

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 30 January 1980****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, G.B.E., K.C.M.G., K.C.V.O.

THE HONOURABLE THE CHIEF SECRETARY
SIR JACK CATER, K.B.E., J.P.

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

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

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR. LI FOOK-KOW, C.M.G., J.P.

THE HONOURABLE DAVID AKERS-JONES, C.M.G., J.P.
SECRETARY FOR THE NEW TERRITORIES

THE HONOURABLE LEWIS MERVYN DAVIES, C.M.G., O.B.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE DAVID WYLIE McDONALD, C.M.G., J.P.
DIRECTOR OF PUBLIC WORKS

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, C.M.G., J.P.
DIRECTOR OF EDUCATION

THE HONOURABLE DAVID GREGORY JEAFFRESON, J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE ALAN JAMES SCOTT, J.P.
SECRETARY FOR HOUSING

THE HONOURABLE EDWARD HEWITT NICHOLS, O.B.E., J.P.
DIRECTOR OF AGRICULTURE AND FISHERIES

THE HONOURABLE THOMAS LEE CHUN-YON, C.B.E., J.P.
DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE DEREK JOHN CLAREMONT JONES, C.M.G., J.P.
SECRETARY FOR THE ENVIRONMENT

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

THE HONOURABLE ERIC PETER HO, J.P.
SECRETARY FOR SOCIAL SERVICES

THE HONOURABLE JOHN CHARLES CREASEY WALDEN, J.P.
DIRECTOR OF HOME AFFAIRS

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

THE HONOURABLE JAMES NEIL HENDERSON, J.P.
COMMISSIONER FOR LABOUR

THE HONOURABLE GERALD PAUL NAZARETH, O.B.E.
LAW DRAFTSMAN

THE HONOURABLE OSWALD VICTOR CHEUNG, C.B.E., Q.C., J.P.

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

THE HONOURABLE LI FOOK-WO, C.B.E., J.P.

THE HONOURABLE JOHN HENRY BREMRIDGE, O.B.E., J.P.

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

THE HONOURABLE LO TAK-SHING, O.B.E., J.P.

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

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

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

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

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

THE HONOURABLE LEUNG TAT-SHING, O.B.E., J.P.

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

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

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

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

THE HONOURABLE CHARLES YEUNG SIU-CHO, J.P.

DR. THE HONOURABLE HO KAM-FAI

THE HONOURABLE ANDREW SO KWOK-WING

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

ABSENT

THE HONOURABLE WILLIAM DORWARD, O.B.E., J.P.
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS

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

THE HONOURABLE ALLEN LEE PENG-FEI

THE HONOURABLE DAVID KENNEDY NEWBIGGING, J.P.

THE HONOURABLE HU FA-KUANG, J.P.

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MRS. LORNA LEUNG TSUI LAI-MAN

Papers

The following papers were laid pursuant to Standing Order No. 14(2):—

Subject *L.N. No.*

Subsidiary Legislation:

Defences (Firing Areas) Ordinance.	
Defences (Firing Areas) Ordinance (Amendment of Schedules) Order 1980.....	15
Air Navigation (Overseas Territories) Order 1977.	
Air Navigation (General) (Amendment) Regulations 1980.....	18
Commodities Trading Ordinance.	
Commodities Trading Ordinance (Commencement) Notice 1980.....	19
Evidence Ordinance.	
Evidence (Authorized Persons) (No. 2) Order 1980.....	20
University of Hong Kong Ordinance.	
Statutes of the University of Hong Kong (Amendment) Statutes 1980.....	21

Sessional Papers 1979-80:

No. 32—Report of the Brewin Trust Fund Committee on the Administration of the Fund for the year ended 30 June 1979 (published on 30.1.80).

No. 33—Consumer Council—Annual Report 1978-79 (published on 30.1.80).

Oral answers to questions**Repayment to Student Loan Fund**

1. REVD. JOYCE M. BENNETT asked:—*Can the Financial Secretary inform us whether the repayment of student loans to the Student Loan Fund is proceeding satisfactorily and what action, if any, is taken against students who fail to maintain repayment?*

THE FINANCIAL SECRETARY:—Yes, Sir, I believe the Student Loan Fund is proceeding satisfactorily. The Student Loan Fund finances loans to students

at the two universities, the Polytechnic and the approved post-secondary colleges. Nearly \$230 million has been paid out in over 100,000 loans but, to date, it has been necessary to write off less than \$30,000 in irrecoverable debts.

Those few students who default on their obligations without good reason are pursued. At present, there are 176 cases of arrears of repayments, involving some \$215,000. A loan is deemed to be in arrears when two consecutive instalments of the repayment have been missed. When this happens, the case is referred, by the Treasury, either to the Secretariat of the University and Polytechnic Grants Committee (if the case involves a student at the Universities or the Polytechnic) or to the Education Department (if it involves a student at one of the post-secondary colleges). Staff in these departments are then responsible for initiating enquiries to determine why repayments have not been made. In most cases arrears are due to a failure to notify the Treasury of a change of address, with the result that repayment notices have been wrongly delivered. Subsequent enquiries with guarantors, neighbours and employers usually result in contact being re-established and repayments resumed. In a minority of cases, which involve persistent defaulters, it is necessary to refer the details to the Attorney General who, after issue of formal warning letters may initiate legal proceedings for recovery of the debt. It has been necessary in two cases—and I stress two cases only—where there has been a failure to respond to final warning letters, to refer the claims to the Small Claims Tribunal and hearings, I believe, are pending.

Expansion of Legal Assistance Scheme

2. REVD. JOYCE M. BENNETT asked:— *Will the Government state when it is proposed to enable the scheme for limited legal representation in Magistrate's Court to be extended to all such courts and to more offences?*

THE ATTORNEY GENERAL:—Sir, the Management and Administration Committee of the Law Society Legal Advice and Assistance Schemes have just over one month ago issued their first annual report and it is proposed that this be submitted to Executive Council for its consideration. In the report the members of that committee, all of whom are in private practice, suggest first the expansion of the Legal Assistance Scheme to all Magistracies and secondly that thereafter the categories of offence, of which there are at present seven, to which the scheme now applies should be extended. The Government before it can commit itself to a timetable for expansion, or indeed decide whether this scheme or the analogous advice scheme which relates to matrimonial and to civil matters should be expanded, or before it can even consider a timetable for expansion, must study the report and consider and consult with interested bodies. For my part I can say unequivocally that the scheme has my full support, and that I sincerely hope that the expansion

will not be long delayed. But it must be remembered that this scheme, good and socially useful though it is, must of course compete with other socially desirable schemes for available funds; and that is a matter that will be considered in the course of the review.

REVD. JOYCE M. BENNETT:—*Sir, to maintain a sense of equal justice to all cases of the same offence, will the need to extend the scheme to all courts be actively pursued as soon as possible?*

THE ATTORNEY GENERAL:—It will be studied and pursued.

MR. PETER C. WONG:—*Sir, will the Attorney General also study the proposals which I put forward in the Council in November?*

THE ATTORNEY GENERAL:—Yes, Sir.

Robberies of banks and goldsmith shops

3. MR. PETER C. WONG asked:—*Will Government make a statement on the recent spate of robberies on banks and goldsmith shops and the measures being taken to counter such crimes?*

SECRETARY FOR SECURITY:—Sir, dealing first with *Bank Robberies* in 1978-79, there were 84 bank robberies involving property valued at \$2.9 million in 1979, compared with 11 involving property valued at \$85,000 in 1978. And in 1979 26 persons were arrested in relation to 22 bank robberies.

Robberies in Goldsmith Shops for the same two years: there were 38 robberies of goldsmith shops involving property valued at \$7.8 million in 1979 compared with 6 robberies involving property valued at \$1.5 million in 1978. And in 1979, 11 persons were arrested in relation to 7 robberies in goldsmith shops.

In 1980 there have been 6 attempted bank robberies involving property valued at \$36,000. As a result of quick Police action and other measures taken by the banks, so far 6 persons have been arrested for their involvement in 4 of these. A fifth robbery was prevented with no loss of property.

In 1980 there have been 16 robberies of goldsmith shops involving property valued at \$4 million and 4 persons have been arrested for their involvement in 2 such robberies. The others remain under investigation.

In all these statistics the value of the property stolen is the value at the date of the crime.

In reply to a question from the Honourable WONG Lam in this Council on 12 December, I said that the Commissioner of Police had deployed the Force

in such a way as to counter this upsurge in robberies. The number of crime prevention patrols had been increased and plain clothes officers had been deployed in some banks. There has been no relaxation of these Police efforts to curb robberies.

Police counter action against robberies in both banks and goldsmith shops is continuing and there is close co-operation between representatives of these establishments and the Police Force with a view to improving security and preventive measures in such premises.

MR. PETER C. WONG:—*Sir, is it correct that in quoting the figure of 16 robberies of goldsmith shops for this year the Secretary has not taken into account the robbery committed on 28 January this year, that is Monday?*

SECRETARY FOR SECURITY:—I shall need to give the honourable Member a considered reply on that. The statistics which I quoted were amended this morning but I am not able to say up to what time limit they applied.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY)

The answer is that the figure of 16 robberies reflected the position at 7.00 a.m. on 29 January. The robbery you mentioned was therefore included in it.

MR. PETER C. WONG:—*Sir, is the Secretary for Security in a position to inform this Council of any casualties suffered as a result of these robberies?*

SECRETARY FOR SECURITY:—I regret to say the honourable Member has me at a disadvantage for a second time, Sir, but I will provide him with this information in writing.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY)

Mr. Peter C. WONG also asked about casualties suffered as a result of the robberies, and mentioned to me after the Legislative Council meeting that you were particularly concerned about the use of acid in one case. I am advised by the Police that a female employee of one goldsmith shop suffered a minor burn on her arm when robbers threw a bottle of corrosive fluid on the floor before escaping. At the time of my reply, this was the only casualty arising from the robbery of goldsmith shops this year.

Low density residential development

4. MR. LEUNG asked:—*Will Government consider encouraging the development of further private, low density residential estates for middle income wage earners, such as the estate currently being developed at Tai Sang Wai, Yuen Long in the New Territories?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the heavy demand for housing and the shortage of land has generally compelled Government to concentrate mainly on producing land for fairly high density development, although some provision is made in the urban area and the new towns for Zone 3 and Zone 4 density development, and that is relatively low density development.

The Tai Sang Wai or Fairview Park development is being constructed on private land which has been converted from agricultural to building status and lies in an area in which most of the land is privately owned agricultural land. There is a considerable interest on the part of other landlords in this area to develop low density residential housing which might be suitable for the purpose Mr. LEUNG has in mind. However, any large scale development in the area must depend on the provision of adequate communications and other services and community facilities. And given the limited resources available for these purposes it is generally better to concentrate these on areas of higher density development such as the new towns.

Nevertheless, the Government is now undertaking a planning and development study of the North-West of the New Territories; and this will enable decisions to be made on the extent and types of development that can best be carried out in this area, including low density development in places where it can be accommodated.

Staffing of the Technical Education Division

5. REVD. JOYCE M. BENNETT asked:—*How many experts in technical education are working in the Education Department in the Technical Education Division and is it intended to strengthen this Division?*

DIRECTOR OF EDUCATION:—Sir, I take it that by ‘experts’ Miss BENNETT means specialists in the field of technical education—and I have twelve in the Technical Education Division, and eight more in my Advisory Inspectorate, and between them they look after technical institutes, technical schools, pre-vocational schools and technical education for the handicapped.

Yes, I do intend to strengthen supervision and inspection of technical education from the Headquarters with more staff as the need arises. We are seeking three posts in 1980-81, and three more over the next three years.

I should add that I have been referring to Headquarter staff and not to those in the field. Of course the Technical Teachers’ College, the technical institutes, the technical schools do render valuable service to technical education.

REVD. JOYCE M. BENNETT:—*Sir, why then was the post of Deputy Director (Technical) dropped?*

DIRECTOR OF EDUCATION:—Sir, the post was no longer needed. It was created in order to accommodate a specialist in various aspects of technical education in order to develop the technical institutes and the Technical Teachers' College, and when that task had been completed to a satisfactory extent both the post and the specialist disappeared.

MR. TIEN:—*Sir, can we have assurance that the Honourable Director of Education is serious in promoting practical and technical subjects in secondary schools?*

DIRECTOR OF EDUCATION:—Yes, Sir, you have that assurance.

Train services on Sha Tin race days

6. MR. WONG LAM asked in Cantonese:—

請問政府認為目前往來新界各區之火車服務是否足夠，尤以沙田賽馬日為然？

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

Is Government satisfied with the adequacy of train services serving the New Territories, especially on Sha Tin race days?

SECRETARY FOR THE ENVIRONMENT:—Sir, the Government is not entirely satisfied with the adequacy of existing train services but it *is* satisfied that the K.C.R. management is providing the best service it can within the limits of the carrying capacity of the system. This is now stretched to the full and it will become increasingly difficult to meet demand in the period prior to the completion of electrification in late 1982. But thereafter it will be possible to meet all demands with fast and frequent passenger trains.

On Sha Tin race days the railway provides six special trains to and from Racecourse Station. They are additional to the normal scheduled timetable and are not therefore provided at the expense of other travellers to and from the New Territories.

MR. WONG LAM asked in Cantonese:—

閣下，請問加班火車，平時有沒有用途呢？

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

The additional services to the racecourse—are they being employed during other days—other than race days?

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, the railway employs all its rolling stock. As I said, it is stretched now and these services are employed mainly during rush hours when there is a greater frequency of trains.

MR. WONG LAM asked in Cantonese:—

閣下，換句話說，這六班火車是減少其他班次，而增加到賽馬場的班次，是不是這意思呢？

(The followings the interpretation of what Mr. WONG Lam asked).

