

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 11 June 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 (*Acting*)
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
SECRETARY FOR ECONOMIC SERVICES
MR. DAVID GREGORY JEAFFRESON, 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 LEWIS MERVYN DAVIES, C.M.G., O.B.E., J.P.
SECRETARY FOR SECURITY

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

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 JAMES NEIL HENDERSON, J.P.
COMMISSIONER FOR LABOUR

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

THE HONOURABLE DONALD LIAO POON-HUAI, O.B.E., J.P.
SECRETARY FOR HOUSING

THE HONOURABLE JOHN GEORGE STEAN, O.B.E., J.P.
DIRECTOR OF PUBLIC WORKS (*Acting*)

THE HONOURABLE MRS. ANSON CHAN, J.P.
DIRECTOR OF SOCIAL WELFARE (*Acting*)

THE HONOURABLE AUGUSTINE CHUI KAM, J.P.
SECRETARY FOR THE NEW TERRITORIES (*Acting*)

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

THE HONOURABLE LI FOOK-WO, 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.

THE HONOURABLE LYDIA DUNN, 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 ALLEN LEE PENG-FEI

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 ALAN JAMES SCOTT, J.P.

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

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

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

DR. THE HONOURABLE HARRY FANG SIN-YANG, C.B.E., 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):—

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Pensions Ordinance.	
Pensions (Amendment) Regulations 1980	123
Evidence Ordinance.	
Evidence (Authorized Persons) (No. 6) Order 1980	127
Tax Reserve Certificates (Fourth Series) Rules.	
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 1980	128
Public Health and Urban Services Ordinance.	
Stadia (Amendment) By-laws 1980	129
Inland Revenue Ordinance.	
Inland Revenue (Interest Tax) (Exemption) (Amendment) (No. 3) Notice 1980	130
Import and Export Ordinance.	
Import and Export (General) (Amendment) Regulations 1980	132
Import and Export Ordinance.	
Import and Export Ordinance (Amendment of Schedule) Notice 1980	133
Public Health and Urban Services Ordinance.	
Hawker (New Territories) (Amendment) Regulations 1980	134
Public Health and Urban Services Ordinance.	
Pleasure Grounds (New Territories) (Amendment) Regulations 1980	135
Prevention of Cruelty to Animals Ordinance.	
Prevention of Cruelty to Animals (Amendment) Regulations 1980	136

<i>Subject</i>	<i>L.N. No.</i>
Public Health and Urban Services Ordinance. Public Swimming Pools (New Territories) (Amendment) Regulations 1980	137
Public Health and Urban Services Ordinance. Public Health and Urban Services Ordinance (Amendment of Tenth Schedule) Order 1980.....	138
Public Health and Urban Services Ordinance. Declaration of Markets in the New Territories (Amendment) Declaration 1980	139

Oral answers to questions

Use of reservoirs for water sports

1. MR. YEUNG asked:—*Will the Government report whether any progress has been achieved since the Secretary for Home Affairs advised this Council in December 1978 that a Working Group was looking into the use of reservoirs for water sports?*

SECRETARY FOR HOME AFFAIRS:—Sir, the Working Party reached the conclusion that the Plover Cove, Shing Mun and High Island Reservoirs had potential for sailing, canoeing and rowing and recommended that a detailed engineering feasibility study should be conducted with a view to identifying one of these reservoirs for a pilot scheme.

The Council for Recreation and Sport endorsed the Working Party's recommendation and the Public Works Sub-Committee approved in December 1979 a Category D item in the Public Works Programme for the engagement of a consultant to undertake the investigation. The Director of Water Supplies is now looking for a suitable consultant.

Identity cards for immigrants from China

2. MR. F. K. HU asked:—*Can this Council be advised of the number of identity cards issued monthly since January this year to applicants in the following categories:—*

- (a) legal immigrants from China;*
- (b) illegal immigrants from China;*
- (c) Chinese who stop in Hong Kong in transit to or from China?*

SECRETARY FOR SECURITY:—Sir, between 1 January and 31 May 1980—

- (a) 24,908 identity cards were issued to legal immigrants from China;*

- (b) 34,518 identity cards were issued to illegal immigrants from all sources. The Immigration Department's records of such identity cards do not provide a detailed breakdown by origin, but the Department estimates that those from China account for about 92 per cent of the total. On this basis it is estimated that the number of identity cards issued to illegal immigrants from China during the first five months of this year was 31,760; and
- (c) less than 100 identity cards were issued during the period to Chinese in transit *from* China who had stayed in Hong Kong for longer than 180 days. Identity cards are not issued to Chinese who stop in Hong Kong in transit *to* China.

I have provided the detailed monthly breakdown of these figures in the Appendix to the written version of this answer.

APPENDIX

Number of Identity Cards issued to Immigrants from China January-May 1980

Legals

January	5,676
February	4,475
March	5,431
April	4,242
May	5,084
	TOTAL 24,908

Illegals (estimated)

January	8,010
February	3,940
March	5,690
April	5,610
May	8,510
	TOTAL 31,760

MR. F. K. HU:—Sir, I notice that the number of identity cards issued to the illegal immigrants has been increasing steadily from February to May this year, especially from April to May this year. Does this mean that our effort in stopping the immigrants from coming into Hong Kong is not as effective as we would like it to be?

SECRETARY FOR SECURITY:—Not entirely, Sir. It means that more people are setting out from China to come to Hong Kong and are therefore attempting to enter. The efforts of the security forces are measured by what is known as the evasion ratio, which is the ratio of those who are arrested compared with

those who reach base. This ratio has in fact been falling in recent months, which indicates that a higher rate of arrests is being achieved than before, but the figures equally indicate that more people, particularly as it gets warmer, are attempting to leave China.

Laboratory Technicians in secondary schools

3. REVD. JOYCE M. BENNETT asked:—*In view of the answer of the Director of Education to my question in this Council on 20 December 1978 concerning the Department's Working Group examining the number of Laboratory Technicians in secondary schools, I wish to know whether the Working Group has reported yet and whether any additional Laboratory Technicians will be in post by this September?*

DIRECTORY OF EDUCATION:—Sir, the Working Group reported in May last year. Considerable consultation has been necessary but I shall be tabling definitive proposals at the Education Department Staff Consultative Council on 18 June.

