

OFFICIAL REPORT OF PROCEEDINGS**Thursday, 17 April 1980****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
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 DAVID GREGORY JEAFFRESON, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

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, C.B.E., 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 GERALD PAUL NAZARETH, O.B.E.
LAW DRAFTSMAN

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

THE HONOURABLE JOHN MORRISON RIDDELL-SWAN, J.P.
DIRECTOR OF AGRICULTURE AND FISHERIES

THE HONOURABLE DAVID ROBERT FORD, M.V.O., O.B.E., J.P.
SECRETARY FOR INFORMATION

THE HONOURABLE JOSEPH CHARLES ANTHONY HAMMOND, J.P.
COMMISSIONER FOR LABOUR (*Acting*)

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 DAVID KENNEDY NEWBIGGING, J.P.

THE HONOURABLE ANDREW SO KWOK-WING

THE HONOURABLE HU FA-KUANG, J.P.

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

ABSENT

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

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

THE HONOURABLE ALLEN LEE PENG-FEI

IN ATTENDANCE

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

Second Reading of bills**CRIMINAL PROCEDURE (AMENDMENT) BILL 1980**

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend the Criminal Procedure Ordinance’.

He said:—Sir, I move that the Criminal Procedure (Amendment) Bill 1980 be read a second time. The purpose of this Bill is to provide for the supervision of certain young offenders in the 12-month period following their release from prison.

Experience shows that offenders are most likely to revert to crime in the period immediately following their release, when they may re-establish contact with their former criminal associates. Existing schemes for the aftercare and supervision of former inmates of drug addiction treatment centres, detention centres and training centres have all proved to be a useful aid to the rehabilitation of offenders during this critical period.

On the basis of this experience and with the intention of helping young offenders to get through the months immediately following release from prison, it is proposed to introduce a similar scheme of supervision generally for 12 months for persons who, before their 21st birthday, are sentenced to serve a term of imprisonment of 3 months or more and are released from prison before the age of 25.

The Bill makes the issue of a Supervision Order by the Commissioner of Prisons mandatory, though it seeks to empower the Commissioner to cancel or vary the terms of the order if he should so decide. This gives the scheme considerable flexibility and will allow it to take account of individual circumstances.

As a general rule, persons who are the subject of an order will be required:—

- (a) to inform the aftercare officer of changes in residence and employment addresses;
- (b) to lead an honest life and refrain from associating with known bad characters, including unlawful societies;
- (c) to see the aftercare officer at least once a month; and
- (d) to obey the instructions of that officer.

Failure to observe the terms of the order would render the person liable to recall to prison to serve any period of remission of sentence earned during the original sentence. In addition, failure to comply with the terms of an order would in itself be an offence carrying a maximum penalty of a \$5,000 fine and 12 months' imprisonment.

I believe the proposed scheme will provide a helpful and constructive addition to the powers already available for the treatment of offenders, by providing them with the support and advice that they need as part of the rehabilitation process.

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 SECURITY.

Question put and agreed to.

IMMIGRATION (AMENDMENT) BILL 1980

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend the Immigration Ordinance’.

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

Details of the proposed amendments are set out in the Explanatory Memorandum attached to the Bill. I should like to elaborate on the proposal in the Bill to confer certain statutory powers on Immigration Assistants and Senior Immigration Assistants.

The Immigration Service has expanded rapidly in recent years to cope with travel by Hong Kong residents, visitors to Hong Kong and recently with the sharp increase in immigration from China. As a result, we have reviewed the work of the Department and the levels at which it is performed. The Director of Immigration has concluded that some of the duties presently undertaken by the officer cadre could be performed by the subordinate ranks of Immigration Assistant and Senior Immigration Assistant. Clauses 8 and 10 of the Bill therefore seek to provide these grades with certain statutory powers in order to give effect to the proposed delegation of authority.

The Director will ensure that the powers to be conferred are exercised under the close supervision of the officer ranks, and that the proposed change in the level at which the responsibility is discharged does not result in any deterioration in the standard of service provided by the Department, or unnecessary inconvenience to the public.

In making this main change the opportunity has also been taken to make some other changes to the Ordinance including transferring certain powers from the Governor and the Chief Secretary to the Secretary for Security.

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 SECURITY.

Question put and agreed to.

IMMIGRATION SERVICE (AMENDMENT) BILL 1980

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend the Immigration Service Ordinance’.

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

This short Bill simply proposes that the warrant cards issued to every member of the Service should no longer be signed personally by the Director.

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 SECURITY.

Question put and agreed to.

PLACES OF PUBLIC ENTERTAINMENT (AMENDMENT) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Places of Public Entertainment Ordinance’.

He said:—Sir, I move the second reading of the Places of Public Entertainment (Amendment) Bill 1980.