Sir, in other words these six additional trains is a reduction on other services and they are being diverted to the racecourse. Is that the position?

SECRETARY FOR THE ENVIRONMENT:—No, Sir, it is not the position. The scheduled services, the timetable services, are undertaken at the time the commuters are going to the racecourse. These are not be extremely heavy periods for commuter traffic which is why the times of the beginning of racing are fixed to avoid the heavy periods of commuter traffic.

NEW TERRITORIES CIRCULAR ROUTE

7. MR. YEUNG asked:—*In view of the impending intensive industrial and housing development on both sides of the border with China, will Government inform this Council when the dual-carriage road system between Yuen Long and Fanling was first included in the Public Works Programme, and when the actual construction work is going to commence, and how long will it take and whether there has been any delay so far in implementing this project and if so whether it was mainly caused by financial reason?*

DIRECTOR OF PUBLIC WORKS:—Sir, the items covering the sections of the New Territories Circular Route between Yuen Long and Fanling were first included in Category B of the Public Works Programme in 1965 to enable preliminary planning to commence. However, they were downgraded to Category C in 1969 as, in the intervening years, development and traffic growth trends were such that other sections of the Circular Route such as the Castle Peak Road between Tuen Mun and Yuen Long and the Tuen Mun Highway warranted higher priority.

The project for the construction of the dual-carriageway between Yuen Long and Au Tau was upgraded to Category A in 1977 and works are planned to start in early 1981 with completion by the end of 1982.

Priority was also given to the Circular Route sections between Fanling and Sha Tin which are expected to be completed in 1984.

The dual-carriageway from Au Tau to Fanling via Mai Po will be carried out in sections and will be the last of the Circular Route works to be constructed. The covering item was included in Category B at the Second Review of 1978 and the works are currently programmed for completion in 1986.

Sir, the anticipated completion dates I have given are later than those originally proposed but they have been determined from the priorities

accorded by the Public Works Priorities Committee. Obviously the availability of financial resources and the forecast of traffic growth were major factors in the deliberations of the Committee when assessing project priorities.

MR. YEUNG:—*From the first paragraph of the answer of the Director, does it mean the road work system construction in the New Territories can only be completed within the New Territories programmes?*

DIRECTOR OF PUBLIC WORKS:—I am not quite sure what Mr. YEUNG meant. What I actually said was that the whole project, that is all the communication projects, have been under study and priorities have been assessed for them, and accorded priority to suit each particular section.

Development potential of sites without adequate service

8. MR. YEUNG asked:—*Will Government state:—*

- (a) whether the inadequacy of certain public roads and services has been a factor affecting the number of residential sites on Crown land which the Government has decided to offer for sale within the last 12 months;*
- (b) the number of applications to convert private agricultural land for residential development, which have been deferred indefinitely or rejected since 1973; and*
- (c) if the answer to (a) above is in the affirmative, the total area of the sites covered by (a) and (b) and the number and area of the sites in these two categories which are likely to be made available for residential development in the near future, say, the next 12 months?*

SECRETARY FOR THE ENVIRONMENT:—Sir, in answer to the first part of the question I would say that there are certainly areas of Crown land which could be suitable for residential development but which cannot be put on the market because of the lack of adequate public roads and services. One example I can quote is Pok Fu Lam, where the present road system is already heavily overloaded, and where the improvements needed are very costly. Quite obviously, the provision of roads and other public facilities is an essential requirement for any development, but the necessarily finite resources available for these purposes must be deployed to the best advantage in terms of maximizing the development potential made available. This the Government does through the Public Works Programme, where priorities are very carefully considered and where the maximum concentration of resources is now directed to the new towns and public housing.

I should add that, when it is definitely known that work in providing services to any particular area is going ahead, forward selling of sites is arranged in order to speed up the development of the land. For instance, in

Area 46 in Sha Tin eight sites have already been sold and sales in this area are continuing while the contractor providing roads and drainage is still working on the site.

As regards the second part of the question, the difficulty is that applications to convert agricultural land for residential and other sorts of development are being received in New Territories District Offices almost daily. Some of them have to be rejected for a large number of reasons, which may include lack of, or inadequacy of, services, the effect on adjoining property or simply that they are in the wrong place for the type of development applied for.

Clearly a substantial number of such applications have had to be rejected or deferred since 1973 but, in the absence of easily available figures, I hope that Mr. YEUNG will agree that the diversion of land staff to enumerate them would not be justified. Nevertheless, on the credit side, I should say that, where development has been found to be practicable, quite a few schemes for the conversion of agricultural land have been approved in the same period, that is since 1973, and that they have provided, or will provide, homes for many thousands of people.

Sir, I have tried to show that the answers to the first two parts of Mr. YEUNG's question cannot meaningfully be quantified. If so, this means that they cannot meaningfully be added up to help produce an answer to the third part, especially as such an answer would also depend on further *detailed* projections of the balance of expenditure within the Public Works Programme, which have not yet been decided. Nevertheless, I would be doing the question less than justice if I did not concede that Mr. YEUNG is undoubtedly right in his assumptions that lack of services in some areas is delaying the increase in housing supply from them, and also that conversion of agricultural land could make a valuable addition to the total land and housing supply if services were provided. But I hope he will agree that it would not be desirable to permit development to go ahead where services are not adequate and that the best direction of public works effort is to those areas where the greatest supplies of land for housing and other development can be achieved.

MR. YEUNG:—*Sir, in view of the serious shortage of housing will Government revise its own thinking on whether it is essential for roads to be put in before development is allowed?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, I think it is an axiom of any sensible planning that if you have population you must have communications, and I don't really dare to think what would happen if you had a considerable residential development and no roads to connect it anywhere.*

Interception of vessels carrying Vietnamese refugees

9. DR. HO asked:—*Will Government comment on the circumstances surrounding the arrival in Victoria Harbour of a power-driven vessel carrying 64 Vietnamese refugees on 17 January, this year?*

SECRETARY FOR SECURITY:—Sir, on the 17 January, a small Vietnamese vessel carrying 62 refugees entered Victoria Harbour unobserved. This vessel approached Hong Kong from the south passing through the West Lamma Channel and dropped anchor off Kennedy Town at 9.50 in the morning.

The vessel was found retrospectively to be 50 feet long with a 10 feet beam, did not look like a local vessel, but equally it was not distinctively Vietnamese.

During the morning when the vessel arrived, 4 Police launches were operating in the southern sector and 3 in the harbour. Traffic entering and leaving the harbour was heavy and visibility was poor. Two Police launches on duty off Aberdeen Harbour did not spot the vessel nor was it spotted by Green Island observation post.

Obviously it is a matter of some concern and regret that the vessel was not intercepted, but despite this incident I am satisfied that the vessels of the Royal Navy and the Marine Police are deployed to the best possible advantage.

DR. HO:—*Sir, in the light of this incident will Government state what further steps will be taken to tighten sea and air surveillance of the Hong Kong waters?*

SECRETARY FOR SECURITY:—Sir, currently we are giving top priority, and I think rightly, to the interception of vessels carrying illegal immigrants from China and Macao. And I think this single incident should be seen against a background of 822 vessels having entered Hong Kong in 1979 from Vietnam, of which only 15 evaded the Marine Police. Despite this, I can assure Council that we are always on our guard to improve our systems and to try to improve coverage. To this end, 9 additional Police vessels will be deployed increasingly and progressively from February onwards and a further expansion of the Marine Police fleet is under consideration; but the immediate and short-term improvement will be the arrival of, or the commissioning of nine additional vessels starting from February this year.

Safety training for cyclists

10. MR. SO asked in Cantonese:—

政府可否考慮為駕駛單車的人士，尤其是對在週末及假日踏單車消遣的人，提供安全駕駛指導？

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

Will the Government consider offering safety training for cyclists, particularly to help those who cycle at weekends and public holidays as a recreation?

SECRETARY FOR THE ENVIRONMENT:—Sir, the Government's Standing Conference on Road Safety, which includes representatives of the Road Safety Association and the Automobile Association, has recently considered this matter, and its advice is that, given the traffic congestion in the urban areas and the dangers that exist even for experienced cyclists on many of our roads, the provision of special training for cyclists would encourage more of them to take to the roads and thus put themselves at risk. It is noteworthy that traffic accidents involving cyclists have fallen steadily in recent years from 6.5% of all traffic accidents in 1975 to less than 4% in 1979.

Police Road Safety Officers do, however, visit schools regularly to lecture on road safety, particularly as regards pedestrians and cyclists. During 1979 over 2,000 schools were visited and 200,000 children were given instruction in this way.

As regards recreational areas, Police Road Safety Teams pay regular visits to the main areas where bicycling is practised, such as Sai Kung, and give advice to cyclists on how to handle their machines in a safe manner.

Monitoring of oil prices

11. MR. TIEN asked:—*What steps are being taken by Government to monitor oil prices, particularly industrial fuels, and to ensure that increases imposed by the oil companies are reasonable and not out of step with prices prevailing elsewhere in the region?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, the Government watches closely movements in oil prices. When we have doubts about the way Hong Kong consumers are being treated, we refer these doubts to the appropriate oil company.

In this way, we try to ensure that increases are reasonable in the sense that there is justification for them.

With regard to the second part of my honourable Friend's question we have found difficulty in comparing prices in Hong Kong with prices elsewhere in the region. The problem is to compare like with like. Some countries in the region have their own sources of crude oil. Many have their own refineries. Then there is direct taxation to deduct in retail prices. And at least one buys crude, refines it and wholesales the products, so there could be hidden taxation or hidden subsidy. Nevertheless, we do compare prices in Hong Kong with prices in the region and we refer any doubts we may have to the oil companies.

MR. TIEN:—*Sir, what further steps has the Government taken to ensure an adequate supply of oil at a reasonable price to Hong Kong?*

SECRETARY FOR ECONOMIC SERVICES:—The Oil Policy Committee meets regularly and keeps under close review the supply situation as far as oil products in Hong Kong are concerned, and it pays particular attention to the extent to which the oil companies are buying on the spot market, rather than on the posted prices market, and it is the spot market that particularly affects our prices at the moment.

MR. LO:—*Sir, has the Government ever experienced doubts, have them actually ever been referred to the oil companies, and did any such reference on any occasion have the effect of reducing actually the price of oil sold?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, the Government has on many occasions referred doubts to the oil companies. I think it is fair to say that we have always had a very sympathetic hearing and I don't think I would be doing the oil companies any injustice if I was to confess that they have changed their prices as a result of what we have said to them.

MR. PETER C. WONG:—*Is the Government satisfied that taking all circumstances together the current fuel price level is satisfactory and fair?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, that is an absolutely impossible question to answer. I mean for us to be satisfied that oil prices in Hong Kong are satisfactory is completely outside our control. Oil starts as crude oil in the Middle East and it ends up in, let's say, petrol filling stations in Hong Kong. What happens between the Middle East and Hong Kong is so far beyond our control that we just cannot be satisfied. All we can be satisfied is that we are more or less in line with what is happening elsewhere in this region.

MR. WONG PO-YAN:—*Sir, is Government aware that in comparison with Japan our prices of industrial use diesel and fuel oil is higher by up to 20% in the same period in 1979?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, Sir, we are aware that in the case of some oil products we are higher than Japan and in the case of other oil products we are lower than Japan.

MR. WONG PO-YAN:—*Is Government satisfied with that situation?*

SECRETARY FOR ECONOMIC SERVICES:—As I have said, Sir, we have referred our doubts to the oil companies. As a matter of fact we are still in discussion with them, or at least with one of them, on the question of the comparability

of our prices with prices elsewhere in the region. The conclusion then is, as far as that particular discussion is concerned, we are not yet satisfied.

MR. YEUNG:—*Sir, in view of the report that Exxon Oil Company does make more profit despite the rise of today's oil price, what Hong Kong can do to bargain or to check the price with the oil companies so that they cannot make unreasonable profit out of the product in Hong Kong?*

SECRETARY FOR ECONOMIC SERVICES:—The answer to that question is 'nothing'. There is no scheme of control over the oil companies as there is in the case of the enfranchised public utilities. The reason for this is that there is not a monopoly in the case of the supply of oil products, never mind one granted by franchise.

Robberies and thefts in public car parks

12. MR. WU asked:—*Sir, in accordance with Standing Order 19(6) and with the consent of my absent colleague Mr. HU Fa-kuang, may I with your permission, Sir, ask question no. 12. The question is: How many cases of robbery and theft have occurred in public car parks, particularly the Yau Ma Tei Multi-storey Car Park, during the last 12 months, and what steps are being taken by the Government to deal with this problem?*

SECRETARY FOR SECURITY:—Sir, separate statistics on crimes reported as having been committed in public car parks are not kept by the Police. However, the records maintained by the Transport Department in respect of all Government car parks during 1979 show that its staff received reports of:—

8 robberies, of which 2 took place in the Yau Ma Tei Car Park;

61 cases of theft, 6 of which occurred in the Yau Ma Tei Car Park; and

13 vehicles stolen, of which 4 were from Yau Ma Tei Car Park.

I do not have statistics of prosecutions arising from these reports.

In the last quarter of 1979, the Police made 3 preventive arrests of persons for loitering in the Yau Ma Tei Car Park resulting in 2 convictions and 1 case pending; and during that period, no thefts from that car park were reported to the Police.

Uniformed and plain clothes Police officers make regular inspections of public car parks generally as part of their routine patrol duties. In addition, the Police continue to advise motorists, by means of publicity campaigns, not to leave valuable property on view in parked cars.

In addition, the Transport Department assigns at least one member of its staff to patrol each Government car park; and the Commissioner of Transport is considering the possible installation of semi-automatic barriers at entrances and exits to car parks, which would release more staff to be deployed on security patrols.