The next step will be to submit the proposals to the Finance and Civil Service Branches of the Government Secretariat for their consideration since the proposed alteration to the manning scale will increase the number of Laboratory Technician posts in both Government and aided secondary schools and there will be a minor amendment to conditions of service.

Ultimately the decision to approve the new manning scale and the provision of the necessary funds will rest with the Finance Committee of this Council. I cannot say therefore with any degree of certainty whether additional Laboratory Technicians will be in post in secondary schools this September.

Gas incidents in schools

4. MR. LO asked:—*Will Government explain the circumstances leading to the recent closure of a number of schools in Kowloon, and the medical treatment of students, and say what remedial measures are being taken?*

SECRETARY FOR THE ENVIRONMENT:—Sir, in May and so far in June there have been a total of 12 incidents in which school children have reported a bad smell and then complained of nausea and dizziness. The most recent incidents were in the Lam Tin and Sau Mau Ping areas. They started at 10 a.m. on 2 June when a number of children were taken to hospital after reporting an unpleasant odour and complaining of feeling sick. On 3 and 4 June the incidents continued, with children again complaining of feeling sick and dizzy, although there were by then fewer reports of unpleasant smells nor, indeed, were any other apparent reasons detected for the children feeling unwell.

The children who have been affected, some of whom were taken to hospital, exhibited subjective symptoms but no objective indications that could be associated with exposure to a toxic gas. There have also been no reports of children suffering any after effects that could be associated with exposure to a toxic gas.

The decision to close the 15 primary schools and kindergartens and the eight child care centres in Lam Tin and Sau Mau Ping was taken for the simple reason that, whatever the cause of the problem, it appeared to be affecting only schools so that, if the children spent a period at home, it would ease the tension and give the concerned Government departments time to undertake a thorough investigation of the situation.

Apart from responding to each reported incident through normal emergency Police and Fire Services procedures, the Government has carried out follow-up operations aimed at identifying the source of the unpleasant smell, which undoubtedly triggered off at least the first of these incidents. These follow-up operations have involved scientific measurements by the Government Chemist to try to establish what chemicals were giving rise to the offensive smell, as well as a detailed search of all industrial and residential areas by staff of the Air Pollution Control Unit and the Factory Inspectorate of the Labour Department and Health Inspectors of the Urban Services Department. Fire Services Department staff also inspected all dangerous goods stores in the areas affected and detailed attention was given to a nearby L.P.G. handling depot and to the controlled refuse tip at Ma Yau Tong.

The investigations were controlled and co-ordinated by a committee of senior representatives of all the departments concerned which met every day in the early evening under my chairmanship. This committee heard and assessed reports on the day's investigations and provided guidance on the directions which further work on the problem should take. I have appended to the written version of this reply the text of a press release issued over the weekend.

Sir, despite the thoroughness of all these efforts to trace the source of the emission, it was not possible to do so with any certainty, although there were indications that liquefied petroleum gas may have been implicated in some way. The Government's professional advisers have, however, informed me that this is not altogether surprising as, in their experience, it usually proves impossible in cases of this sort to locate the source of the trouble. This is because, on the one hand, it is often some form of spillage that is involved, which can evaporate or soak away quickly, and so is not picked up in the field searches that are carried out. And, on the other hand, the presence of the odour in the place affected is transitory so that it is difficult to obtain a sample for analysis. Even if it were possible to obtain a sample, the concentrations involved could well be below the detection limits of the best scientific equipment. I should add here that the human nose is generally far more sensitive to odours than even the most elaborate scientific equipment (*laughter*).

One thing that our searches and investigations have definitely established is that we are not dealing with a gas that is present in anything approaching hazardous concentrations. The press reports referring to 'toxic' gases, 'gassing' incidents and children being 'overcome' are therefore, in these circumstances, exaggerated and misleading and are liable to lead to unnecessary alarm.

It is, of course, impossible for me to give an assurance that there will be no future accidental spillages, or short periods of emission of some gaseous substance or other, that will give rise to objectionable smells. But we have learnt something from these incidents and we have improved our arrangements for responding to them in a more structured way.

I should add that the schools and other institutions concerned were opened again on Monday of this week and that, so far, no further incidents have occurred of the sort that happened last week.

APPENDIX

Saturday, June 7, 1980

NORMAL SCHOOL RESUMES IN LAM TIN, SAU MAU PING ON MONDAY

The 15 primary schools and kindergartens and the eight child care centres in Lam Tin and Sau Mau Ping which suspended classes earlier this week will resume normal school on Monday (June 9), a Government spokesman announced today (Saturday).

The decision, taken in consultation with the supervisors of the schools, follows exhaustive surveys and scientific tests designed to detect gaseous pollutants, including offensive odours, in the ambient air.

'The detailed work done by the various departments has shown no evidence of harmful concentrations of gases still in the air,' the spokesman said.

The spokesman assured parents that with the resumption of classes, special precautionary arrangements had been made to monitor the situation over the next few weeks.

Special arrangements have been made with the Kwun Tong Community Health Project's two health centres in Lam Tin and Sau Mau Ping to give early medical advice and attention to school children who might require assistance.

Heads of schools have also been briefed on general procedures for attending to students reporting sick during school hours.

The spokesman said detailed surveys had been conducted in a wide area around the affected schools since the incidents were reported earlier this week.

Some 150 officers from various departments had combed the area for possible sources of offensive odours or gas leaks which might have caused the short-term ill effects of nausea and vomiting by the children.

‘Officers from the Labour Department entered 2,163 premises and made a detailed survey of 296, including 157 restaurants and food shops in the area,’ the spokesman said.

In addition, staff of the Government Laboratory conducted tests to detect gaseous pollutants.

Results from the Government Laboratory, the spokesman said, showed that trace quantities of ethyl mercaptan and butane were present in the air of classrooms at Siu Keung Primary School at Lam Tin.

‘Similar checks at the remaining schools failed to reveal the presence of any noxious gases,’ he said.

The spokesman explained that ethyl mercaptan is known to possess a powerful and offensive odour even at very low concentrations. Because of this quality, a small amount of this chemical is deliberately mixed with liquefied petroleum gas (L.P.G.) to give the gas a smell so that small leaks can easily be detected, thereby improving overall safety.