The present Places of Public Entertainment Regulations which, among other things, regulate the construction of cinemas came into force in 1934 and have been subject to very little amendment since then. They are, by now, in many respects obsolete and do not, in particular, cater for small 500 to 2,000-seat cinemas above ground level in multi-storey buildings. These mini-cinemas, whose numbers have grown in recent years with the fall in mass cinema audiences, as well as with rising land values and building costs, have hitherto been permitted to set up through the Building Authority

modifying the existing regulations by administrative action under Regulation 168.

This procedure is, however, unsatisfactory and it is proposed to amend the Places of Public Entertainment Regulations to regularize the position. In order to do this, however, it is necessary first to amend the principal Ordinance in order to dispel any doubts as to the powers of the Governor in Council to make regulations to provide for the location of places of public entertainment within buildings which are used also for other purposes and to lay down appropriate conditions. This is the aim of the present Bill.

If the Bill is enacted, new regulations will be submitted to the Governor in Council to permit and regulate the location of small places of public entertainment, particularly cinemas, in non-domestic multi-storey buildings or the non-domestic parts of such buildings. The regulations will incorporate the relevant technical requirements with respect to building structures and fire safety provisions but they will not, in particular, affect the Building Authority's powers under the existing regulations to require that exits from places of public entertainment are kept separate from other parts of the same building in different use.

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.

URBAN COUNCIL (AMENDMENT) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Urban Council Ordinance’.

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

The purpose of this Bill is to give legal protection to the new armorial bearings which have recently been granted to the Urban Council by Garter King of Arms and Letters Patent, and which will replace the existing Urban Council emblem.

Clause 2 of this Bill therefore amends section 52A of the Urban Council Ordinance by replacing references to the present emblem with references to the new armorial bearings. The armorial bearings are portrayed in clause 3 in the form of a new Fourth Schedule.

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.

ROAD TRAFFIC (AMENDMENT) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Road Traffic Ordinance’.

He said:—Sir, I rise to move the second reading of the Road Traffic (Amendment) Bill 1980. This Bill seeks to strengthen the law to deal with persons who may avoid prosecution for serious traffic offences because of a lack of information concerning the name of the driver at the time the offence was committed.

The maximum penalty for failing to disclose the name of a driver involved in an offence is at present likely to be much lower than the penalty for the offence itself. There is therefore no effective deterrent against non-disclosure by an owner of a vehicle of the particulars of a driver who is reported to have committed an offence, especially where the offence is a serious one. The Bill seeks, by including in section 29 of the principal Ordinance a new subsection (5A)(a), to provide that failure by any person to make the disclosure of the name of a driver should carry the same liability to disqualification as the reported offence. The proposed new section 29(5A)(b) will also require the court to take into account the facts of the alleged offence, including the amount of any fine or period of imprisonment to be imposed, and any period of disqualification, in determining sentence for the offence of non-disclosure of driver. Finally, the proposed new section 29(5A)(c) will, in addition, empower the court to order an offender to make the required disclosure. If such an order is disobeyed it will, by the proposed new section 29(5B), render the offender liable to a penalty of \$50 a day, up to a maximum of \$5,000, and to imprisonment for six months.

Although these proposals will, if enacted, significantly increase maximum penalties against vehicle owners or drivers, they would not create any new offences or render liable to the new penalties persons who, under the present law, would be entitled to an acquittal. In order to be acquitted of the charge of non-disclosure a defendant would need to prove that he did not know and could not with reasonable diligence have ascertained the name, address or driving licence number of the person involved in the reported offence.

The Attorney General is also satisfied that the Bill would not have the effect of visiting the proposed increased penalties on those who fail to comply

with a request for information simply because they are absent from Hong Kong when the request is made.

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.

OATHS AND DECLARATIONS (AMENDMENT) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—‘A bill to amend the Oaths and Declarations Ordinance’.

He said:—Sir, I move that the Oaths and Declarations (Amendment) Bill be now read the second time.

Under the Oaths and Declarations Ordinance, Supreme Court Judges District Court Judges, magistrates and other judicial officers are required to take the Oath of Allegiance and the Judicial Oath on first appointment and then again if they are appointed to another judicial office whether in substantive or acting capacity. The Chief Justice has commented that time is wasted in re-swearing judicial officers. The principal object of this Bill is therefore to remove the requirement for repeated oaths, so that once a judicial officer has taken the Oath of Allegiance and the Judicial Oath, he need not do so again upon appointment to another judicial office. The necessary amendment is effected by clause 2 of the Bill.

The existing form of Judicial Oath which is prescribed in the principal Ordinance, contemplates a particular judicial office. Clause 3 of the Bill accordingly replaces the form of that oath to relate it to any judicial office to which the judicial officer taking it may be appointed.

The list of judicial officers who are required to take the Oath of Allegiance and the Judicial Oath is contained in the Third Schedule to the principal Ordinance. It does not include the President of the Lands Tribunal, who obviously should be included. Also it does not include coroners. Since coroners have so far all been magistrates, they have taken the oaths in question in the capacity of magistrates. But against the day when we may have coroners who are not magistrates, the list should include coroners Clause 4 effects the necessary inclusion.