MR. WU:—*Sir, would my honourable Friend explain why separate statistics on crimes reported as being committed in public car parks not kept by the Police?*

SECRETARY FOR SECURITY:—The Police collate and keep statistics on a Police divisional geographical basis and on a Police district basis. Therefore, the figures for car parks are of course hidden in the divisional statistics and in the district statistics. They are not kept by particular user.

Driving test system

13. MR. SO asked in Cantonese:—

請問目前領有私家車臨時駕駛執照的人士有多少？政府對現行的駕駛考驗辦法是否滿意？而運輸署是否有足夠人手，應付這方面的工作？

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

Will Government state:—

- (a) *the number of holders of provisional driving licences for private cars,*
- (b) *whether the present driving test system is considered satisfactory, and*
- (c) *whether the Transport Department is adequately staffed to meet the demand for driving tests?*

SECRETARY FOR THE ENVIRONMENT:—Sir, on 31 December 1979 there were 143,000 holders of provisional driving licences for private cars and 45,000 for other vehicle categories.

The answer to the second part of the question is yes. The standard of Hong Kong driving tests is fully up to the best levels overseas and the tests are specially designed for local driving conditions.

As regards the last part of the question, Sir, eleven additional driving examiner posts have been created and a recruitment exercise is now under way to fill them. Hopefully, this additional staff should help to reduce the waiting time for tests. The Transport Department is also developing plans for opening new driving test centres in certain expanding areas of population.

Paid maternity leave for woman workers

14. REVD. MCGOVERN asked:—*Will Government inform this Council whether it intends to introduce paid maternity leave for women workers in Hong Kong?*

COMMISSIONER FOR LABOUR:—Sir, in December 1978, the Secretary for Social Services established an inter-departmental working group to examine

practices regarding maternity benefits for women in employment in Hong Kong, the United Kingdom and elsewhere in this region, to examine International Labour Organization requirements and proposals made by various bodies in Hong Kong, and to make recommendations on paid maternity leave for women workers in Hong Kong for further consideration by the Government. The working group has recently submitted its report and made recommendations to the Secretary for Social Services. It has been decided that this report would make a useful basis for consultation. And copies of this report, which has been translated into Chinese, will be circulated to interested parties, including workers' trade unions, employers' associations and other organizations for their consideration within the next few days. Their comments are being invited. After these have been received and considered, I intend to seek also the advice of the Labour Advisory Board before formulating proposals for consideration by the Executive Council.

REVD. P. T. MCGOVERN:—*Without wishing to anticipate the details, will Government inform the Council whether the report of the working group recommends the introduction of paid maternity leave?*

COMMISSIONER FOR LABOUR:—The answer is it does, Sir.

REVD. JOYCE M. BENNETT:—*Sir, how long do you estimate that these many discussions will take?*

COMMISSIONER FOR LABOUR:—I think it would be fair to say a few months. I would hope to be able to say something fairly firm in the opening debate of the next Legislative Council session.

Provision of public car parks

15. MR. WU asked:—*Sir, in accordance with Standing Order 19(6) and with the consent of my absent colleague Mr. HU Fa-kuang, may I with your permission, Sir, ask question no. 15. The question is can the Government make a statement on the provision of public car parks for passenger cars and lorries?*

SECRETARY FOR THE ENVIRONMENT:—Sir, a working group which has been studying parking policy in general in the light of the principles contained in the White Paper on Transport Policy is expected to report in the near future. The group has been considering in detail the provision of parking facilities for all types of vehicles, including passenger cars and lorries, and how such facilities relate to other road transport modes, such as the M.T.R., the K.C.R. and ferries. Its findings will first be considered by the concerned Government departments and they will then be submitted to the Transport Advisory Committee.

In the meantime, there are some fifteen projects for new car parks in the Public Works Programme which will, in total, provide more than 8,000 parking spaces. They will proceed in the normal way as and when they can be given sufficient priority.

Government Business

Motion

CRIMINAL PROCEDURE ORDINANCE

THE LAW DRAFTSMAN moved the following motion:— That the Criminal Appeal (Amendment) Rules 1980, made by the Chief Justice on 2 January 1980, be approved.

He said:—Sir, I move the motion standing in my name on the Order Paper. This seeks approval of the Criminal Appeal (Amendment) Rules 1980 which were made by the Chief Justice on the 2nd of this month. Section 9 of the Criminal Procedure Ordinance, under which the Rules were made, requires the approval of this Council before they can take effect.

As part of the Chief Justice's plans to cut delays in the hearing of appeals it has been decided that existing powers should be so exercised as to ensure so far as possible that applications for leave to appeal to the Court of Appeal are finally disposed of by a single judge. Thus applications for leave to appeal would not be renewed before a full court of 3 judges as a matter of course.

This procedure has been tried in the past, but without precautions to ensure that applications to a single judge did not become a pointless exercise with every unsuccessful application being renewed before a full court of three judges. The single judge procedure appears to work well in England, where there are precautions. Essentially these are designed firstly to ensure that an application for leave to appeal sets out clearly and accurately the grounds of complaint; and second to discourage frivolous renewal of an application to 3 judges after it has been rejected by a single judge. This is achieved primarily by exposing an applicant who renews his application without justification to a very real risk of not having the time he has spent in custody as an appellant taken into account as part of his term of imprisonment, and by warning him of that risk. These precautions are being taken in the procedure being introduced.

The amendments effected by the Rules which this Council is being asked to approve, are quite minor and merely facilitate the single judge procedure. Rules 2 and 5 clarify the circumstances in which a transcript of proceedings may be obtained and whether or not upon payment of charges. A transcript may, of course, be required to settle the grounds of appeal.

Rules 4 and 6 of the Rules prescribe the form of application for leave to appeal, the form in which an order of a single judge is to be notified and the form of renewed application after refusal by a single judge. Of particular significance is the express warning in the last of the 3 forms that renewal of an application without justification after it has been rejected by a single judge may well result in a direction that the time spent in custody will not count as part of the applicant's term of imprisonment.

The Rules represent only the legislative tip of a legal, procedural and administrative scheme that has been carefully devised by a committee presided over by a Justice of Appeal and comprising representatives of the Attorney General, the Chairman of the Bar Association, the President of the Law Society, the Director of Legal Aid and the Commissioner of Prisons.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

BANKING (AMENDMENT) BILL 1980

SUMMARY OFFENCES (AMENDMENT) BILL 1980

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1980

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

Second reading of bills

BANKING (AMENDMENT) BILL 1980

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

He said:—Sir, I move that the Banking (Amendment) Bill 1980 be read the second time.

The purpose of this Bill is to make good a rather surprising deficiency in the Banking Ordinance. Under section 7 of the Ordinance, the Governor-in-Council, as the licensing authority, is empowered to attach a condition to any licence, when that licence is granted to a bank wishing to carry on banking business in Hong Kong. The Ordinance does *not*, however, empower

the licensing authority to amend such a condition at a later date, nor to withdraw it; nor may the licensing authority attach a condition to a licence *previously* granted to a bank.

Under the law at present, therefore, the only way in which a condition can be amended or withdrawn, or a new condition attached to an existing licence, is for the licence to be revoked by the Governor-in-Council, acting in the public interest under section 9. A new licence can then be granted subject to the amended or new condition, or subject to no condition at all. Before this route can be followed, however, the Commissioner of Banking has to make a report to the Governor under section 13 of the Ordinance. This rather solemn procedure is designed for circumstances such as a bank meeting serious liquidity problems; it would not be appropriate to use this procedure for other purposes such as to amend a condition attached to a banking licence.

So much for the deficiency itself. In practical terms, it has caused difficulties in respect of the conditions attached to every banking licence granted between March 1978 and August 1979. When I stated in this Council on 15 March 1978 that favourable consideration would be given to applications for bank licences from suitably qualified banks incorporated overseas, I said that the granting of licences would be subject to the condition that the banks concerned might only conduct business from one office in Hong Kong.

In view of the present shortage of office space in Central District some banks are quite anxious—indeed, are obliged—to acquire accommodation in several different buildings and so the Attorney General's advice was sought on the legal interpretation of this one-office condition. Regrettably, he advised that banks whose licences are subject to this one-office condition may open as many offices around Hong Kong as they wish, provided that all banking business as defined in the Banking Ordinance is carried out from only one office. Banks would therefore be enabled to transact business with their customers from a large number of locations, provided that banking business as such, (that is to say, the taking of money on deposit *and* paying and collecting cheques *and* making advances; *or*, taking money on savings accounts; *or* both) provided that banking business as such is limited to one office only.

This interpretation could hardly be said to be consistent with the Government's original intention when applying the one-office condition. It is our proposal, therefore, to amend the condition to read 'the bank may maintain offices to which customers have access for the purpose of any business, including banking business, in only one building', but on any number of floors in that building. This will permit the 41 banks in question to open service and administrative offices, to carry out such functions as computer or similar functions, in as many locations as they choose, provided that their customers have no access whatever to those offices.

The need for the Banking (Amendment) Bill 1980 arises because the Government, having decided to amend the condition presently attached to the 41 bank licences recently granted has, at present, no powers to implement that decision. This Bill, therefore, adds a new section, section 7A, to the principal Ordinance, to provide that the Governor-in-Council, as the licensing authority, may at any time attach to a licence previously granted to a bank any condition, or may amend or cancel any existing condition, as thought proper. As soon as this Bill has come into force, the Governor-in-Council will be able to at last amend the existing one-office condition attached to the 41 licences concerned, so as fully to implement its original intention in this respect.

I should perhaps point out that, when the Banking Ordinance has been amended by this Bill, the power to amend an existing condition, or to attach new conditions, will be available for use in any circumstances (and in relation to *all* licensed banks in Hong Kong, not just to the banks licensed in 1978 and 1979). It is, I believe, right and proper that the Government should have this power, as part of its armoury of measures available to control the banking sector for prudential purposes—in other words for the better protection and safeguard of depositors. This power is commonly available in other countries where the licensing authorities can grant conditional licenses: with the benefit of hindsight, it is, I suppose, a little surprising that this power was not included in the Banking Ordinance when it was enacted in 1964.

I should, however, emphasize that this power has nothing to do with so-called monetary policy. It would be quite wrong, in any case, to use this power to enforce on licensed banks any monetary policy measures that might be thought to be necessary, at any time, so long as a similar power does not exist in relation to registered deposit-taking companies.

Sir, I 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.

SUMMARY OFFENCES (AMENDMENT) BILL 1980

THE SECRETARY FOR HOME AFFAIRS moved the second reading of:—‘A bill to amend the Summary Offences Ordinance’.

He said:—Sir, I move the second reading of the Summary Offences (Amendment) Bill 1980.

This Bill aims to delete a provision which prohibits the distribution, posting or exhibition of notices in the Chinese language in a public place without the permission of the Secretary for Home Affairs or the Secretary for the New Territories. The origin of this provision dated back to 1884 although the words and phrases included therein had been amended on various occasions, the last of which was in 1936.

When the 1936 Bill was debated in this Council, the late Sir M. K. Lo proposed to repeal the provision on the grounds that it was both unnecessary and discriminatory against the Chinese language. His motion was defeated by 15 votes to one (*laughter*). I trust, however, that the present Bill will find an easy passage through this Council, particularly when there are now other laws dealing with specific aspects of public order, environmental control and objectionable publications. Needless to say, Sir, the provisions in these other Ordinances cover posters, handbills and other written materials in any language.

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

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

Question put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Public Health and Urban Services Ordinance to make better provision for the control of bill-posting and to make a consequential amendment to the Summary Offences Ordinance’.

He said:—Sir, I rise to move the second reading of the Public Health and Urban Services (Amendment) Bill 1980.

The existing controls over environmental nuisance caused by the indiscriminate posting of bills and posters are both limited in scope and ineffective. Although permission from the owner or occupier of land is necessary before a bill or poster can be displayed on that land, there is no provision in the law which requires the bill or poster to be maintained in a clean and tidy condition. Besides, enforcement is difficult since the offenders must be caught in the act of putting up the bill or poster before they can be prosecuted. This also means that the liability for the offence falls only on the bill-poster and not on other persons who could be regarded as being equally responsible, such as the employer of the bill-poster or persons whose goods or services are being advertised.

At present, bills or posters displayed in contravention of the law are removed by the Public Works Department, the New Territories Administration and the Urban Services Department on an *ad hoc* basis when such offences are brought to their attention. And there is no legal provision for the recovery of the removal costs thus incurred.

In order to consolidate and strengthen the control over the posting of bills therefore, it is intended in this Bill, in another sense (*laughter*), to make it an offence for any person to display any bill or poster on Crown or private land without the written permission of the Authority or of the owner or occupier of the land. It also provides that any bill or poster being displayed must be maintained in a clean and tidy condition. Failure to do so constitutes an offence and the Authority is empowered to remove any such posters and to recover the cost of removal from the offenders.

Furthermore, the liability for the offences and any removal costs will fall not only on the bill-poster but also, in the case of unauthorized poster display, on the employer of the bill-poster and the person who benefits from the display of the poster; and, in the case of failure to maintain the poster in a clean and tidy condition, on the owner or occupier of the land and the person whose goods or services are advertised. This is considered necessary to ensure that the liability for these offences will fall on those persons who should be held responsible for the display and maintenance of the bill or poster. On the other hand, to protect those who might be concerned from being unfairly penalized, a person will not be liable for the offence, or the removal costs, if he can prove that the poster has been displayed without his knowledge or consent.

Section 104E(1) of the Bill defines the ‘Authority’ so as to include those Government departments and public bodies that have the management and control of particular areas of land. In particular, the authority in respect of the urban areas and the New Territories will be consolidated in the Urban Council and the Director of Urban Services respectively.

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

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

Question put and agreed to.

REGISTRATION OF PERSONS (AMENDMENT) BILL 1980

Resumption of debate on second reading (16 January 1980)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1980

Resumption of debate on second reading (16 January 1980)

Question proposed.