‘However, early suspicion that the source of odour affecting the schools could have come from a nearby L.P.G. handling plant were soon dispelled because the sensitive alarm system installed at the plant had not been triggered and there had been no deliveries of L.P.G. over the period in question.

‘Similarly, early fears that noxious gases had been generated in the controlled refuse tip at Ma Yau Tong were unfounded because tests by the Government Chemist showed that vents from the tip did not give off harmful concentrations of gases.

‘The controlled tip is supervised and the authorities will continue to maintain their vigilance over its operation,’ the spokesman said.

The spokesman said that the combined efforts of Government officers involved in the ground search for possible sources of offensive odours did not reveal unusual circumstances, and did not identify a single source of pollutant which could be associated with the present incidents.

‘It has been concluded that a highly localized discharge of gas, probably L.P.G., had affected Siu Keung School.

‘Subsequently, as information became available, other schools were alerted to a potential gas leak but no evidence was found of harmful gases being present at any of them,’ he said.

He added: ‘from medical examinations of the children who attended hospital it has been confirmed that the symptoms soon disappeared and the children recovered completely within a short period.’

MR. PETER C. WONG:—*Has the Secretary’s committee advanced any theories why only schools were affected?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the general conclusion of the committee was that the school which was definitely affected—we feel that it was only one school which was definitely affected by a gas—that this was probably a localized concentration of L.P.G. coming from a cylinder somewhere in the vicinity.

False description of goods origin

5. MR. TIEN asked:—*What steps are Government taking to protect the international trading reputation of Hong Kong from damage caused by unscrupulous traders or, as we may call them, wolves in sheep's skin, both here and overseas, who falsely describe the origin of goods?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—Sir, for nearly 30 years we have been building up and operating what is, I believe, objectively recognized as a most efficient origin and quota control system. The short answer to Mr. TIEN's question is, therefore, that we intend to continue doing so.

We are keenly aware that different circumstances develop which call for new or intensified measures. Last year there were some well publicized fraud cases where Hong Kong textiles found their way into the E.E.C. market under false certificates of origin issued in third countries. These were detected by an investigation carried out in close co-operation with the European agencies concerned, notably the United Kingdom Customs. In Hong Kong, eight companies have been successfully prosecuted and administrative action involving the surrender of quota has been taken against a total of thirty-four companies. Further cases are pending.

I must stress, Sir, that in most cases of this type the goods are exported from Hong Kong to third countries and later re-exported to the true destination. It follows that the main burden of initial detection lies on the authorities at the import end. It also follows that there are probably three parties to the fraud, only one of them in Hong Kong. If the authorities at the import end co-operate fully with us, we can and do pursue thorough investigations and prosecute to the full extent of the law where Hong Kong firms can be proven to have been involved.

Recently there has been a spate of allegations, mostly unsubstantiated, concerning exports of third country products described as of Hong Kong origin. Our own investigations have shown there to be some substance in this problem and a number of investigations are in train. Four prosecutions have been taken so far this year.

I well understand the motivation for Mr. TIEN's question. No matter how relatively insignificant may be the kind of malpractice to which I have referred, the fact of it can be used to distort and damage our trading relations. It is for this reason we have always placed great emphasis on policing our certification and quota system. And we shall continue to do so.

MR. TIEN:—*Sir, with reference to the last paragraph, what further steps, if any, does Government intend to take to make sure that policing of the system is adequate?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—*Sir, we have several steps in mind. Immediately I am expecting an increase in the investigation staff who presently number about 200; I think by September there will be an additional 85 added to that group. In addition, Sir, we propose to institute as soon as we have the staff resources, which I hope will be very soon, within a matter of weeks, a system of import licensing for all textiles into Hong Kong. This will enable us to institute a surveillance system and to monitor the movement of such textiles and to spot check them when they are to be re-exported from Hong Kong.*

MR. TIEN:—*Whether my honourable Friend considers the penalties currently provided under the law for such offences to be adequate, bearing in mind the possible stakes involved and magnitude of the profits that could be obtained by such unscrupulous traders?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—*My recollection is that the penalties prescribed by law for the offences of the nature of which we have been discussing are a maximum fine of \$50,000 and one year's imprisonment.*

I recently took the advice of the Textiles Advisory Board on the adequacy of this penalty and the view of the Board, which I fully accept, is that in present circumstances it probably is inadequate; and I propose to seek permission to introduce later into this Council an amendment which would have the affect of increasing the penalties to probably \$500,000 with perhaps an increase in the imprisonment penalty as well.

MR. ALLEN LEE:—*Sir, would the Director of Trade, Industry and Customs state how many cases have been prosecuted for false declaration of certificate of origin during last year?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—*I am taxing my memory, Sir, but I think we issued over 800,000 certificates last year, and I think the figure was less than 150 offences detected and successfully prosecuted.*

Refuse controlled tipping

6. MR. WONG LAM asked in Cantonese:—

請問政府有何計劃，改善目前之土埋處理垃圾方法？

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

Does Government have any plans to improve the existing controlled tipping method of waste disposal?

DIRECTOR OF PUBLIC WORKS:—Sir, controlled tipping of refuse is a method of waste disposal which has been proven to be acceptable and which is practised throughout the world. In Hong Kong, controlled tipping is carried out in accordance with the principles adopted elsewhere, the method being, the spreading of the refuse in thin layers, which are then compacted to the smallest possible volume and covered with soil at the end of each working day.

Controlled tips are monitored by the Government Chemist on a regular basis and are carefully supervised to ensure that environmentally they remain acceptable. This method is currently the means of disposing of about two thirds of Hong Kong's refuse; it is the most economical of the methods used and ultimately produces land which can be used for recreational purposes.

Sir, Government is always on the lookout for possible improvements in the technique of controlled tipping such as the pretreatment of refuse by baling before controlled tipping. To this end a pilot baling plant is now under trial at Sai Tso Wan. Pulverization of refuse is also being considered and a pulverizer has been installed at the Chai Wan composting plant, primarily as part of the composting plant. It is really too early to say what the result of these experimental processes will be.

MR. WONG LAM asked in Cantonese:—

閣下，請問全港用土埋處理垃圾有多少處？

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

Sir, how many controlled tipping points are there in Hong Kong altogether?

