions that need to be answered—e.g.

- (1) The Government have acquired the Hang Lung Bank and now the Overseas Trust Bank. We cannot possibly bail out all lame-duck banks as they go lame! Surely, the system of safeguard must be changed?
- (2) Were there any other early warning signals which could have been made, but were not made? What were the tell-tale signs, if any, revealed in the bank's financial statements published to-date?
- (3) How is it that after close to two months of examinations by our bank examiners, action was apparently only taken at the eleventh hour when the Chairman of the bank wrote to advise the Authority of the bank's insolvency?

In spite of these questions, the proposed action must be right for the reasons I have above. However, the costs will have to be accounted for later.

With these remarks, Sir, I support the motion.

THE FINANCIAL SECRETARY:—Well, Sir, as this Council moves forward with a greater degree of politicisation, it must be among the less extraordinary measures to hear senior Government servants speaking wholly impromptu without notes or without many notes and certainly without prepared speeches. I shall do my best.

First of all, I would like to thank Members for their general understanding. I must say I approach this Bill with total distaste. I advocate its adoption purely because all other measures seem worse. I can't see anything else to be said for it. Nevertheless what is not quantifiable is what would happen to Hong Kong's status as an international financial centre and on the perceived integrity of the local interbank market if we did not take such action.

Confidence in the Hong Kong dollar is also at stake and I need not tell you how hardly won that confidence is. The worst scenario possible could include break down of the interbank market with a very serious knock on effect on local banks.

I am grateful for Dr. FANG'S comments. I am extremely sorry we have to act in such a hasty manner and I am sure he and the other Members know why. He seeks assurances and I will do my best to give them.

Mr. CHEN has spoken persuasively of the system in Hong Kong based on free enterprise, based on people looking after themselves, based on the fact that we do not bail out lame-ducks. I do not disagree with him. I must, however, comment that to some extent and as I have said it is an unquantifiable extent, banks are not like other businesses. Mr. CHEN and I would like to treat them as if they were other businesses. Nothing would have given me greater pleasure to see this wretched bank be put into insolvency, but I am persuaded that the risks on behalf of Hong Kong as a major world financial centre are simply not worth taking. They are truly unquantifiable risks.

Miss DUNN has spoken most kindly. I am grateful to her comments on the speed with which we have approached this Bill. It was a speed which I must say I found most distasteful. We haven't really had time to think things out properly. We certainly haven't had time to think out what we are going to do with the bank when we own it; but I think people know what has been happening in Hong Kong today, what people have been saying and the worries of little men. I entirely share her views on the need to make sure that justice takes due effect on all criminals. I certainly will remind my colleagues in turn of the virtues of criminal action in the courts. It did seem appropriate that we should make a token provision for shareholders claiming compensation. It is not our fashion in Hong Kong now and it will not be in the future, to sequester people's properties, or property, or money, without allowing them a chance to claim. May I say yet again that if indeed there is any claim that is fairly put, I for one will be extremely surprised. To me not the least satisfactory outcome of this whole

business, in fact some would say, about the only satisfactory outcome, is that the shareholders themselves are not being bailed out and they would indeed have lost about \$1.6 billion.

What we are protecting is the good name of Hong Kong and the trust of depositors in our banking system here. There is, of course, absolutely no commitment to further bails-out. Miss DUNN is quite right to warn other banks in Hong Kong that this Bill offers no comfort to them for the future. Selfreliance is a principle of Hong Kong's way of life. Banks who lend to bankers in particular must be prudent and cautious, addressing the risks as they are seeking and earning their rewards. The Commissioner of Banking will not hesitate to examine his powers to control banks which cannot manage their affairs prudently and in accordance with the requirements of the law.

I am not surprised at Mr. LEE'S comments, which I thought in all the circumstances, were extremely charitable. Hong Kong's reputation as a financial centre is of maximum importance to us. I am particularly sensitive to his comments which again I thought was entirely deserved on the need to strengthen banking supervision.