MR. CHEUNG:—Sir, I declare an interest to the extent that I am a director of 3 corporations, all either involved in renting accommodation for their staff, or involved in developing residential property, and indeed in one case in renting out a small block of flats. When the Landlord and Tenant Bill was amended last time in this Council, I observed that the interests of landlords and tenants were polarized, and that all the Unofficial Members save one would support the measure then put forward on the ground that it preserved a sensible balance between the interests of landlord and tenant, and therefore I did not say more. That balance is about to be upset. We are asked to extend rent controls to premises as to which Government gave assurances there would be no controls for 5 years from the date when they received their occupation permit.

It is argued that legislatures every day of the week change the laws that affect the rights and properties of citizens. That is perfectly correct, but, with great respect, there is a substantial difference between making changes where no undertaking has been given that the *status quo* would be preserved, and our present situation.

The whole point about assurances is that people act on them, and enter into relationships and arrangements they would not have entered into, or would have entered into differently, or would have ordered their affairs otherwise.

Certainly in the private sector, where a man has given a promise that is intended to be legally binding, intended to be acted upon, and is in fact acted upon, no court would permit him to depart from the terms of that promise.

I find it exceedingly difficult, as a lawyer, to accept that a Government should act differently.

Be that as it may, it has been represented to us, and I accept, that surveys carried out by Government have shown a consequence not contemplated, and that tenants of small and medium flats, as a result of higher demand for flats than foreseen, were having to pay higher increases in rent, and therefore a higher proportion of their earnings towards rent that would result in excessive hardship in them. Still, the figures discovered in that survey have to be viewed against the background of general inflation, which has reduced the purchasing power of the dollar today to 86% of what it was a year ago, and a raise in rent by 25%, or even 30%, after a tenancy for 2 years does no more for the owner than preserve his purchasing power.

I agree that to such people a measure of relief should be given. But equally I think one of the present facts of life in Hong Kong must be recognized, namely that the bulk of the affected premises are owned, not by large landowners, but by those who probably own only one flat. They have often rented out their premises for a fixed term, whilst they did not require it for their personal use, with the intention of resuming it for their personal use at the end of that term.

I welcome therefore the recognition of this by the Administration, and an amendment to the Bill which would allow such a small owner to regain his premises genuinely for his own use or for the use of his family would go some way to reconciling me to the proposed legislation. I myself should have thought that the severe penalties provided in the Bill against abuse by such landlords should ensure that only genuine needs are met.

But I have to say that my concern for the hardships of the sandwiched classes does not extend to corporations, Government or foreign or Commonwealth governments. I find it quite impossible to accept the argument that for the sake of simplicity the same measures that we might adopt for those in need ought to be extended in the way it is proposed to those who are not in need. Many complex reasons have brought about the present situation, there are many grey areas, and I should have preferred, and still prefer, that deep, clear, and above all, quiet thinking should be given to how this problem might be dealt with and dealt with expertly having regard to the background which has led up to it, rather than reach for the nearest blunt simple instrument, and I ask they be dealt with remembering that controls are to be given to those in real need, and not to those, possessed of good bargaining powers and of resources which would have enabled them, if they did not like the terms offered by landlord, to go out in the market place to purchase flats for the use of their staff. It seems to me scarcely a defensible objective of retrospective legislation to enhance the bottom line of the accounts of affluent tenants. I will face up to the question, 'Ought we to take a course of action which would enhance the bottom line of the accounts of landlord?' I suggest the answer is yes, and for three reasons. We first of all not be making retrospective legislation affecting existing right or

obligations. Secondly, the land owner saw fit to have a stake in Hong Kong in the shape of immovable property. And thirdly, he was induced to put down that stake and make his arrangements on the strength of assurances he would, for the period, not be interfered with by the Government.

Like Mr. NEWBIGGING I suspect that foreign corporations who wish to come here would be more concerned with the availability of accommodation, rather than the level of rents, whether they may be for commercial or residential premises.

I await with some anticipation the speech that the Secretary for the Environment is expected to make in the course of this debate as to what the Administration's serious intentions are as to making large acreages of land available for residential development. I wholeheartedly agree with everything that has been said, that strenuous and timely measures should be taken to meet the demand for land. I think I can say that in the course of the 10 years during which I have had the privilege of being a member of this Council, I have consistently and repeatedly urged the Administration to take measures that would make the cost of residential accommodation cheaper, not dearer, rents lower, not higher, whether it be, for example, by opening up the New Territories (a matter regarded with tolerant amusement amongst my colleagues when I first proposed it 10 or 12 years ago) or by creating the means of access to land and the infrastructure for residential dwellings. It is a matter of deep personal disappointment to me that in spite of Government's responses to my pleas and the pleas of my colleagues, some of which were massive, we find ourselves in the situation that we are in, namely, a desperate shortage of supply of residential accommodation. I regret that even my guesses at our needs, which many may have thought were exorbitant, have proved too low, and I cannot but urge that in the measures Government will take, it would be better to err on the high side rather than the low, and in all respects to act accordingly.

MR. LOBO:—Your Excellency, my remarks at this stage will be brief and to the point.

It is now more than five weeks since the Government announced its intention to introduce this legislation.

The announcement was received with general relief that decisive action was at last being taken to halt the deterioration of a dangerous and unacceptable situation.

Nobody supposes that this legislation should ever be more than a strictly temporary relief or be expected to cover every eventuality.

If we worked for months on the improvement of this Bill we should only drag out the period of uncertainty and frustration and delay progress on the much more positive action which is urgently required.

The provision for adequate housing is one of the Government's prime responsibilities and this responsibility extends over the private sector.

When rents rise to levels at which an unduly high proportion of household income is committed, then the whole quality of life is in danger and, when reasonable, security of tenure is threatened as a result, it is long past time for Government to intervene, even if it means going back on previous statements, Government not only has the right to implement changes but has the obligation to do so when circumstances demand.

For my part, therefore, I will support the Bill.

MR. LO:—Sir, I have an interest to declare. I am director and have an interest in property companies. My firms act professionally for both landlords and tenants.

The issues involved in rent control legislation are too frequently clouded by emotions and too seldom assessed with cool logic.

The present Bill is intended as an emergency remedy to the spiral of rent increases on renewal of existing tenancies.

I agree that it is imperative that means be found to ensure that anyone whose only possible home is Hong Kong must have a chance of living here without undue fear of being deprived of a roof over his head. Accordingly I agree that our existing policy of protection for the lower income group should be extended to the Hong Kong belonger in the middle class bracket. Preferably this protection comes through the operation of natural market forces but whenever necessary this must be done by rent control. The simple truth is that any other policy is non-viable and might ultimately lead to civil unrest which can benefit no one.

However the proposed legislation seeks to control the rents of luxury flats as well. The middle class Hong Kong belonger does not rent luxury flats to live in. The argument advanced for controlling luxury flats is that otherwise those living in them will be driven by the higher rents to compete down market for the non-luxury flats. This argument seems to me to be as valid and as logical as saying that the price of sharksfin ought to be controlled so as to reduce competition for rice. I suspect that the real reason for those in favour of controlling luxury flats is an unexpressed fear that the definition of a luxury flat might catch medium sized flats as well. Consequently, I wish to make it clear that by luxury flats I mean those which exceed 2,300 sq. ft. in gross area *and* \$100,000 in rateable value according to the 1977 assessment.

The Bill also proposes the control of premises rented by the Government. I do not know what the argument is for this remarkable concept. Note if you will that Government has by far the largest land bank, no apparent shortage of funds and can build almost unlimited number of flats at any time for its employees. It chooses not to do that, it chooses to go into the

market to enter into bargains with open eyes and now by this Bill it seeks to negate the effect of its obligations which were freely entered into. Even the most ardent supporter of rent controls must agree that it is to protect those and only those with inadequate resources. Can Government qualify?

The Bill also seeks to control rents for corporations. The argument here is that if corporation tenancies are not controlled, landlords who had insisted before on tenants taking new tenancies in the name of newly formed companies would get away with it. Surely this abuse is quite easy to deal with. The Bill merely has to distinguish these companies from the others. One method would be to extend control to domestic tenancies taken out only by those corporations formed, say, within 5 years of the date when the lease are signed, not being a subsidiary of another corporation formed outside that period. The total lack of interest shown by the Administration to make amendments of this kind is difficult to understand unless it is its intention specifically to favour one class of business (i.e. those renting the accommodation) at the expense of another class of business (i.e. those owning the accommodation). It is difficult to understand this determined discrimination because this favoured treatment is being given to those who do not have sufficient confidence to invest in Hong Kong and to penalize those whose future is tied to Hong Kong, and showing it by investing in land here.

Sir, generally speaking where the tenant is not a Hong Kong believer why should he not be required to pay whatever the cover-charge might be to do business here or indeed to be here. Hong Kong has so few natural resources that it seems to me that we shouldn't squander away our land resources.

I think that I have made it clear that I favour rent control when it is necessary to protect all Hong Kong believers needing protection. I agree also that it is now necessary to do that. However I am firmly opposed to extending protection to those who are not Hong Kong believers such as corporations, foreign and Commonwealth governments, or those with more than adequate resources such as the Government or tenants of luxury flats.

I note that the Secretary for Housing will be moving an amendment in committee stage to enable a landlord to recover rented out premises for his own use, without showing greater hardship. The detailed wording of the amendment will have to be dealt with then. I note regretfully however that despite a majority of Unofficials being in favour of not controlling flats rented out to the Government, foreign and Commonwealth governments, or corporations or luxury flats, the Secretary for Housing has decided to move no amendments in these aspects.

Although to improve the Bill I intend to move the amendments I have indicated, I shall support the Bill even if I am defeated in them because on balance, despite its short-comings I do believe that for the immediate future we should take this emergency measure.

MR. TIEN:—Sir, two weeks ago, two of my colleagues declared their interests to this Council as the spokesmen for large property owners. Both somewhat reluctantly supported it, sounding rather like a pair in a condemned cell. Quite so. For as Dr. Samuel JOHNSON put it, ‘Depend upon it, Sir, when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully.’ And it is just a fortnight since they spoke.

I too must declare an interest, though on a much more modest scale, for compared with these two taipans I am an exceedingly small potato (*laughter*).

So if we now turn away from Messrs. BREMRIDGE and NEWBIGGING (perhaps I should re-christen them ‘Mr. NEWBRIDGE’), I would like to offer my comments upon the Bill. The permitted increase after two years, so we are told, will be restricted to 21 per cent. Now, we may ask, why the number 21? Mathematicians are aware of the existence of magic numbers (which do not admit of rational explanations) yet I always understood that the magic number was 7. So perhaps the Honourable Secretary for Housing simply took 7 and multiplied it by 3 to make 21. Some explanation would be appreciated.

I turn now to the question of whether or not the landlord needs to prove hardship in order to repossess his property. I hope to see some amendments in this respect. Hardship is a subjective thing indeed. One famous lady film star declared that hardship resulted to her from having to return the diamonds of her current boy-friend. However, to prevent landlords abusing their position, the penalties should be more severe and not only in money terms. I would like to see stiff penalties as regards possible imprisonment for the first offence.

One other observer stated that marriage is a feast in which the menu is better than the dinner. So it is with all sorts of controls—including those over rents. So before we take the menu at its face value, we must know whether we are going to partake of fish or fowl.

Sir, there is one further very curious feature of the Bill which I cannot allow to pass without some comment. I refer to the proposal that premises may be recovered where they are used for purposes described as immoral or illegal. May I therefore draw attention to the existence of some 15 ‘motels’ so-called, in Kowloon Tong. I am tempted to suggest that 15 is a more fascinating number than 21 (*laughter*).

These properties could be considered, according to taste as ‘residential’ or ‘commercial’ (*laughter*). If this Bill becomes law then we may ask what happens to the tenant in a motel in Kowloon Tong who rents a property on an hourly basis? This is a short-term letting with a vengeance.

Who are the true tenants—the one who rents the property as a potential landlord or the one who takes out a lease for say fifty-nine minutes?

I rather fancy that we are giving the green light (or perhaps the 'red light') to a strange proposal. I now invite Government to indicate whether properties such as these would be described under the law as 'residential' or 'commercial'?

I conclude, Sir, by pointing out that I too have a magic number. That magic number is 24. For I might support a Bill which allows for twenty-four months of rental controls. But my support is closely defined. We, in this Council, must not write a blank cheque resulting in our reappearance here in 1982 with yet another magic number allowing a further extension.

Sir, there is a French saying: only the temporary is permanent. This saying, paradoxical as it is, reflects my concern that temporary powers should *not* become permanent, through habit, custom or governmental convenience. Subject to these reservations, Sir, I am prepared to support the Bill.

MR. WU:—Sir, I declare an interest as director of companies that rent properties and others that rent out. It seems inevitable to me that we must approve this legislation at this time as the only means available to deal urgently with an intolerable situation and I support it for this reason only. Even though it is seen as Government going back on its word in some quarters, I recognize the need for this action—a swift sword for the Gordian knot.

I share with many of my colleagues the concern that this temporary 'blanket' measure does not attack the root of the problem, and suffers from all the inevitable deficiencies of hastily conceived legislation.

Among them are, firstly, those cases where the natural rights of a landlord are unreasonably denied. There must be sympathy for cases in which individuals have bought flats under the previous legislation with the clear intention of occupying them at a future date.

Secondly, if there has to be 'blanket legislation', the permissible rent increase of 21% over two years must be reconsidered. While it may be equitable for some older properties, 30% over two years would be more appropriate, in line with inflation.

Thirdly, I do not believe that Government should enjoy protection from rent increase because it would be healthy for civil servants to share the anxieties which arise from massive rent increases and uncertainty over tenure. Perhaps the quartering system as a whole ought to be reviewed.