DIRECTOR OF PUBLIC WORKS:—Sir, there are currently four controlled tips in operation.

MR. WONG LAM asked in Cantonese:—

閣下，最近秀茂坪及藍田的不明氣體與土埋處理垃圾發出氣體有沒有關連呢？

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

Sir, presently there are the gaseous cases in Sau Mau Ping and Lam Tin. Do you think there are some connections with the existing controlled tipping method of disposing waste?

DIRECTOR OF PUBLIC WORKS:—No, Sir. Tests were carried out by the Government Chemist and no concentrated gases were found.

REVD. JOYCE M. BENNETT:—*Sir, is it true that elsewhere where these methods are used, they are not used near heavily populated areas?*

DIRECTOR OF PUBLIC WORKS:—Sir, I believe that they are generally not too distant from populated areas because it becomes uneconomical if the vehicles have to travel too far.

REVD. JOYCE M. BENNETT:—*Sir, will the Government consider not opening any such new tips so near housing estates until improved methods can be used?*

DIRECTOR OF PUBLIC WORKS:—Sir, I don't believe I can give that assurance. These tips are environmentally acceptable as they are. We believe the methods are adequate.

REVD. JOYCE M. BENNETT:—*Can we then have an assurance that more inspectors are kept regularly on duty so that the stench from these tips is not so frequently observed?*

DIRECTOR OF PUBLIC WORKS:—These tips are carefully supervised during the day, but I am afraid that some smells are unavoidable. I believe as the layers of refuse are covered at night the smell should be reduced or eliminated at that stage.

Begging in public places

7. MR. SO asked in Cantonese:—

請問政府現有甚麼措施，協助乞丐，使他們不再在街頭及公眾場所行乞？

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

What is Government doing to encourage people to give up begging in streets and public places?

DIRECTOR OF SOCIAL WELFARE:—Sir, the Public Assistance and Special Needs Allowance Schemes make it unnecessary for anyone to beg for a living. All known cases of begging are investigated by the Social Welfare Department and appropriate assistance given including cash assistance, compassionate rehousing, job placement, institutional care and other rehabilitation services. The Government believes that a continuous improvement in social services, coupled with easy accessibility by those who require help, would act more effectively against begging than prosecutions in court.

MR. SO asked in Cantonese:—

閣下，請問政府有沒有估計目前在街頭或公眾場所行乞的人士約有多少，與過往的數目比較如何呢？

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

Sir, has Government any estimate of the number of those begging in the streets and public places, and how does that figure compare to previous figures?

DIRECTOR OF SOCIAL WELFARE:—Sir, no official survey has been carried out recently, but the Police have estimated that the number of beggars are now about 100, which compares with 200 in 1975.

Hire charges for Laboratories and special rooms in aid schools

8. DR. HO asked:—*What is the rationale for levying one set of hire charges for laboratories and special rooms in aided schools used by non-profit-making adult education bodies, and a lower set of charges when the Adult Education Section of the Education Department is the hirer?*

DIRECTOR OF EDUCATION:—Sir, no distinction is made between non-profit-making adult education bodies and the Adult Education Section of the Education Department in levying hire charges for laboratories and special rooms in aided schools.

A distinction was thought to be necessary on the basis of casual and heavy use, the former to be charged by the hour and the latter by the month; and this was proposed in a circular to aided schools in December 1979. That circular was rescinded in February this year to permit a review of hire charges. Meanwhile, the old rates are in force, and these, as I have pointed out, make no distinction between non-profit-making adult education bodies and the Adult Education Section of the Education Department.

DR. HO:—*We have asked the Education Department to consider in setting new hire charges in the future the relevant bodies running adult education courses on a non-profit-making basis will be consulted.*

DIRECTOR OF EDUCATION:—Yes, Sir.

Safety control of gas water heaters

9. MISS DUNN asked:—*What regulations are there governing the supply, installation and operation of gas water heaters in domestic premises?*

SECRETARY FOR SECURITY:—There are no statutory regulations covering these matters.

Arrangements for gas supply generally, including its distribution in streets and buildings and safety standards require review. Action is now in hand to obtain the services of an appropriate consultancy to advise on these matters. I hope that consultants will be working on these issues before the end of this year.

MISS DUNN:—*Sir, why are there no statutory regulations? And in view of the inherent dangers of gas heaters would it not be appropriate to provide for statutory control under the Buildings Ordinance?*

SECRETARY FOR SECURITY:—There are no statutory regulations because in the past traditionally the town gas supply had been provided in accordance with normal British standards by the supplier, and generally speaking it has been found to be satisfactory. However, a more modern development is that of liquid petroleum gas—perhaps in competition with town gas. It is on this account that we propose to seek expert advice as to safety standards, as to the piping under the streets and piping within the buildings. It is relevant to remark that the estimated number of gas heaters in use is over 300,000. These are supplied by the town gas company and the L.P.G. company. The town gas company uses approved heaters for installation which have been tested and which are of the type used throughout the world. The company installs these heaters using its own staff or supervising staff and these conform with Town Gas Appliances Approved Standards which are based on British standards. The company operates an on-call maintenance service which is free other than for the replacement of parts. The L.P.G. companies do not generally provide heaters. These are provided by the agents who import them from overseas where they are again manufactured in accordance with the codes of practice in the main supplying countries which are Japan and Italy. These are then subsequently installed, usually by experienced staff. This system generally speaking, has been found to be quite satisfactory though one of course must deplore fatal accidents and incidents which have occurred. To put this in perspective, there were two fatal accidents from town gas in 1979-80 and two in respect of L.P.G. in 1979-80 out of the many thousands of cases in which these heaters are used.

MISS DUNN:—*Sir, is there any interim measure to protect the users, especially users of old fashioned heaters, between now and the time when the consultants' study is completed?*

SECRETARY FOR SECURITY:—The interim measures should be, of course, those which are given wide publicity by the L.P.G. companies and the gas companies which is to have a readily available supply of fresh air in the places in which these installations are used. This is the main requirement and is the one which the gas company publishes regularly and to which the Government would be very glad in the future, as it has done in the past, give publicity.