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 LAW DRAFTSMAN.

Question put and agreed to.

CUSTOMS AND EXCISE SERVICE (AMENDMENT) BILL 1980

THE DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS moved the second reading of:—‘A bill to amend the Customs and Excise Service Ordinance’.

He said:—Sir, I move the second reading of the Customs and Excise Service (Amendment) Bill 1980.

The purpose of the Bill is to allow for the designation of a Commissioner of Trade, Industry and Customs as the Commissioner of the Customs and Excise Service. At present, the law designates the Director of Trade, Industry and Customs as the Commissioner of the Customs and Excise Service. The opportunity is also taken to reflect present rank titles in other designations.

In 1979, the Trade, Industry and Customs Department was reorganized into a federal structure of three constituent department: the Department of Trade, the Department of Industry and the Department of Customs and Controls. Each department is headed by an officer in the rank of Commissioner of Trade, Industry and Customs who is assisted by one or more Deputy Commissioners and a number of Assistant Commissioners.

The Customs and Excise Service is part of the Customs and Controls Department and the anomalous situation exists where the Commissioner of that Department is *not* the Commissioner of Customs and Excise. Not surprisingly, this causes confusion and is misleading insofar as that officer’s duties and responsibilities are concerned.

It is therefore proposed that the Commissioner of Customs and Controls now be the officer designated by the Governor to be the Commissioner of the Customs and Excise Service and, as such, responsible for the operational control and direction of that service. In these duties he will be subject to the directions of the Governor and of the Director of Trade, Industry and Customs.

It is also proposed to reflect current rank titles by prescribing that a Deputy Commissioner of Trade, Industry and Customs, being the holder of the post of Deputy Commissioner, Customs and Controls, and an Assistant Commissioner of Trade, Industry and Customs, being the holder of the post of Assistant Commissioner, Customs and Excise, be designated as Deputy Commissioner and Assistant Commissioner of the Customs and Excise Service respectively.

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

*Motion made. That the debate on the second reading of the Bill be adjourned—*THE DIRECTOR OF TRADE, INDUSTRY & CUSTOMS.

Question put and agreed to.

Motion

LOANS (ASIAN DEVELOPMENT BANK) ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—

That—

- (a) the First Schedule to the Loans (Asian Development Bank) Ordinance be amended by inserting after Item Four the following new Item—

Item Five

An amount in various currencies equivalent to twenty million United States dollars (US\$20,000,000) for the purposes of a project which forms part of the development of Sha Tin New Town and involves (i) the construction of a housing estate for some 31,000 persons, two primary and two secondary schools; and (ii) the under-taking of a transport study of the Sha Tin—Tsuen Wan corridor.’

- (b) the Second Schedule to the Loans (Asian Development Bank) Ordinance be amended by inserting after the fourth paragraph the following new paragraph—

‘The maximum amount which may be advanced pending reimbursement under section 5(2) in any financial year in connexion with the project described in Item Five of the First Schedule is one hundred million Hong Kong dollars (HK\$100,000,000).’

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

Sir, the Loans (Asian Development Bank) Ordinance enables the Government to raise loans from the Asian Development Bank for specific projects listed in the First Schedule. Initially the Government was authorized in 1972 to borrow an amount equivalent to US\$21.5 million towards the cost of the construction of the desalting plant at Lok On Pai. Subsequently, in 1975, 1977 and 1978, by resolutions of this Council, the Government was authorized to raise three further loans equivalent to US\$20 million, US\$20.5 million and US\$19.5 million respectively to help finance the foreign exchange cost of the Sha Tin Sewage Treatment Project, the Sha Tin Urban Development (Housing) Project and the Sha Tin Hospital-Polyclinic Project.

Honourable Members will be pleased, I hope, to know that negotiations for a fifth loan from the Asian Development Bank have now been satisfactorily concluded. The Bank is prepared to make a loan available in various

currencies equivalent to a total of US\$20 million and it will be used to finance part of the foreign exchange cost of the Second Sha Tin Urban Development Project. The loan is repayable over 10 years from 15 May 1983 at a rate of interest of 8.1% per annum chargeable on the amount of the loan withdrawn and outstanding from time to time. There is also a commitment charge of 0.75%.

The Foreign and Commonwealth Office has confirmed the willingness of Her Majesty's Government to provide the necessary guarantee for this loan, and transmitted its authorization for Hong Kong to sign the loan agreement.

Sir, I regard the terms of the loan as satisfactory and, therefore, seek in this motion to amend the First and Second Schedules to the Loans (Asian Development Bank) Ordinance to enable the Government to raise this loan.

The actual Loan Agreement, when signed (which will be early next month), will be laid on the table for the information of honourable Members.

Question put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday, 30 April 1980.

Adjourned accordingly at forty-eight minutes past two o'clock.