Lastly, it has been suggested that something defined as a 'luxury' flat occupied by a 'profit-making corporation' should be exempted from this legislation. I wonder. How could these terms possibly be defined fairly? There are large flats, built many years ago which cannot by any stretch of imagination be called luxurious. There are locally established corporations which are not necessarily rich. Even if that were not so these suggestions

seem to be based on the idea that there should be a class of tenants, mostly overseas corporations, who should be fair game to be fleeced without mercy. This cannot be to Hong Kong's advantage and I know that the situation is being carefully watched from overseas.

These points amply illustrate the difficulty of drafting legislation without producing some inequities as unacceptable as those it aims to eliminate, and we do not have time to consider or debate these now.

If legislation were the answer, the choice would be between trying to cover every conceivable situation so as to protect the legitimate interests of all parties on one hand, and on the other simple legislation supported by effective fair rent tribunals or some similar device. We do not have the time to make this choice, either.

That highlights another area for anxiety. There are provisions in the Bill which require policing and recourse to the courts. Do we have the resources to police these measures effectively? Do the courts have the resources to deal with disputes? If they cannot provide a swift remedy where it is required then it will be no remedy at all.

The debate in this Chamber today is essentially centred on the acceptance of this 'blanket' measure as a temporary remedy. What is more important is what Government proposes to do, as a long-term measure, after having obtained this breathing space.

It will not be too much to expect prompt and visible action by the Government to deal with the disease rather than its symptoms and by action I mean something more definite than the familiar device of yet another working party.

In the course of this debate Government has been, and I am sure, will be, offered valuable, practical advice based on sound commercial experience which, I hope, will be treated seriously and urgently.

A separate Lands Department will have my full support. This should get the Secretary for the Environment off 'the bed of nails'.

I also urge Government to take earlier action in the review of environmental and planning standards, plot ratio, density zoning policy, as suggested by Mr. T. S. Lo and Mr. Q. W. LEE in March 1978 in this Council. These could help the supply of land almost immediately without having to wait for the production of new land.

Co-operation with private enterprise has already proved feasible and productive in public housing and this principle should be extended as far as necessary and as soon as possible to other areas.

From what has been said here and elsewhere by senior officials, the process of preparing land for release, in a formed and serviced condition, is regarded as inevitably protracted.

That seems to be a good argument in itself for enlisting the resources of our development and construction industry at an earlier stage of the process. There are clearly stages involving policy, planning and clearance which can only be handled by Government. But at the stage of physical development there is no reason why private enterprise should not be responsible for roads, utilities and other services in addition to construction on formed sites. The capability exists in Hong Kong and there are ample precedents.

By itself this would not speed up the release of land if there are bureaucratic bottlenecks somewhere further back at the planning stage which should be identified and eliminated. Perhaps it is no more than this which explains why in a city hungry for land prominent sites appear to lie fallow for years for no evident reason.

At a higher policy making level we must get moving with larger plans for development in the New Territories, particularly in Lantau. The Secretary for the New Territories, when discussing development programmes said ‘There is quite a lot to be going on with without any other new proposals.’ In the face of the present situation I don’t see how we can accept that. We do need new proposals or at least some action on plans which are further back in the pipeline.

He described expansion into Lantau as ‘an exciting and challenging prospect’. I agree, and we should approach it in that spirit.

Sir, in conclusion I wish to quote from a poem by the celebrated Chinese poet Tu Fu (杜甫), who wrote, when his thatched hut was torn by Autumn winds:

‘... 安得廣廈千萬間
大庇天下寒士皆歡顏 ...’

which I attempt to translate as:

‘... Let there be thousands of spacious mansions to shelter the
populace, and
may everyone even the poor shivering scholar enjoy a roof of his
own ...’

I believe this is the spirit in which you, Sir, personally encouraged our housing programme. Any Government move towards this ideal situation, I am sure, will have the support of all the people in Hong Kong.

REVD. JOYCE M. BENNETT: —Your Excellency, this Bill before us today is a brave attempt by the Government to curb the spiralling cost of rents for residential accommodation. The Government is to be congratulated on trying to stem the exorbitant increases in rent that many people have been facing. However they have opened a veritable Pandora’s box of problems that cry out for solution.

I therefore support most strongly the proposal for a review of the whole policy regarding landlords and tenants. We have clearly not yet suggested that

landlords be abolished from our society, but clearly many feel threatened and are wondering whether it makes sense to save money and invest in a flat for their retirement. Over the years, we have heard many pleas for the encouragement of a sense of belonging. Now that the 'sandwich society', so ably described recently by my colleague the Honourable Roger LOBO, has begun to put down its roots and buy property in Hong Kong, we are in danger of saying to them, 'Get up and get out, put your money elsewhere where you can reside in your property when you retire and where there will be no need to prove more hardship than your tenant.'

I think it is that need to prove greater hardship than your tenant which has turned the professional and middle-class owner of one flat into a critic of this Bill. He fears for his future for which he thought he had made reasonable provision. In all the discussions among friends and colleagues at work and in this Council not one person has been able to show clearly the sense of this 'more hardship' clause. I understand that a law to be a good law must be clear and simple. 'More hardship' cannot be easily defined. What is our standard? Hardship is a relative term. Is it hardship to sleep on a hard bed? Perhaps to some, but to the person with spine trouble to sleep on a soft bed will be a terrible hardship. Clearly two families cannot fairly be compared for hardship. I trust that this concept can be removed from our Landlord/ Tenant Ordinance.

Two further points have engaged my attention. On what grounds should the Government, Housing Authority and Housing Society be exempt as landlords but protected as tenants, as proposed in the Bill? What provisions are to be made to control sub-tenancies? There is much to clarify in this field and I support the Bill on the understanding that these and other matters will be resolved early and certainly within the next two years.

(4.07 p.m.)

HIS EXCELLENCY THE PRESIDENT: —I think at this moment Members might like a short break. Council will resume in fifteen minutes.

(4.25 p.m.)

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

MR. CHEN:—Sir, it is indisputable that shortage of building land and speculation are the two main causes of the present spiralling rent increase situation. As the subject of land supply has already been dealt with by my friends Mr. BREMRIDGE and Mr. NEWBIGGING in their deliberations at the last sitting, I do not propose to dwell on the matter any further beyond saying that whereas an increase in land supply will provide the long-term solution to the imbalance between supply and demand of domestic premises, curbing speculation offers an immediate answer to the present problem. I am rather

surprised that Government did not opt for this latter course of remedy, although the possibility of legislation prohibiting excessive speculation has not been ruled out as indicated in the speech by the Secretary for Housing.

If the enactment of the 1970 and 1973 legislation on rent control could not produce the necessary answer to Hong Kong's housing problem, I very much doubt that the proposed legislation before us would. In other words, the extension of the existing law to cover the situation in the 1980s, without tackling the root cause of the problem, would merely mean repeating events of the past. In a year or two there will be still an imbalance between the supply and demand of domestic premises and a need for continuing rent control. Thus, the legislation will perpetuate itself as is already the case, and what we are told now as a temporary measure will become a permanent feature.

I was therefore glad to hear the statement by the Chief Secretary when he spoke at the dinner of the Hong Kong General Chamber of Commerce on the 24th this month, (and I quote) 'We recognize and accept that what is needed is a package—a package to include not just action in respect of the property market, but also an increase in the production of formed land, a continuing high rate of production of housing and an expanded home ownership scheme.' This would, I am sure, provide a broad basic framework for all future studies and I sincerely hope that something positive will be produced by Government within the time limit proposed by the Secretary for Housing for Part II controls, i.e. December 1981.

Whilst recognizing the importance of increasing land supply to provide a long-term solution, no less important is the need for improving land utilization. In this connection I fully endorse the view expressed by my friend, Mr. Alex WU, that Government should take earlier action in the review of plot ratio, density zoning policy, as suggested by Mr. Q. W. LEE and Mr. T. S. LO in March 1978. As matter of fact, in the Budget Debate 1978 Government acknowledged that such a review would be timely. If the review was considered timely, then it must now be a matter of urgency in the light of current situation.

Sir, I would now like to comment on the provisions of the Bill.

Firstly, regarding restrictions on rent increases, the arbitrary imposition of a 21% ceiling for every two years of tenancy is, in terms of our present economic development trend, totally unrealistic. This ceiling was decided upon in 1973 in circumstances which were vastly different from those of today. Bank interest and inflation rates were then much lower than now. Therefore if 21% was considered adequate in 1973, it can hardly be adequate for today when both bank interest and inflation rates are running in double figures.

Many people purchase property as a long-term investment and it is rather unfair to deprive them of a reasonable return for their investments. In the

present circumstances, the permitted maximum 21% increase in rent for every two years cannot even cover inflation, let alone bank interest on mortgages. Like Mr. BREMRIDGE and Mr. NEWBIGGING, I am in favour of a more realistic rate of increase.

Sir, I cannot agree that protection should be afforded to all tenants regardless of whether they are individuals, companies or public institutions. In my opinion, those who can afford to pay monthly rents of the order of \$10,000 and over are obviously not people who merely want a roof over their heads. They want luxury and comfort, and must therefore be prepared to pay for it. Luxurious flats and houses, like other luxurious commodities in life such as expensive cars, diamonds, are items which people who cannot afford them will just either have to do without or accept a drop in standard.

As a matter of fact, the majority of people in Hong Kong have been suffering from a continuously lowering of standard as far as size of living accommodation is concerned. The Appendix to my speech contains statistics on the supply of accommodation, compiled by the Rating and Valuation Department, which show the number of size A (area up to 430 sq. ft.) and size B (430 - 1,076 sq. ft.) flats built in the period 1974-1979. It can be seen, Sir, that the ratio of the number of size A to size B flats built annually during this period has increased rapidly, indicating that more and more people are going into smaller premises. If the majority of people in Hong Kong have to put up with a lowering standard of living accommodation, is it not fair then to expect the few who seek luxury and comfort, and wish to maintain a high standard of living, to pay for them?

I would suggest, therefore, that luxurious premises in excess of 1,702 sq. ft. which is incidentally defined by Government as large flat, and I underline and with an annual rent in excess of say \$100,000 shall be excluded from rent control. I further suggest that owners of such premises should be charged a substantially higher rate of property tax. This would at least be fair and also benefit the public purse.

My next point concerns security of tenure. Currently, while rental return for property investment in Hong Kong is extremely low, approximately 4-5% of the capital invested, ownership of property is still considered by many to be a good hedge against inflation. Restriction on rent increase is already bad enough and in my opinion will deter many genuine investors. But harsher still is the provision covering security of tenure. Many owners purchase property with a view to letting it initially as an investment but repossessing it later for his own or family's use. Under the existing provision they can, once committed to a tenant, more or less say good-bye to their investments, which for many may be their life-long savings. Furthermore, once the owner is deprived of the right to repossess, the value of the property would drop substantially.

Clause 5(a) appears to provide a palliative by allowing the landlord the possibility of seeking an order for repossession of the premises for his own or family's use. But because it will still be necessary for him to prove greater hardship, which is both difficult to define and quantify, this provision would be little practical value. The possibility of repossession would in reality still be as remote as ever. I would have thought that only a landlord who is seeking repossession for his own or his immediate family's genuine occupation would do so, because the penalties proposed in clause 5(d) would be severe enough to deter any abuse. I therefore suggest that the most serious consideration be given to removing the need to prove greater hardship from the proposed legislation.

I am of the opinion that security of tenure should not be afforded to tenants who own properties. However, realizing the practical difficulties which would be involved in implementing this principle, I favour the idea advanced by my friend Mr. Bremridge of registerable reversionary leases for a definite period of tenancy say, 4-6 years. This is perfectly fair and equitable because during the period of secured tenancy, the tenant should be able to accrue sufficient savings from the low rental he has enjoyed and be able to afford a higher rent on renewal of tenancy, or even purchase a place of his own. Whilst on this point, I am given to understand that there are many people living in public housing who own properties. I can see absolutely no justification in subsidizing tenants of this class. I strongly urge that the Housing Authority should seriously look into this matter and make sure that such tenants should vacate to make room for the needy.

Sir, subject to these comments, I am prepared to support the Bill before Council, only as a temporary means to cool off the rapidly overheating situation, but I must emphasize the word 'temporary' and reiterate that Government should make every possible effort to complete all the relevant studies in time for a package solution to be produced before the end of 1981.

APPENDIX

Supply of Accommodation

Years 1974-1979

(numbers built)

	<i>Size A</i>	<i>Size B</i>	<i>A/B</i>
1974	8,230	9,895	0.832
1975	6,320	6,290	1.004
1976	7,440	7,180	1.036
1977	11,745	7,955	1.476
1978	12,760	11,625	1.097
1979*	10,174	5,395	1.866

* from 1st to 3rd Quarter 1979

Size A flats—up to 430 sq. ft.

Size B flats—from 430 sq. ft. to 1,076 sq. ft.

REVD. P. T. MCGOVERN:—Sir, few subjects in recent years can have been so thoroughly debated in the media as land, housing and rents have been in recent months. Unofficial Members have also, to put it mildly, vigorously discussed these subjects in preparation for today's debate. The pros and cons have been sufficiently aired.

I support the Bill as it stands without further amendment, and if the situation should arise, I would support extending it to non-residential premises also or at least to some non-residential premises, based on my judgment of present available evidence.

I would not oppose some modification of the 'hardship clause' itself, or perhaps better, the way in which the clause is applied. There is a real problem in a few cases where genuine owners cannot get possession of their property for their own legitimate use. I would be happy if a remedy could be found for that situation without widening the existing loophole by which in fact landlords do repossess property under false pretences. But I have some reservations because I believe that there is a lot of truth in the old proverb which says that hard cases make bad laws. May be the high fine will be a sufficient safeguard against further abuse.