Government business

First reading of bills

(THE SECRETARY FOR HOUSING indicated that under Standing Order 40(1)(a) His Excellency the Governor had directed that the Landlord and Tenant (Consolidation)

(Amendment) (No. 2) Bill 1980 should not be published in the Government Gazette before it was read the first time.)

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1980

PYRAMID SELLING PROHIBITION BILL 1980

CRIMES (AMENDMENT) BILL 1980

ELECTRICITY NETWORKS (STATUTORY EASEMENTS) BILL 1980

PENSIONS (AMENDMENT) BILL 1980

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) (AMENDMENT) BILL 1980

TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) BILL 1980

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) (NO. 2) 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

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1980

THE CHIEF SECRETARY moved the second reading of:—‘A bill to amend the Inland Revenue Ordinance’.

He said:—Sir, I move the second reading of the Inland Revenue (Amendment) (No. 2) Bill 1980.

The laudable and straightforward purpose of this Bill, Sir, is simply to counter a tax avoidance device through the use of contrived cessations of businesses.

Prior to 1975-76 profits tax was charged on a preceding year basis. Thus a year's profit was taxed twice on the commencement of business and a year's profit dropped out on cessation. With effect from 1975-76, the method of assessment of profits tax was changed to an actual year basis. In order to provide a measure of relief to businesses which had suffered a double charge on profits in the earlier years, a new section of the Ordinance (section 18A)

provided for a year's profits to be dropped out of assessment. Consequentially, the drop-out of a year's profits on cessation ceased to apply.

The drop-out of one year's profits was adequate for all businesses with accounts prepared at 31 March. But, for those businesses whose accounting period ended on a date other than 31 March, more than 12 months profits were taxed twice at commencement. So, in order to ensure that such businesses in operation before the change-over date of 1 April 1974 continued to enjoy the full benefits of terminal relief, another new section of the Ordinance (section 18D(2)) was enacted to provide for a further period of profit to drop out on eventual cessation.

These transitional provisions have been exploited by some large property developers at a considerable cost to the revenue. In 1979-80 for example, the loss might have been as much as \$50 million. These developers have achieved this by the simple device of ceasing business in the year of assessment following the year in which the bulk of the sales of units takes place.

As there is no time limit on these contrived cessations of business, without corrective legislation now, considerable sums of future revenue will remain at risk.

Clause 2 of the Bill provides that, in the case of a cessation occurring on or after 1 April 1979, the relief available is to be limited to the amount, if any, which would have dropped out of charge if the cessation had occurred at the end of the basis period for the 1975-76 year of assessment. At the same time, the profits which would have dropped out under section 18D(2) will be brought to charge.

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 CHIEF SECRETARY.

Question put and agreed to.

PYRAMID SELLING PROHIBITION BILL 1980

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to prohibit the promotion of pyramid selling schemes and to provide for connected matters’.

He said:—Sir, I move that the Pyramid Selling Prohibition Bill 1980 be read the second time.

Pyramid selling is prohibited in many countries but not in Hong Kong. It is practised here to a limited extent and there have been a number of complaints about it. There are several variations on the theme but, in essence, pyramid selling is related to the sale of goods or services. A participant pays for the right

to sell and then for the goods he is to sell. He then becomes eligible to receive rewards for recruiting new participants. Thus he can earn money in two ways; by profits on sales he makes himself and from payments for recruiting other participants.

Such schemes can be objectionable on two grounds. *First* they often serve no economic purpose and contain the elements of disaster for those who participate. A person who pays to join a scheme may find that he is unable to recoup his money by selling the goods. As the rewards for recruiting usually far exceed those the participants can earn from selling, he concentrates on recruiting other participants. The same consideration can affect the attitudes of those who he recruits and so on down each stage of the pyramid. The goods are forgotten as the salesmen multiply, yet each new recruit is probably having to buy from the organizers a fixed quantity of goods to sell. But one day there are no more people willing to be brought into the scheme. And so we end up with a situation in which those at the top of the pyramid are rich as the results of selling the right to sell and the goods that are to be sold. As we look down the pyramid the participants appear to be less well off until we find at the base a large number of salesmen who have paid for their position on the one hand and have no alternative but to settle down and sell those long forgotten goods on the other. If the goods turn out to be virtually unsaleable, what then?

Well, bearing in mind our policy on consumer protection, ‘so what’ if people are fools enough to be taken in by flimsy hopes of instant wealth? And we must not overlook, either, that there may well be, for all I know, pyramid selling schemes run by responsible people, that do not end up in the disaster I have just described.

The answer to this question ‘so what?’ lies in the *second* reason why such schemes can be objectionable. There is evidence that the high pressure recruiting techniques adopted by some companies tend to attract gullible young people who having just left school, are drawn by promise of riches without having the maturity to distinguish the snares. On balance, and I think it is a pretty fine balance, our conclusion is that we are in a situation in which these young people lacking the maturity to resist the lures of the recruiters perhaps cannot be expected to protect themselves. So we just about have a situation which meets our criterion for introducing legislation to protect them.

Anyway, however fine the balance of the argument for and against protection may be, the Bill now before honourable Members seeks to make it an offence for any person to promote a pyramid selling scheme. For a scheme to constitute pyramid selling, it must have all the features specified in the definition of ‘pyramid selling scheme’ in clause 2 of the Bill. These features are

- a participant pays to join
- he acquires the right, for a reward, to recruit others into the organization and they also pay to join
- those he recruits also acquire the right to recruit others.

We have had great difficulty in devising a definition that does not inadvertently operate against reputable direct selling organizations not using pyramid selling techniques. To this end, we have consulted a number of organizations, including the Consumer Council, the Direct Selling Association, the Law Society, the Bar Association and the Hong Kong Society of Accountants. We have also drawn heavily on the experience of countries that have legislated against pyramid selling. But it is a tricky area in which to introduce legislation, and if in practice we find we have not got it quite right, we may have to come back to this Council to amend the definition.

The other clauses, Sir, of the Bill are straightforward and clearly explained in the Explanatory Memorandum.

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 FINANCIAL SECRETARY.

Question put and agreed to.

CRIMES (AMENDMENT) BILL 1980

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Crimes Ordinance’.