I shall be leaving this Chamber to face the press and I have no doubt this is an area which will be vigorously pursued. But, I must again repeat that it is one thing to supervise the actions of bank managers acting imprudently or incautiously. It is quite another matter to seek to catch what appear to us to have been major acts of criminality. Of course, this is an area in which the Banking Commissioner will seek to strengthen his staff but I think one must accept that it would be most unwise, most foolish of me to say, that we will catch all criminals in the future. We shall certainly do our best.

Mr. Stephen CHEONG commented sensibly and wisely again on the possible adverse effects particularly in our financial areas. Hong Kong is part of the Hong Kong—New York—London—Zurich axis. One of the problems we had in addressing this issue is to seek to be clear in our own mind what our duty is to international banking as a whole. Hong Kong is a part of the international banking community and we cannot seek to go off on a course of self-interest on our own without considering at the same time what our overall responsibilities are. I entirely share his view again on the need to develop better supervision. I entirely agree with his message which he and others have made quite clear tonight that we should make it perfectly patent to other banks in Hong Kong who may run into trouble that if they seek to be bailed out with Government, that is, the people of Hong Kong's funds, they had better have another thought. I would like to think this is the last case of this sort that will arise. I share his views on the need to detect such problems earlier. Obviously, this is a course of excellence. He will accept the problem faced by the Banking Commissioner, when he was only informed by the Chairman of this bank that it was insolvent at 4.30 p.m. last night. I take Mr. CHEONG'S point about self regulations, I take

his point about squabbles in the banking industry. He will agree that we must, as I have promised several times, go forward towards new legislation. As a process of consultation, we must consult, we have consulted, we had a very important meeting of the Banking Advisory Committee only on Wednesday this week. But I say to you and I say to the banks in Hong Kong, that consultation has to come to an end some time. We have consulted and we are shortly going to have to make our minds up and then introduce a bill to Executive Council and I hope that they would agree that we may introduce it into this Council.

Have no doubt that I and the Banking Commissioner are set on getting to grips with this question of better banking supervision as quickly as possible. But there are 141 banks, 33 licensed deposit-taking companies, about 330 registered deposit-taking companies and 114 bank representative offices. I think it is a fair point to say that the squabbling that goes on is not on the whole likely to end up in sweet reason. This is why I say after the process of consultation has stopped the Government is going to have to take action and I am very pleased to note the feeling in this Council and to sense that I won't have any difficulty in securing your agreement.

Mrs. CHOW comments it is only 20 months since the Hang Lung Bill. I agree. Of course, the Hang Lung Bank Bill was introduced in slightly different circumstances: we had a deplorable situation with regard to the Hong Kong dollar; the question of political lack of confidence was perfectly obvious and at that time we had no option. I agree that at this time we did have options and I think only foolish people would believe that it has been easy to adopt the course we have. There are other arguments which were very persuasive indeed. I repeat what I said earlier: I think that what we have done is choose the less bad course. I certainly don't think it is a very good course. I am sorry that we cannot quantify with a great deal of exactness the cost to the Exchange Fund. But if we had allowed this bank to go into liquidation it has been estimated very roughly that creditors might have recovered only about 70 per cent of their claims, it being accepted that all shareholders' funds had been lost. On that basis, I estimate that the contribution from the Exchange Fund that may be needed to help this bank is something like \$2 billion. Given good management the final figure may be less. I need hardly repeat that it is not the Government's intention any more than it was the intention with the Hang Lung Bank to hang on to distressed banks. I should personally be delighted to see the back of them and I am sure that Members of this Council who serve on the board, and will certainly shortly serve on the board of this bank also, would be delighted to see us get out. The only point is this represents again the money of the citizens of Hong Kong, and it is only intelligent to make sure that when we do sell the bank, we get our timing right so that we can secure as much as compensation as we can.