In spite of my two lone votes against the reduction of rent control in previous years, I agree with the many who have said, and who will say, that rent control in itself will not cure the present housing problems of Hong Kong. The present crisis should spur Government to devise urgently a comprehensive policy of land production, reasonably priced land sales, the elimination of speculation, for the overall purpose of providing more housing at a price that people can afford—and, as on the last occasion, I repeat, at a price that people can afford.

That I admit is a tall order, but Hong Kong, perhaps more than anywhere in the world, has experience in the field of housing, has success in the field of housing, and has the ingenuity and brains to find a solution. Again I will not go into details beyond repeating what I said in the vote of thanks, namely that the critical situation calls for more Government interference in the private sector than Hong Kong has been willing to try up to now. As a result of the recent discussions in the media perhaps I should add that part of the solution lies not merely in interference like today's Bill, but also in co-operation between Government and the private sector in sincerely confronting and beating what is undoubtedly a massive problem. In my opinion it can only be beaten only if we concentrate less on the profit motive, and more on the good of the people of Hong Kong.

With these observations. I support the Bill.

MR. PETER C. WONG: —Sir, I declare an interest as the director of a company with subsidiary dealings in properties and also my firm acts for landlords and tenants.

Land supply

Sir, I agree with the Secretary for Housing that rent control will not solve the housing problem and a substantial increase in the stock of flats both in the public and private sector is of high priority. However, a prerequisite to such increase is an increase in the supply of land and I will repeat the call that Government must give the highest priority to the land issue. I support the proposal that a separate Land Department be set up to deal with this very important and urgent need.

Reservations

Many arguments have been put forward in this debate. I shall speak briefly on only two points:

1. Security of Tenure

Under section 53(2) of Part II of the Ordinance and the amendments proposed in clause 5 of the Bill, a landlord seeking possession of premises for occupation for himself or specified family members will have to prove greater hardship. Experience has shown that it is extremely difficult for a landlord to prove greater hardship and his chances of recovering possession are virtually nil. In paragraph 26 of his speech, the Secretary for Housing suggested that the 'hardship' provision should perhaps be modified in respect of tenancies to be brought under control by this Bill, so that a landlord would have to show only that he has a reasonable case for requiring possession of the premises. I fully support this suggestion. Some have even suggested that the proposed modification should also be available to landlords of premises already controlled before 18 December 1979. Landlords of premises acquired after 18 December 1979 which are subject to a controlled tenancy should not, however, be permitted to avail themselves of this modification. A minor concession to alleviate genuine hardship must be welcome. The substantial sanctions provided by clause 5(d) will, in my opinion, deter landlords from abusing the modified provision.

2. Corporation

The case for extending protection to limited companies needs examination. In 1975, section 50(6)(k) was added which specifically excludes from protection domestic tenancies granted to corporations. But even before this amendment the courts in Hong Kong following English decisions had held that the phrase 'let as a dwelling' contained in section 51(1) excluded corporations on the basis that a corporation is incapable of 'dwelling'. It is interesting to note that in England where rent control dates back to the early years of this century, limited companies are excluded from domestic rent control legislation. The proposed extension of protection to limited companies raises two issues:

- (i) A corporation, unlike an individual, is perpetual and will enjoy perpetual security of tenure as long as the proposed provision remains in force. This is both undesirable and inequitable.

- (ii) (ii) It has been suggested that the practice or malpractice of requiring a prospective tenant to turn himself into a limited company for the purpose of entering into a tenancy agreement has been quite prevalent. And it is argued that to stop this malpractice, it is necessary to extend protection to limited companies. Would it not be better to rectify such defects in the legislation by specific provisions rather than extending blanket protection to all corporations? And even if the proposed extension could be justified, it would, in my view, create a serious loophole. Limited companies, particularly those 'limited companies of convenience' whose main asset will be the protected tenancy they hold, will be able to transfer the tenancy at will in a number of ways, the simplest of which would be just to sell the company to any party interested in the protected tenancy. The new owner will then enjoy all the benefits of the tenancy, including the right to sell the corporation, thereby again transferring the protected tenancy. This would be a matter for serious concern and safeguards must be provided in the legislation, should Members feel that as a matter of policy protection should be extended to corporations.

In paragraph 25 of his speech the Secretary for Housing gave two reasons why it was necessary to extend protection to company leases:

The first reason:

The upsurge of rents had been most marked for large flats and houses on company leases, thus increasing the pressure on medium flats. I do not consider this a good argument. Firstly, this Bill will bring under control all domestic tenancies in buildings certified for occupation after 14 December 1973. Buildings before that date are already under control. Secondly, a large number of companies lease large flats, and even if protection is not to be extended to company tenancies, any further upsurge of rents would only affect first and fresh lettings of domestic accommodation at the upper end of the scale. Pressure on medium and small flats, if any, would be minimal. In any event, the control to be brought in by this Bill would in itself be a major factor in forcing up rents for first lettings and fresh lettings.

The second reason:

Landlords would increasingly insist on leasing only to companies to the disadvantage of individuals. Would it not be fair to assume that for first and fresh lettings landlords would, in the event of protection being extended to company leases, turn their preference to individuals to the disadvantage of companies? For the simple reason that if protected company leases would be perpetual and could be transferred at will. The arguments for and against protection in this regard in fact work both ways and are therefore not helpful to this debate.

In fact, Government has not put forward cogent reasons why Government and commercial bodies should be extended protection.

Obviously, the case for so doing should be carefully re-examined.

Factual information

In his speech, the Secretary for Housing referred to two useful but random surveys conducted by the Home Affairs Department which revealed helpful information about trends in rent increases during 1979. I hope, however, that the promised review will be conducted in the light of rather fuller surveys than these appear to have been. Concern over rising rents in 1938 resulted in a decision by Government on 28 April of that year to appoint an officer to register reports by tenants of increases of their rents so that data would be available, should restrictive action become necessary, and to facilitate a watch being kept on the rental situation. Perhaps a similar register may be needed in 1980 to assist those conducting the review. Inflation, rising rent and controls are inevitably emotive issues and if we are to reach the right decisions, it is essential that our deliberations are conducted against a background of as much factual information as it is possible to obtain.

Conclusion

Sir, traditionally, Government does not favour rent control or indeed any other form of control. If one cares to read the speeches on rent control reported in Hansard over the years, one will be amused to find that they are replete with apologies and regrets from various Colonial Secretaries and Attorney Generals. In 1938, the Governor reportedly stated that the concept of rent control was repugnant to the ordinary principles of British legislation. Be that as it may, in our long history of rent control dating back to 1921, Government has always acted swiftly but with great reluctance to meet the exigencies of the moment. It is only sensible to introduce control where public interest demands it. In the final analysis of the present rental situation, there is obviously a need to extend rent control of domestic premises and introduce necessary short-term measures to curb spiralling rental increases, while giving Government breathing space to conduct an in-depth examination of the problem and formulate an equitable and well-balanced rental policy. I look forward to amendments being introduced at the committee stage and to the day when the supply and demand situation will be such that it will be possible to progressively de-control.

On this optimistic note, I support the motion.

MR. WONG LAM delivered his speech in Cantonese: —

督憲閣下，去年十一月間房屋司施恪先生在本局討論房屋問題時，對租金管制的看法，非常冷淡，認為弊多於利；但在一個月後，政府的態度卻作一百八十度的轉變，提出全面管制租金的法案。此項轉變，極為倉卒，而在如此倉卒情形下所提出的法案，其用意雖在利民，但其中頗多細節甚至基本性問題，都是值得商榷的。

首先是應否管制租金這個基本性的問題。相信一般市民都注意到自七九年初起，租金上漲的速度越來越快，尤其是下半年度，其暴升更令人感到難於置信。這種現象當然並非香港社會之福，如不有效地加以處理，不難大出亂子；所以任何適當處理此問題的措施，都是值得支持的。

不過管制租金並非適當處理此問題的有效措施，充其量只是一種暫時性，治標性無可奈何的做法；雖然部份市民，因此而免受貴租之苦，但亦有部份正在找尋屋宇和租住的市民，因此租不到房屋或須付出比沒有租金管制前昂貴得多的租金；部份早已預備收樓自住的小業主，亦因此而須向他人租屋，成為收平租的業主，變貴租或住客；部份擁有一單位業主，亦因此而不肯將多餘的單位租出，寧可將之空置或以數目有限的家人分住多個單位，從而加重樓荒的問題。

政府處理此問題將必須採取較全面及徹底的治本方法，例如以更快的速度提供更多的土地以供建屋發展，提高土地與可建樓面之比例，增加興建居者有其屋的數目及加快其速度，容許私人發展商自行移山填海等。總之，政府應該詳細檢討其土地政策及有關之行政措施，是否符合目前本港的需要，能否有新的觀念及較簡易快捷的行政措施來適應新的環境，新的需要。本人認為政府應當設立永久性的土地政策諮詢委員會，邀請民間有經驗人士參與該委員會提供意見，相信比目前單由政府官員釐定土地政策，更有成效。

可惜這種治本的做法並非一朝一夕可以達到，而目前租金卻急劇上升，所以短期來說，以管制租金來暫解民困也是不難理解的措施。但既然明知租金管制必然引致不少流弊，則政府有責任盡力減少這些流弊。本人認為法案在這方面仍有可以改善之處，尤以收樓自住方面為然。

依據此法案所定，私人業主在普通情況下收樓極為困難，除非向法院申請，並由法官判定其不收樓所面臨之困難較住客為大，才可以收回自住；但所謂「困難」之準則，並無任何絕對性的可言，所以主觀的成份很容易影響法官的判決。根據部份法律界人士所言，業主收樓的申請，雖無正式統計，但據記憶所及，被駁回者十居七、八，所以收樓自住，即使理由極為充份，也不一定勝訴，對業主而言，此法案所提供的收樓途徑，作用不大。

不過作為小業主，尤其是一樓業主，竟然無法收樓自住，實在是說不通的。本人認為政府對於只擁有一層樓宇的業主，應該予以適當的照顧。本人提議任何人只要在業一九七九年十二月八日以前經已擁有一層樓宇，而該樓宇經已簽約租出，則約滿時業主有權向法院申請收樓自住，毋須向法院申述其困難與否，只須證明由一九七九年十二月八日起至約滿期間，其本人及妻子擁有一層樓宇（即申請收回的一層）的另外轉租或分租，則依例予以重罰。倘若在兩年內，業主有任何經濟上的困難而必須出售樓宇，則應先取得法院的同意。

對於擁有超過一層樓宇的業主，政府可以毋須提供上述特別的保障，但仍應准許他們以「困難」或其他合理的理由向法院申請收樓自住，因為這到底亦是業主所應有的基本權利。

部份業主因為租金管制使其樓宇價值下降，且每年租金收入只為樓價之極小百分比而感覺到不平，從而認為政府不應管制加租之百分比。本人並不同意此項觀點，因為任何投資，收益大風險亦大。舉例而言，投資股票可能有不錯的收益，但所冒之風險不少；同樣地，投資樓宇必須把可面之管制或政治等各種風險計算在內，政府沒有責任保障其樓宇之租值與樓價應成某一「合理」比率。事實上，如果樓宇在很多的年前經已購入，則業主目前所收租金大都已達合理利潤，與原本樓價亦成一相當高的百分比。假如業主是在七八或七九年才購樓，則其本人必須負起買高購入（收租）之風險，與人無尤，不應因為租金管制影響其大幅加租之意圖而訴說不平。

但從另一角度而言，假如政府完全不准業主加租，則樓荒之現象必然更甚，而且業主亦肯定不會再花錢維修樓宇，從而使本港的樓宇，日趨殘舊；所以准許業主每年數以百分比來加租，實在是必須的折衷做法。本人認為每兩年加百分之二十這數目在目前而言並無任何特殊的意義。在七〇年代中期，此數字大抵可以追上通貨膨脹率，但這兩年間此數字相信不能反映實際情況，所以必須酌量增加，大抵每年百分之十四，相信較接近實際通貨膨脹率。只有在收益能夠追上或接近通貨膨脹率時，業主才把興趣把出份側重保障大房之利益。

另外，此法案似乎過份側重保障大房之利益而忽略小租客之利益。能夠租住一層樓居住者其經濟能力總比側重保障大房之利益者為佳，但此法例對小租客卻沒有提供一深的保障。雖然他們所繳交租金的上升可因此法例而不超過某百分率，但他們的業主或二房東仍然可以利利用種種的干擾做法，使小房客不勝其煩而搬出，隨而更貴的租金租與他人。換言之，此法案有可能間接幫助身為大租客的二房東一方面向業主繳交平租，另一方面卻向小租客收取貴租；所以本人認為此法案必須同時加強條文，保障小租客之利益，不應把此項問題延遲至日後才研究。

坦白而言，本人對政府在租務管制問題上的時間觀念失去信心。所謂暫時性或短期的措施往往變成長期性的措施。政府既然公開承認租金管制並非長遠解決屋荒問題之方法，則應當把這管制的時間縮至最短的地步。本人希望政府能夠明確表示此項管制將於兩年後解除，而於此兩年間，盡量尋求更佳的解決方法。兩年時間絕不算短，政府不應以時間短作藉口而屆時隨便延長此項管制。本人認為假如兩年後政府仍不能找到完善的方法，則最少應該勇於承認責任，把政府本身列於法案保障之外，這樣才能表示其誠意，及對市民與業主有合理的交代。

督憲閣下，除上述各點外，我本人支持此項動議。

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

Sir, in his discussion on the housing problem in this Council in November last year, the Secretary for Housing, Mr. A. J. SCOTT, assumed an indifferent attitude towards rent controls and considered that there would be more disadvantages than advantages. However after just one month the attitude of the Government has done a volte-face and a Bill is proposed to effect overall rent control. Such a change has been extremely sudden. Much of the contents and even certain basic problems of the Bill drawn up under these circumstances, though undoubtedly meant for the well-being of the community at large, deserve careful consideration.