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

It requires no imagination to understand the physical and psychological damage done to a woman who is a victim of a rape or an indecent assault. Very often too that damage is aggravated because of the attitude adopted, totally unfairly, by some people towards such victims, so that if their identity becomes known they may suffer considerable loss of status and loss of respect within the society in which they live.

Section 156 of the Crimes Ordinance was enacted in 1976 following a report in England of an Advisory Committee on the Law of Rape presided over by an eminent lady Judge, Mrs. Justice Rose HEILBORN. That section was intended to protect from publicity the victims of rape, and the section makes it an offence to publish either the identity or matters likely to lead to the identity of such victims. And there is in this section the power in a judge to order for special reasons that the identity be revealed if it is in the interest of justice that that be done.

As the law stands at present, the prohibition on publicity does not operate until the matter comes before a court, and there may well be occasions when a considerable length of time may occur between the day of the offence and the day of apprehension of the offender and his being taken before a court. At the

moment during this period under the present law, the name and identifying particulars of the complainant may, with impunity, be published in any way in newspapers, on the radio, in television and so on.

Experience has unfortunately shown that on many occasions, what I regard as irresponsible action is taken by a few newspapers, who not only attend at the scene of the rape, but also take detailed photographs of the victim. I have had drawn to my attention or being shown harrowing photographs of women anguished at the scene of the rape that has occurred whilst they are still shocked by the experience that they have been through, and I have no doubt that this defeats the underlying intention of section 156.

Accordingly this Bill, if enacted, will make the prohibition on publicity take effect from the time that the offence of rape or indecent assault is first reported to the Police. And this is done by the amendments to subsections (1) and (7) of section 156 which are effected by clause 2(a) and (e) of this Bill. And if enacted this will obviate the problem to which I have referred.

There is, as I have mentioned, in the Ordinance provision for the prohibition on publicity to be lifted by the judge if in special circumstances he sees fit so to do. If, this Bill proposes, the prohibition is to take effect before a court is seized of the case, then it is necessary to make other provision for lifting the prohibition in the earlier period if it is necessary in the public interest so to do. I anticipate that very rarely will it be necessary to lift the ban upon publicity but one can envisage circumstances in which it may be necessary to do so in order to trace and catch the offender, or potentially perhaps, again in unusual circumstances as happened recently in England, where it was necessary in order to warn other women in a particular locality of the danger to them.

Therefore new subsection (3A) of section 156 of the Ordinance, which is introduced by clause 2(b) of the Bill, will empower a Police officer of the rank of Senior Superintendent or above, provided that and provided only that the complainant consents in writing. And the senior officer may then give a direction as to what matters may be published. If the victim is not in a condition to give her written consent, or if she refuses to consent, then in those circumstances the subsection empowers the Attorney General to give a similar direction. I anticipate, certainly speaking for myself and I am sure for any successors, that the Attorney General would only agree to do so in exceptional and rare circumstances. Once such a direction is given, it would have to be published in the *Gazette* so that it may be known and understood and the details and the exact limits of it seen by the media.

Having so introduced the Bill I would like to say two words of thanks. First to the Unofficial Members of this Council who have given considerable help in the formulation of the Bill as it now stands; and secondly, I wish to thank publicly those responsible journalists who first drew this problem to my attention and who support the idea and the philosophy behind this Bill.

It follows from what I have said that the press and the media generally would, if this Bill is enacted, be well advised under no circumstances to publish any matter likely to lead to the identification of any victim as I say once the Bill becomes law.

One other thing which the Bill seeks to do is by clause 2(c) to empower any court before which the trial of a rape offence or indecent assault is taking place to give a direction permitting publicity where the public interest so requires. Under the present law it is only the High Court that has the power so to do; but it would seem to be wise that in appropriate circumstances the District Court, or the Magistrates' Courts, or the Juvenile Courts should be given the same power.

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 ATTORNEY GENERAL.

Question put and agreed to.

ELECTRICITY NETWORKS (STATUTORY EASEMENTS) BILL 1980

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to provide for the creation of easements in and over land in favour of certain undertakings which generate, transmit or distribute electricity; and for matters incidental thereto and connected therewith’.

He said:—Sir, I move the Second Reading of the Electricity Networks (Statutory Easements) Bill 1980.

The increasing demand for electricity by industrial, commercial and domestic users in the 1980s will be met by two new power stations under construction— one at Tap Shek Kok near Tuen Mun and the other on Lamma Island. Extensive distribution networks will be necessary for the transmission of the electricity produced by these stations. The mode of transmission, because of the costs involved and the implications for the consuming public, and the route of the transmission lines and their impact on the environment, are matters of concern to the Government as well as to the power companies. Although, generally speaking, in planning the routing of transmission lines private land is avoided as far as possible, this cannot be altogether achieved as physical conditions and planning requirements can, in places, severely limit the choice of route.

There is, at present, no legislation to provide for either the creation of statutory easements in and over private land to facilitate the construction of electricity transmission lines or for the claiming of compensation by affected landowners for any adverse effect on development potential. The practice up to now has been for power companies to seek informal agreements with concerned landowners for the right to construct transmission lines in or over their

land. This is, however, a time-consuming and sometimes frustrating procedure which does not give adequate protection to either the interests of the private landowners or to those of the power companies. Legislation is therefore needed to enable the power companies to apply for the right to place transmission lines over or under private land, while safeguarding the interests of the private landowners, and this has become more necessary given the scope of the transmission networks associated with the large new power stations now being built.

The purposes of this Bill, Sir, are therefore:

first, to provide power companies with the means to seek the Governor in Council's approval for the creation of easements in and over leased land in order to string transmission lines over, or to place them under, such land;

secondly, to provide for the payment to landowners of compensation for any reduction in the value of their land, as restricted in the lease conditions, which may be caused by the granting of these easements; and

thirdly, to provide for certain rights under the easements which may be exercised by power companies in accordance with a scheme embodying detailed conditions designed to protect the environment.

Clause 3 of the Bill makes provision for a power company to apply to the Governor in Council to make an order which will have the effect of conferring certain statutory rights upon the company concerned to enable it to carry out works which are necessary for the purposes of constructing, operating, maintaining and repairing an electricity network without being required to obtain the consent of the landowners affected by it. The rights are described in clause 4, and care has been taken to provide no more rights than are necessary for the purposes I have described. The Governor in Council's order will not be made unless a comprehensive scheme relating to such questions as routing, engineering conditions and landscaping requirements has been agreed between the power company and the Government. The details of the approved scheme will be contained in a comprehensive document to be deposited in the Land Office and the power company will be required to exercise the statutory rights conferred by the Governor in Council's order in accordance with the terms of the approved scheme.