Mrs. FAN again referred to the Hang Lung case. We thought at the time that it was a one-off. We were wrong. She asks again to promise there will be no

similar bills. Of course I cannot. But what I can say, and I echo only the words of many of my colleagues, is that if any bank thinks in future if it gets into trouble it is going to get an easy passage either from the Executive Council or this Council, it is seriously misjudging not only the mood of this Chamber, but, I would guess, the mood of the public as well.

Mr. CHAM, perfectly correctly, pointed to the squeeze that could have happened in Hong Kong. I must confess frankly that this to me is all persuasive. If we hadn't taken this course I do not know what would have happened as early as next week to a lot of our smaller banks. Now this question of insolvency, compensation funds and deposit insurance is not quite so easy as it sounds. I think Mr. CHAM who is extremely knowledgeable in this area knows that while there may be squabbles amongst all the banks in Hong Kong, there is no squabble so bitter or deep seated as that between those who want deposit insurance and those who do not. It tends to be an argument of course between the big and the powerful and the small and not so powerful, because such insurance would normally not be paid by the small but be paid by the big and the big, with some reason, think that a system of insurance of this nature might persuade the smaller banks to be even less prudent than they are now. To be perhaps a little unwise in offering too high deposit rates. To take risks because they know that the deposits are insured. Now I am not for a minute accepting that argument. All I am saying is there are two arguments. I think you all know that the Commissioner of Banking is set, with the Government, on improving the whole supervisory legislation. One of the areas into which he is looking is this question of deposit insurance and I don't think it would be sensible for me to proceed any further in these comments because we haven't finished examining the arguments on both sides. But that there are arguments on two sides I am afraid we must accept.

Mr. Carl TONG as an experienced Chartered Accountant asked a series of very difficult questions. He will not expect me to answer them. All I can say is that I am perhaps more distressed than he is. I agree in an ideal world we would have spotted this trouble earlier. I agree there should have been tell-tale signs. But if I may remind him what I said in my speech, we are not talking so much, in fact we are not talking at all, about management inadequacy, we are talking here about a management that seems to us deliberately to set out on a series of absolutely totally disgraceful criminal actions. Now I don't see how you can catch them when they are being done. You catch them afterwards. There must be a degree of trust given by the Government, by the community, in senior officers of banks. If you are a very senior officer of a very big bank, and you have got there despite the fact that you show criminal tendencies. I am afraid it is very possible to leave Hong Kong and depart for other places where there are no extradition treaties with hundreds of millions of dollars. This is a fact of life. I don't think it happens very often as far as we know. It has happened only twice in Hong Kong. I cannot possibly guarantee that it won't happen again.

Now, Sir, I am concluding my speech, given impromptu, and if I've left out any points I am sorry. I would like to say in summing up that this course of action on which the Government, the Executive Council and this Chamber are set is one we have reached with a great deal of difficulty after very considerable heart searching and a very real balancing of the risks. Whether we are right or not I do not know. No one in this Chamber knows. But I do know that for my part I would not have accepted the risks for Hong Kong of taking another course.

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

OVERSEAS TRUST BANK (ACQUISITION) BILL 1985

Clauses 1 to 12 were agreed to.

Council then resumed.

Third reading of bill

THE ATTORNEY GENERAL reported that the

OVERSEAS TRUST BANK (ACQUISITION) BILL

had passed through Committee without amendment. He then moved the third reading of the Bill.

Question put on the Bill and agreed to.

Bill read the third time and passed.

Adjournment and next sitting

THE ATTORNEY GENERAL moved that Standing Order 8(5) be suspended to enable a separate sitting to be held on 12 June 1985.

Question put and agreed to.

HIS HONOUR THE PRESIDENT:—I think, honourable Members, it would be appropriate for me as President to express my appreciation for Members' attendance at such short notice and for the quick way in which they have grasped the essentials of the situation we've been faced with today. I am grateful to you for being prepared to speak in this debate so effectively.

In accordance with Standing Orders I now adjourned the Council until 2.30 p.m. on Wednesday, 12 June 1985.

Adjourned accordingly at thirteen minutes past seven o'clock.