First of all there is the basic problem of whether rents should be controlled or not. Everyone should notice the accelerating speed of rent increases since early 1979, particularly in the latter half of the year when the steep rise was almost incredible. Surely this would not be for the benefit of Hong Kong. Unless it can be effectively contained, it may well lead to confusion. Any appropriate measure to deal with this problem is, therefore, worth our support.

Rent control, however, is not an effective measure to deal with this problem. At most it is only a short-term expedient of a superficial and unavoidable nature. While some may, as a result, be protected from high rents, others who are looking for accommodation to rent would not be able to do so now or have to pay rents much higher than before the proposal of the rent control bill. A number of small landlords intending to repossess their premises for self-occupation would now have to rent their accommodation, thus becoming landlords getting low rents and tenants paying high rents. Some landlords who own more than one flat would be unwilling to let out the flats they do not need, but rather leave them vacant or have them occupied by a small number of members of their families, thus further aggravating the housing problem.

Overall and thorough measures have to be adopted in dealing with this issue, e.g. to provide at a faster rate more land for residential development, to increase the ratio of building area to land, to increase the number of home ownership flats and expedite the scheme and to permit private developers to carry out reclamation themselves. In sum the Government should review in detail its land policy and related administrative measures to see if they are consistent with the present needs of Hong Kong; and if there are any new ideas or simpler and quicker administrative processes to cope with

new conditions and needs. I am of the opinion that the Government should set up a permanent Land Policy Advisory Committee to which experienced members of the public could be invited to join. This will be, I believe, more effective than the present practice of having the land policy formulated by Government officials alone.

Such measures, unfortunately, cannot be worked out overnight, and meanwhile rents are rising rapidly. For short-term purposes, the imposition of rent control to alleviate temporarily the suffering of the population is understandable. Knowing well that rent control is bound to have adverse effects, the Government has the responsibility to reduce them to a minimum. There is still room for improvement in the Bill, especially in respect of the repossession of premises for the landlords' own use.

According to the Bill, it is extremely difficult for a landlord to repossess his premises under normal circumstances unless he applies to the court which must be satisfied that he would face a hardship greater than his tenant should he not be able to repossess his premises. But the criterion of 'hardship' is not absolute and the court's decision may well be subjective. Some members of the legal circle reveal that according to their memory seven or eight cases for repossession by landlords out of ten have been rejected, although there are no formal statistics. Applications for repossession of premises by landlords for their own use, even with adequate reasons, may not always be successful. As far as landlords are concerned, the provision for repossession in the Bill does not help very much.

It is really unreasonable that small landlords, in particular those owning only one single flat, cannot repossess them for their own use.

The Government should, in my opinion, adequately look after these one-flat landlords. I propose that a landlord who owned only one single flat before 18 December 1979, and the flat was already let on contract should have the right to apply to the court for repossession of the flat for their own use on the expiry of tenancy, without having to state their hardship. It should be sufficient for him to prove that he and his spouse owned only that single flat (the one under application for repossession) from 18 December 1979, to the expiry of the tenancy. Once the flat is repossessed, it must be occupied by the landlord himself (including immediate relatives) for two years. If the flat is re-let or sub-let within these two years, the landlord concerned would be heavily punished in accordance with the law. If the landlord has to sell the flat within these two years because of financial difficulties, he should obtain the prior approval of the court.

As to a landlord who owns more than one flat, there is no need for the Government to provide the above-mentioned special protection, but he should still be allowed to apply to the court for repossession of the flats for their own use on the grounds of 'hardship' or on other reasonable grounds, for this is, after all, the basic right of a landlord.

Some landlords feel aggrieved by the fact that the rent control measure will depreciate the value of their flats and that the annual rents they receive will only constitute a very small percentage of the value of their flats. They feel that Government should not control the percentage of rent increases. I do not agree with such a view, for in any kind of investment, the higher the profit, the greater will be the risk. For instance, investment in shares may bring considerable profits, but the risk taken is also not small. Similarly, people who invest in property must take all possible controls, political factors and other risks into consideration. The Government is not responsible for ensuring that the rents for their flats will maintain a certain 'reasonable' ratio to the value of their flats. As a matter of fact, if a flat was bought many years ago, in most cases, the rents they now receive is probably enough to provide a reasonable return which constitutes a fairly high percentage of the original price of the flat. If the flat was bought in 1978 or 1979, then they should bear the consequence for taking the risk of buying flats at such high prices for the purpose of letting. They should not blame anybody or feel aggrieved for being affected by the rent control measure which ran counter to their intention of imposing large rent increases.

However, looking at the issue from another angle, if the Government totally forbids any rent increase, the shortage of domestic premises will surely become more acute. Moreover, landlords will definitely be reluctant to spend money on maintenance, thus premises in Hong Kong will gradually be in the state of disrepair. Therefore, to allow landlords a fixed rate of annual rent increase is a necessary compromise. I think that an increase of 21% for every two years has no particular meaning. In the mid-70s, this rate might perhaps be enough to catch up with the rate of inflation. However, it is believed that this figure can no longer reflect the actual situation in the past two years, and an increase in the rate must therefore be considered. It seems that an annual increase of 14% would be nearer to the actual inflation rate. Landlords will only be interested in letting and repairing their flats only if profits can catch up or nearly catch up with the inflation rate.

Furthermore, the Bill tends to over-emphasize the protection of the interests of big tenants and neglect that of the small tenants. One who can afford to rent a flat is surely more well off than one who can only afford a cubicle. The Bill does not, however, offer any thorough protection to the small tenants. Although the increase of rent they have to pay will not be in excess of a certain percentage because of this Bill, their landlords or principal tenants can still make use of all sorts of nuisances to force them to move out and then let the premises to others at higher rents. In other words, this Bill may indirectly facilitate those principal tenants to pay cheap rent to their landlords but receive high rents from their sub-tenants. For this reason, I consider that the wordings of the Bill should be strengthened to protect the interests of small tenants, and this issue should not be postponed for future study.

Frankly speaking, I have lost confidence in Government's time concept on the question of rent control. The so-called temporary or short-term measures very often become long-term measures. Since the Government openly admits that rent control is not a long-term solution to the shortage of domestic premises, it should shorten the period of this control to the minimum. I hope that the Government can indicate clearly that the control will be lifted after two years, during which the Government should try its utmost to work out a solution. Two years is not a short time and the Government should not extend this control by then on the pretext of insufficient time. I consider that if in two years' time the Government is still unable to find a satisfactory solution, it should at least accept responsibility bravely by waiving the protection afforded it by this Bill in order to show its sincerity and that the Government is accountable to the public and the landlords for such a move.

With these remarks, Sir, I support the Bill.

MR. YEUNG: —Sir, I declare my interest as being a non-executive director of a property owning company and also professionally represent both landlord and tenant, but I am not and neither landlord nor tenant myself, though I own land and property.

The soaring property market must be dampened. The rocketing rental must be checked. Real estate speculation must be eradicated. Greedy landlords must be condemned. Helpless people must be helped. Who can dispute these social justices? I dare say NONE.

The principle behind this Bill is most uncontroversial. The short-term effectiveness created by this Bill and indeed by the very announcement of the Government of its intention to introduce the Bill has already produced the desired reaction.

The spirit and intendment of this Bill have my fullest and unequivocal support and undoubtedly the overwhelming support of this Council and the general public.

Paradoxically this Bill has become the hottest topic for discussion in town and many divergent views have been advanced both within and outside this Council. In short this Bill has become the most controversial bill in a recent time. Why is it?

It is not a conflict between the 'have' and the 'have-not'. It is not a matter of subjugating one social class to another. It is a matter of how to provide and distribute a limited stock of housing in a most equitable and effective way. It is a matter of balancing social stability against personal right. As the matter is having such wide social and economic implication and the rent control law being viewed has a permanent feature people are naturally keen to see that injustices and inequity will be minimized and short-lived as far as possible. Thus the debate.

The root cause of the present unsatisfactory housing situation is the shortage of residential accommodation to meet the need of the various strata of the society. The establishment of the equilibrium of supply and demand is therefore the fundamental method of solving this social problem, and should therefore be the first order of the day. In this connection I have to congratulate the Chief Secretary on his recent speech delivered in the Hong Kong General Chamber of Commerce Annual Dinner on 24.1.80 when he hit the nail on the head. Rent control may produce a short-term effect but the prolongation of it will surely be counter productive as the experience in Hong Kong and in the United Kingdom has amply demonstrated. On the subject of counter productive, the following points immediately came to my mind.

1. The landlords with sitting tenants will turn the tenants out and redevelop the property for commercial use, thus more flat-hunters and less residential flats available in future. This will also have the effect of fuelling the domestically generated inflation by having new and unnecessary construction.
2. Less landlords are willing to let their premises. This has already been the case, since the Government announced the rent control measure.
3. Developers are less willing to carry out the building projects resulting in residential housing being made less available in future.
4. Less people will be willing to invest in property market resulting in less available housing for rent.

It is paramount that Government should attack this root cause as a matter of urgency by formulating effective and comprehensive plans for providing enough housing both in the private and public sectors and to execute such plans as a matter of top priority.

It is suggested that the Government should immediately re-examine its land policy and its financial support so as to enable adequate supply of residential units available to the market at the shortest possible time and at the most reasonable price which people can afford.

The supply is dictated by two factors, namely the availability of enough land and the plot ratio for building. On this point of availability of land, it must be remembered that the Government is the sole landlord and sole controller of usage of land. There are two sources of supply. One is the unleased Crown land. It is up to the Government to release the land either in its raw form or serviced form to the market. The other source is the leased Crown land (that is to say, the land commonly called private land) which can be divided into two categories (*a*) the building land and (*b*) agricultural land. It is up to the Government again to allow more intensive development by increasing the plot ratio and to allow agricultural land to be converted into building land. In this connection, there is no reason why buildings in the townships of the New Territories are to be subjected to a lower plot ratio than their counterparts in the urban areas. It is worthwhile noting that there

are actually sufficient piece of land big enough to accommodate all the new buildings for housing all the people in the land of New Territories and this can be done if, intensively within a very short time, if Government is really seriously attempting to tap the source of supply.

As such fundamental solution is not immediate relief and as the rental problem facing us now is so imminent, all interim measure therefore should be employed. Rent control on the temporary basis should be introduced and immediate assurance by the Government should also be made that the Government has absolute determination to make enough land available for enough housing for all people in Hong Kong in a definite future date.

From past experience rent control legislation, though stated to be temporary must be looked at as if it is going to be a permanent feature in our Statute Book. I therefore endorse fully the view of the Secretary for Housing in his speech in introducing this Bill that, I quote 'matters as important as this, touching so closely on the homes and lives of our community, deserve the patience of this Council as well as its customary courtesy, and the fullest opportunity for calm and balanced discussion'. I therefore pray leave for the Council's indulgence and patience to carry on.

The Secretary for Housing has already very ably put his case for rent control in the form as expressed in the Bill and my Unofficial Colleagues have and will examine the proposal from all possible angles for the purpose of arriving at a balanced and rational decision. Had it not be the fact that the Government is intended to review overall the provisions of the rent control legislation shortly and had it not be the fact that the Government has recognized the importance of making more land available for building, I am sure much more will be said in this debate.

As much has already been said at this interim stage I do not propose to repeat or elaborate further on the points which have been covered by various speakers, especially by Mr. NEWBIGGING. It will suffice for me to say that I associate myself with Mr. NEWBIGGING's speech.

There are points which I would like to single out for deliberation and immediate attention.

The first point concerns the undertaking given in this Council in 1975 by the then Secretary for Housing that all buildings granted occupation permits since 14 December 1973 and before 1 January 1978 (which latter date was extended subsequently to 1 January 1979) will be exempted from now or extended landlord and tenant-type controls for a period of five years. It is a very dangerous precedent for Government to go back on its words in the name of wider public interest. The Secretary for Housing has attempted to justify it and said that all governments should reserve the right to change policy if overriding public interest so demands. However in the present case it is not simply a change of Government policy but a matter of not keeping an express assurance to the public. It will affect the trust, confidence

and respect of the people in Government's words and this element of trust confidence and respect is the very foundation of a good social order and stable government. Furthermore in this particular occasion the assurance went beyond the normal undertaking. It is an assurance coupled with an inducement as the then Secretary said that I quote, 'It is hoped that this statement of policy will encourage developers to proceed now with building plans which they might otherwise have felt inclined to defer and remove some of the doubts owners may have in regard to the letting of vacant premises'. The legal and moral effect are more serious than apparent. For the purpose of illustration, Members will recall the Secretary for the New Territories has in the last session in this Council given assurances during the passage of the Crown Land (Amendment) Bill. In the face of this precedent one cannot help oneself in doubting whether the future Secretary for the New Territories and indeed other Government officers will feel themselves free from adhering to such assurances in the name of wider public interest to the detriment of the people of New Territories. No doubt the Government has considered this matter carefully and the decision is certainly not taken lightly but the gravity of the consequence and ramification warrants a more searching and cool reconsideration.

Secondly, Government should bring public housing which has about half of the available residential housing in Hong Kong into the same control. Admittedly, the landlord of public housing has not been and will not be a greedy landlord. All the more public housing should be brought under this control. The famous legal axiom 'Justice should not only be done but must be seen to be done' is applicable here.

Thirdly, the right of the small landlords of post-war buildings to repossess the premises for the occupancy for himself and his family should be restored or preserved without proving comparative hardship. This is a significant act of recognition of one's proprietary right to encourage to home ownership and to develop community identity.