The rights conferred on a power company will not be exercisable unless the order is registered under the Land Registration Ordinance; and, before exercising such rights, a power company will have to give details to affected landowners of how and when it plans to carry out the works affecting their land. A procedure whereby objections by affected landowners may be made and resolved will then come into play. This procedure, which is set out in clause 9, is designed to ensure a measure of consultation between power companies and affected landowners about the method and timing of doing work, such as stringing transmission lines over land. It will also enable landowners to object to a power company's proposals as to how and when it proposes to exercise any of the rights conferred upon it, and to have their objections properly considered. The procedure is not designed to enable landowners, or others, to

object to the route of an electricity network because, as I have explained earlier, the choice of a route for the transmission lines and the location of pylons to carry overhead lines is, in the circumstances of Hong Kong, extremely limited by physical and planning constraints, including the need to minimize their impact on the environment.

I have dealt briefly, Sir, with the need for legislation to permit the construction of transmission lines in or over private land and to control it and have indicated, in general terms, how the Bill seeks to do this. The other side of the coin is that there is at present no legislation which gives to landowners, whose land is oversailed by transmission lines, a legal right to claim compensation for any adverse effect on the development potential of their land. The Bill aims to protect the interests of landowners in this respect and to provide a procedure for settling compensation claims. It makes a power company liable to pay compensation for any diminution in the value of private land as a result of the creation of an easement. Briefly, the basis for such compensation would be the amount by which the open market value of the land, assessed having regard to the lease conditions, is reduced on the date on which the easement is created. Claims for compensation would need to be submitted to the power company and the settlement of claims would then be a matter between the company and the individual claimant. However, if agreement cannot be reached, the claimant would then be able to refer the claim to the Lands Tribunal for determination.

The detailed provisions relating to compensation are set out in clause 10. This includes the usual provisions with respect to the assessment of compensation for affected property rights. These are, first, that no compensation will be payable in respect of any enhancement of value attributable to the expectancy that any lease, licence or permit may be granted or renewed; and, secondly, that compensation will not be given in respect of any use of the land which is not in accordance with the lease conditions. The same restrictions apply to the determination of compensation for land resumed under the Crown Lands Resumption Ordinance and the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance.

The Bill also provides, under clause 11, for the company to pay compensation in respect of actual physical damage caused by entry onto private land, both at the time of construction of the network and later as a result of maintenance and repair work.

The Bill does not govern the construction of electric power lines over, or under, unleased Crown land which is not occupied under a licence or other proper formal authorization. That can be dealt by a way leave agreement between the power company concerned and the Government, that is by an agreement apart from this legislation.

Finally, the Bill does not abrogate the powers of the Country Parks Authority. Where the route of the transmission lines traverses country parks, the necessary approval has to be obtained from the Country Parks Authority.

Sir, I believe that this Bill goes as far, but no farther, than it needs to go in providing for the conferring of statutory easements on power companies to enable them to commission, construct and maintain works for electricity networks. It seeks to strike a just balance between the needs of the power companies and the consumers of electricity on the one hand and, on the other hand, the rights of the private landowners whose land may be affected.

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 SECRETARY FOR THE ENVIRONMENT.

Question put and agreed to.

PENSIONS (AMENDMENT) BILL 1980

THE SECRETARY FOR THE CIVIL SERVICE moved the second reading of:—‘A bill to amend the Pensions Ordinance’.

He said:—I move the second reading of the Pensions (Amendment) Bill 1980.

The Pensions Ordinance, Chapter 89, was last amended by this Council in 1973. Since then its application has revealed various anomalies: the present Bill seeks to remedy these.

The amendment covered by clause 2 will enable a pensionable officer who has been transferred to other public service (for example, the University of Hong Kong) to retire prematurely on attaining the age of 45 on adequate personal, compassionate or medical grounds, subject to the Governor’s approval. Since civil servants are already able to retire prematurely in these circumstances, it is felt, in equity, that officers who have been so transferred should not be treated differently.

Clause 3 of the Bill amends the Ordinance in two respects. First, it increases the maximum amount of gratuity which may be granted to the dependant of a deceased officer without the dependant having to complete probate formalities from the present level of \$5,000 to a new level of \$15,000. This is a more realistic ceiling having regard for present salary levels. Second, it regularizes a longestablished practice whereby the untaken vacation leave earned by a deceased officer is taken into account in calculating the death gratuity payable to his estate.

Clause 4 of the Bill provides for the continued payment of dependants’ pensions to children receiving full-time education up to the age of 23. This brings the Pensions Ordinance into line on this point with the Widows’ and Children’s Pensions Ordinance.

Finally, the amendment proposed in clause 5 gives legal effect to the former administrative practice of taking into account, for pension purposes, the pre-marriage

service of a married woman officer who, prior to the removal of the marriage bar to pensionable appointment on 17 November 1972, retired from the service by reason of marriage, but without receiving a marriage gratuity. This practice was stopped in 1975 following a query as to its legality from the Director of Audit. The present amendment will restore the practice, and will enable the pensions of 100 eligible women officers who have retired since 1975 to benefit accordingly.

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 CIVIL SERVICE.

Question put and agreed to.

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) (AMENDMENT) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—‘A bill to amend the Maintenance Orders (Reciprocal Enforcement) Ordinance’.

He said:—I move that the Maintenance Orders (Reciprocal Enforcement) (Amendment) Bill 1980 be now read the second time.

As its title suggests, the principal Ordinance is concerned with the reciprocal enforcement of maintenance orders between Hong Kong and certain other territories and countries. It provides for such orders to take effect from the dates on which they are made. However experience has shown that the date on which an order happens to be made is not necessarily the appropriate date from which maintenance should be paid or a variation should commence. The Bill therefore provides that such orders will take effect not on the dates on which they are made but on the dates the courts direct they are to take effect. Such an amendment has already been made in the United Kingdom to the Act on which the principal Ordinance was modelled.