Fourthly, landlord or his mortgage should be allowed to repossess the premises on payment of a certain ascertainable sum e.g. by using rental or ratable value as a yardstick. This suggestion is made not only based on the pragmatic point of view that at present time a owner simply cannot sell his flat with a sitting tenants protected but also based on the probability that on the account of the limited buyer market and lower selling value of premises with sitting protected tenants, the mortgagees, including banks and finance companies, in order to secure their own position will either call in the mortgage as a whole or to reduce the overdraft. If this happen, as there are many landlords with a mortgage on their properties, it is a real fear that an economic crisis may develop in the near future which may rock the social stability of Hong Kong.

Fifthly, rental increase should be commensurable with the bank interest rate and the inflation rate so that the landlords may not be put into a situation

where he cannot discharge his mortgage duty to the bankers and finance companies.

DR. HO:—Sir, I rise to support the Landlord and Tenant (Consolidation) (Amendment) Bill 1980, which was introduced to hold the rampant spiralling of residential rents by extending controls to another 43,000 flats. The legislation is meant to be a temporary measure lasting for 2 years only so as to provide Government with time to formulate comprehensive, long-term plans to tackle the housing problem.

This legislation should not be seen as a panacea for rectifying the anomalies of the rental situation. While it intends to protect a great majority of tenants against excessive rent increases and exploitation, it may by doing so create certain inequities for some landlords.

To assure the public of Government's sincerity in formulating long-term plans to solve Hong Kong's housing problem, I would like to see a committee set up, comprising experts from both the public and the private sectors, with well defined terms of reference and a fixed time schedule for completing their assignment. The work and progress of the said committee should be reported periodically to the public.

The plans promulgated by the said committee should:

- (i) lead to an increasing supply of our overall housing stock, in the form of expanded private real estate development, public housing and home ownership scheme; and,
- (ii) strike a balance between the interests of landlords and tenants.

A reason for the escalation of domestic rents is the imbalance between the supply and demand of residential accommodation. Last year, a total of about 65,000 residential units were completed in the private and public sectors. However, the net increase in population as a result of illegal immigration from China alone was estimated to be in the region of 120,000. If this is allowed to continue, the population growth is bound to outstrip the increase in our housing stock no matter how hard we try to build. I therefore urge Government to adopt a much tougher policy in regard to illegal immigration. Security measures should be strengthened to curb the entry of illegal immigrants. Repatriation of all illegal immigrants must be insisted upon, regardless of whether they are caught in the urban areas or whether they have established contact with their relatives. The criteria for issuing a green seal identity card should be reviewed, with a view to restricting issue to only the very exceptional cases. Such a tough policy should have a strong deterrent effect on potential illegal immigrants, thus reducing the pressure on the demand for domestic accommodation in the long-term. The implications and practicability of such a policy should form part of the comprehensive package to be examined carefully by the committee I spoke about in the previous paragraph.

In regard to the proposed legislation, I would like the Government to consider one point. The requirement to prove greater hardship for the repossession of premises for the landlord's own use should be re-examined. At present, many small landlords are in desperate need to repossess their flats for their own use, but are unable to do so. Under such circumstances, the landlords are compelled to subsidize their tenants at their own expenses. In other cases, the landlord and the tenant even try to outwit each other by fraudulent means, in an attempt to establish evidence of greater hardship. I therefore suggest that bona fide landlords who wish to repossess their flats for their own use or for the use of their immediate families should be allowed to do so without having to prove greater hardship, provided that they have already rented their flats out to the existing tenants for a period of say, five years; and that they have acceptable reasons for doing so.

To conclude, Sir, I support the Bill with these suggestions.

MR. SO delivered his speech in Cantonese: —

督憲閣下，政府盡了很大的努力，為差不多一半的香港居民提供公屋，其他的一半則未受政府在居屋這方面所提供的服務，而且他們之中有很多人因為私人住宅樓宇租金瘋狂上漲備受困苦。本法案的主旨是遏止住宅樓宇租金狂增，對解救民困有肯定的作用。

任何法例都不可能面面俱圓。很多業主，地產商和財務機構反對此法案是可以理解的。就本人而言，最初的反應是它反映了政府的一般毛病——遇事往往治標而不治本：為甚麼不積極供應土地？為甚麼不從健全的土地運用和房屋政策上着手而作消極的管制呢？其次，政府為甚麼食言，在一九七五年及稍後先後保證七三年底至七八年底落成的樓宇在五年內不受任何租金管制，而今卻提出管制？

事實上，除非人口驟降，香港的屋荒將是一項不能徹底解決的問題，土地的供應亦不是朝夕可成的事。房屋司在本法案二讀的時候對政府底出爾反爾的解釋，未盡愜人意，但亦情有可原！

關鍵是房屋司強調本法案只屬臨時性質，希望它產生冷卻作用。政府決心盡早提出健全和整體的有關法案代替臨時的措施。這好比先替生病的人退高燒，然後斷定病由，再處良方。

反對此法案聲中最值得同情者是欲真正收回樓宇自住的業主，本人認為略為修改本法案及原有條例使此等業主不致受過份刁難，是不會影響本法案的宏旨的。

督憲閣下，除了此一小節有商榷餘地外，本人支持此法案。

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

Sir, Government has made great efforts to provide housing for almost one half of the population of Hong Kong. The other half has not benefited from such services. What is more, many of them are suffering severe hardships as a result of the wild increases in rents for private accommodation. The main objective of this Bill is to curb such wild increases. It should have a definite positive effect in relieving the tenants' distress.

As we cannot expect any legislation to please everybody, objections to this Bill from real estate developers and finance organizations are understandable. As far as I am concerned, my first impression is that the Bill reflects Government's usual short-coming, that is, taking palliative measures instead of getting at the root of the problem. Why not take active steps to provide more land? Why not seek solutions in formulating proper land use and housing policies?

Why are passive controls imposed instead? In 1975 and later, Government gave assurances that premises completed between the end of 1973 and the end of 1978 would not be subject to any rent control for 5 years. Why does Government go back on its words by proposing to impose rent controls now?

As a matter of fact, unless there is a sudden reduction in population, shortage of housing in Hong Kong is a problem that cannot be solved completely. The supply of land is not something that can be accomplished within a short time. At the second reading of this Bill, the explanation for Government's change of policy as given by the Secretary for Housing was not entirely satisfactory, but acceptable under the circumstances.

The important point is that the Secretary for Housing has emphasized that the Bill is only a temporary measure, in the hope that it will achieve its cooling effects on the rental market; and that the Government is determined to introduce as early as possible a sound and comprehensive bill to replace this temporary measure. This is like trying to remove the fever of a patient before making a diagnosis and giving a proper prescription.

Among the outcries against this Bill, the ones that deserve our greatest sympathy are from flat owners who want to recover their premises for their own use. I am of the opinion that minor amendments should be made to this Bill and the principal Ordinance to make things less difficult for such flat owners. Such amendments would not affect the overall objective of the Bill.

Sir, with the minor reservation above, I support the Bill.

MR. P. Y. WONG:—Sir, I rise to support the Landlord and Tenant (Consolidation) (Amendment) Bill 1980.

There have been considerable arguments against the Bill on the ground that it imposes artificial control on the rental market and is against the free market principle. The principle of free economy has worked well for Hong Kong and should continue to be valued. However, an exception must be made in the land, housing and rental markets where free market conditions exist only to a limited extent. The price level of most commodities is determined by the market forces of demand and supply. In a usual case, when a commodity is in shortage, anyone can import it, and the increase of supply will force down the price to a balanced level. But we can never import a piece of land, or a house from outside Hong Kong. Under such circumstances, the Bill should not therefore be considered in the context of whether it has deviated from the principle of free market. Instead, what should be determined here is whether further intervention by way of an extension in rent control is necessary at present.

Sir, I believe that the Bill would not have been necessary had Government been more alert and taken earlier steps instead of allowing it to deteriorate into the present crisis. However, given the present circumstances when the imbalance in the rental market has been exploited by some greedy landlords

to the extent of causing tremendous hardship to a significant number of tenants and affecting the stability of the community, no responsible Government can avoid taking emergency steps to cool down the situation. For this reason, I agree that the extension of control is necessary and justified.

Apart from housing, inflation has already for some time been a major worry for the public. In fact, the two are very closely linked as the spiralling increase in rents and property prices has been one of the most important contributing factors to inflation. We cannot hope to solve the inflation problem without regulating the rental market. As I see it, this is another justification for controlling rent increases.

There is no doubt that the only feasible long-term solution to the housing problem is for the Government to release sufficient land for residential development. I am glad that the Government has recognized this and has stated that the Bill is meant to be a stop-gap measure only, and from the speech of the Chief Secretary to the Hong Kong General Chamber of Commerce on the 24th of this month, I can see that the Government is going to take immediate steps to solve this problem within a reasonable time. To reassure the public, I hope the Government would soon make a firm statement on how it intends to increase housing production both in the public and the private sectors. The present annual production of 65,000 housing units in both the public and private sectors still seems to lag behind demand. I therefore suggest that Government should increase its housing target from 35,000 to 45,000 units a year. More land should also be released to the private sector with a view to induce a production rate of at least 36,000 units per year, that is, 20% more than the present rate of production. In addition to releasing more land, Government should revise its sales practice. For example, lots should not be withdrawn from sale by auction once their upset price has been reached.

The need to cool down our overheated economy and the limited capacity of the local construction industry have been put forward as arguments for slowing down the production for public housing. However, since the housing situation has already reached such a critical situation, housing production must be accorded top priority and the housing programme must be accelerated. The overheating effect can to a certain extent be offset by cutting back on other less essential services and capital works, up to a tolerable extent.

Sir, with these remarks, I support the Bill.

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

Question put and agreed to.

Committee stage of bill

Council went into Committee.

REGISTRATION OF PERSONS (AMENDMENT) BILL 1980

Clauses 1 to 4 were agreed to.

Council then resumed.

Third reading of bill

THE ATTORNEY GENERAL reported that the

REGISTRATION OF PERSONS (AMENDMENT) BILL 1980

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

Question put on the Bill and agreed to.

Bill read the third time and passed.

Unofficial Member's bill**First reading of bill**

THE HONG KONG ANTI-TUBERCULOSIS AND THORACIC DISEASES ASSOCIATION INCORPORATION (AMENDMENT) BILL 1980

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

Second reading of bill

THE HONG KONG ANTI-TUBERCULOSIS AND THORACIC DISEASES ASSOCIATION INCORPORATION (AMENDMENT) BILL 1980

MR. WU moved the second reading of: —‘A bill to amend The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association Incorporation Ordinance’.

He said:— Sir, I move the Hong Kong Anti-Tuberculosis and Thoracic Diseases Association Incorporation (Amendment) Bill 1980.

The main purpose of the Bill is set out in the explanatory memorandum so I shall not repeat it.

However, we should not let this occasion pass without recognizing the contribution of the Association and the Heart Foundation.

The Association has made available 2 million dollars from its own resources and all the facilities and expertise of the Grantham Hospital towards this project.

Even more remarkably, the Heart Foundation, its chairman, Mr. Q. W. LEE, and the members of its Fund Raising Committee have successfully raised 10 million dollars in one single donation. It cannot be often that such a large sum is given by a single person and the exceptional generosity of Mr. KWOK Tak-seng deserves to be commended in public.

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

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

Question put and agreed to.

Valedictory to Mr. E. H. Nichols, Director of Agriculture and Fisheries

HIS EXCELLENCY THE PRESIDENT: —Honourable Members, this is the last sitting which Mr. NICHOLS will attend as a Member. He leaves after three years membership of this Council, 21 years of the Agriculture and Fisheries Department—for nearly 14 years Director.

Under his leadership, his Department has worked very hard to enhance the sophistication of our horticultural, and pig and poultry industries. He has also done much to promote producers' co-operatives and credit unions. He has consistently encouraged the productivity of our fishing fleet and indeed the design of its vessels has changed radically during his directorship. Mariculture has also notably developed during his directorship. It has been his constant endeavour to popularize that largely uneaten marine food—pelagic fish—and if one day no Hong Kong dinner table is complete without it, it will largely be due to him (*laughter*). He is internationally esteemed for his contribution to the work of the Indo-Pacific Fishery Commission.

In the last years of his directorship he undertook the completely new task of organizing our Country Parks. And the excellence of the team that he assembled to do this, and the energy and imagination with which he has led them, has resulted in the Parks and their managements being established with extraordinary speed; and thus kept ahead of the forces that might have

destroyed this priceless asset. He will be remembered as a preserver of Hong Kong's countryside, and an organizer of recreation in it.

I am sure all Members will join me in thanking Mr. NICHOLS for his valuable services to Hong Kong, and in wishing him and his wife a long, happy and active retirement.

MR. CHEUNG:—Unofficial Members would wish me to confirm those sentiments.

I myself have known Mr. NICHOLS for a long time, long before he joined this Council. For a number of years I was member of two committees over which he presided: the Fish Marketing Advisory Board and the Fisheries Development Loan Fund Advisory Committee. There I could see him use some of the funds derived from commissions earned from the auction of fish, employ in loans to fishermen to enable them to buy new vessels or to upgrade existing ones; and the fishing fleet has much improved during Mr. NICHOLS's term of office. He has also candidly conserved some of the money from the commissions for the development of new wholesale fish markets.

Before free primary education was introduced in Hong Kong a large part of the funds were used for the operation of schools for the children of fishing family, and one of the most delightful sights in Double Harbour was a water-taxi taking children from their homes to schools.

I do not know if Mr. NICHOLS's love of countryside is derived from his Northumberland origins, but certainly those are one of the most beautiful countries in England and I hope the NICHOLS will spend a large part of their retirement there, and like you, Sir, we join in wishing them that their retirement will be long, happy and active.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 on Wednesday, 13 February.

Adjourned accordingly at forty minutes past five o'clock.