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.

TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—‘A bill to protect creditors on the transfer of businesses, to provide for the liability of transferees

of businesses, the manner in which such liability may be avoided and for matters incidental thereto and connected therewith; and to repeal the Fraudulent Transfer of Businesses Ordinance’.

He said:—Sir, I move that the Transfer of Businesses (Protection of Creditors) Bill 1980 be now read the second time.

The existing Fraudulent Transfer of Businesses Ordinance was enacted in 1923 to combat the fraudulent transfer of businesses which left creditors without assets against which to proceed. In broad terms the Ordinance makes the person to whom a business is transferred liable for its debts until public notice of the transfer is given. The Ordinance represented the wishes of the General Chamber of Commerce and the Chinese Chamber of Commerce. In introducing the Bill the then Attorney General said it was in the nature of an experiment. Not surprisingly therefore, the Ordinance has been subject to some intermittent criticisms. In recent years this has tended to come from Receivers disposing of businesses who argue that secured creditors can be prejudiced by the provisions of the Ordinance.

Consideration has been given in the past to repealing the Ordinance altogether. However in the absence of clear evidence that the protection provided by the Ordinance can be dispensed with, the only safe course is to retain that protection but to qualify it so far as possible to meet the criticism I have mentioned and this, Sir, is what the Bill seeks to do in repealing and replacing the Ordinance.

Clause 3 provides that, subject to the other provisions of the Bill a person to whom a business is transferred shall be liable for all debts and obligations of the business, including liability for tax. There is however provision for exemption from this liability where only part of a business is transferred, this exemption is subject to certain conditions.

Clauses 4 and 5 provide for the manner in which the transferee’s liability may be limited by giving public notice.

By clause 6 a transferee is given an indemnity against a transferor for all amounts which the transferee becomes liable to pay under the Bill.

Clause 7 preserves certain liabilities relating to businesses which are subject to a charge.

Clause 8 limit a transferee’s liability under the Bill to the value of the business acquired by him. There is no such limit in the existing Ordinance.

Under clause 9 legal proceedings against a transferee under the Bill will have to be brought within one year of the transfer. Again there is no such limitation in the existing Ordinance.

Clause 10 provides for a number of important exemptions from the operation of the Bill. This includes transferees where the transfer is effected by the Official Receiver, by a liquidator of a company in liquidation other than voluntary

liquidation, and by persons selling under a charge which has been registered for not less than 1 year. Here too, the existing Ordinance does not provide for such exemptions.

Finally, Sir, clause 11 provides that transfers which take effect before the Bill becomes law or in respect of which notices given under the existing Ordinance prior to its repeal will continue to be subject to the existing Ordinance.

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.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) (NO. 2) BILL 1980

THE SECRETARY FOR HOUSING moved the second reading of:—‘A bill to amend the Landlord and Tenant (Consolidation) Ordinance’.

He said:—Sir, I move the second reading of the Landlord and Tenant (Consolidation) (Amendment) (No. 2) Bill 1980.

Doubts have recently been expressed about the application to the New Territories of the provision of the Landlord and Tenant (Consolidation) Ordinance relating to post-war premises. More specifically, it has been suggested that, by virtue of the Landlord and Tenant (Consolidation) Ordinance (Application to New Territories) Order made in 1954 under section 4 of the principal Ordinance, Parts II, IV and V of that Ordinance have never, since 1954, applied to the New Territories.

Research into old files shows that the 1954 order was made with a view to exempting post-war N.T. buildings from what is now known as Part I (or pre-war) rent controls so as to put them on the same footing as post-war urban buildings which were then exempted. The existence of this order was, however, overlooked in 1962-63 (and subsequently throughout the seventies) when the landlord and tenant legislation was amended to control post-war domestic premises.

It is quite clear, from speeches made in this Council by my predecessors and by honourable Members, that Part II of the principal Ordinance was intended to apply to the New Territories; indeed it makes specific reference to the New Territories. Members may recall that, on 13 February this year, this Council approved, after an intensive debate, the extension of the Part II rent controls to all post-war domestic premises in Hong Kong other than those specifically exempted. All available evidence indicates that the public, the legal profession

and the courts have, over the years, accepted the application of Part II to the New Territories.

The 1954 order also appears to throw doubt on the application of Part IV (which relates to tenancies where a premium is paid) and Part V (which relates to the termination of tenancies) to post-war buildings in the New Territories.

The object of this Bill now before Members is to remove any doubts as to the application of Parts II, IV and V to the New Territories. Clause 2 of the Bill amends section 50(6) to make it clear that tenancies and sub-tenancies of postwar premises in the New Territories are not excluded from Part II of the principal Ordinance by virtue of the 1954 order. Clause 3 similarly provides that such tenancies are not excluded from the operation of Part IV of the principal Ordinance and clause 4 likewise provides that such tenancies are not excluded from the operation of Part V. Clause 5 makes it clear that the 1954 order not only does not now exclude tenancies in post-war premises in the New Territories from the application of Parts II, IV and V of the principal Ordinance but did not do so in the past.

The Bill should reassure tenants and landlords in the New Territories that they were quite right in assuming that the rent controls in question did apply to them all along, and that leases entered into the occupations continued on the strength of controls are not invalidated. Once doubts of this nature have been expressed, it is considered that they should be laid to rest immediately. In order to prevent unnecessary apprehension, I propose, with the support of honourable Members, to take this Bill through all its stages at today's sitting.

Sir, I beg to move.

Question put and agreed to.

Bill read the second time.

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

STAMP (AMENDMENT) BILL 1980

Resumption of debate on second reading (28 May 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).

BUSINESS REGISTRATION REGULATIONS (AMENDMENT) BILL 1980**Resumption of debate on second reading (28 May 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).

Committee stage of bills

Council went into Committee.

STAMP (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

BUSINESS REGISTRATION REGULATIONS (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) (NO. 2) BILL 1980

Clauses 1 to 5 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

STAMP (AMENDMENT) BILL

BUSINESS REGISTRATION REGULATIONS (AMENDMENT) BILL and the

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) (NO. 2) BILL

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

Question put on each Bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday, 25 June 1980.

Adjourned accordingly at fifteen minutes to four o'clock.