

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 9 July 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 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 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 JAMES NEIL HENDERSON, J.P.
COMMISSIONER FOR LABOUR

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 PETER TSAO KWANG-YUNG, C.P.M., J.P.
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS (*Acting*)

THE HONOURABLE COLVYN HUGH HAYE, J.P.
DIRECTOR OF EDUCATION (*Acting*)

THE HONOURABLE JEREMY FELL MATHEWS
LAW DRAFTSMAN (*Acting*)

DR. THE HONOURABLE WONG CHEN-TA, J.P.
DIRECTOR OF AGRICULTURE AND FISHERIES (*Acting*)

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 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.

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

DR. THE HONOURABLE HO KAM-FAI, J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, J.P.

THE HONOURABLE DAVID KENNEDY NEWBIGGING, J.P.

THE HONOURABLE ANDREW SO KWOK-WING, J.P.

THE HONOURABLE HU FA-KUANG, J.P.

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

ABSENT

THE HONOURABLE ALAN JAMES SCOTT, J.P.

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

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 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 RAYSON LISUNG HUANG, C.B.E., J.P.

IN ATTENDANCE

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

Oaths

MR. J. F. MATHEWS and Dr. WONG Chen-ta took the Oath of Allegiance and assumed their seats as Members of the Council.

HIS EXCELLENCY THE PRESIDENT:—I should like to welcome Mr. MATHEWS and Dr. WONG to this Council.

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Merchant Shipping Act 1965. Merchant Shipping (Tonnage) (Amendment) Regulations 1980	150
Apprenticeship Ordinance. Apprenticeship (Designation of Trades) Order 1980.....	156
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Fugitive Offenders Act 1967. Fugitive Offenders (United Kingdom Dependencies) (Amendment)Order 1980	158
Hong Kong Airport (Restricted Areas) Regulations. Hong Kong Airport (Restricted Areas and Tenant Restricted Areas) Order 1980	159
Pensions Ordinance. Pensionable Offices (Amendment) Order 1980	160
Public Health and Urban Services Ordinance. Public Health and Urban Services (Designation of Libraries)Order 1980	161

<i>Subject</i>	<i>L.N. No.</i>
Public Health and Urban Services Ordinance. Public Health and Urban Services (Public Pleasure Grounds)(Amendment of Fourth Schedule) (No. 3) Order 1980.....	162
Legal Practitioners Ordinance. Solicitors (Trade Marks and Patents) Costs (Amendment)Rules 1980	163
Apprenticeship Ordinance. Apprenticeship (Periods of Apprenticeship) Notice 1980.....	164
Fixed Penalty (Traffic Contraventions) Ordinance. Resolution of the Legislative Council (Commencement) Notice1980	165
Fixed Penalty (Criminal Proceedings) Ordinance. Resolution of the Legislative Council (Commencement) Notice1980	166
Women and Young Persons (Industry) Regulations 1980. Women and Young Persons (Industry) (Forms) Notice 1980.....	167
Tax Reserve Certificates (Fourth Series) Rules. Tax Reserve Certificates (Rate of Interest) (No. 3) Notice 1980	168
Telecommunication (Exemption from Licensing) Order 1979. Telecommunication (Exemption from Licensing) (Fees) Order 1980	169
Sessional Papers 1979-80:	
No. 57 — Supplementary provisions for the quarter ended 31 December 1979 (published on 9.7.80).	
No. 58—Report by the Trustee of the Police Children's Education Trust, Police Education and Welfare Trust for the period 1 April 1975—31 March 1979 (published on 9.7.80).	

Oral answers to questions

Licensing system for radio operated toys

1. MR. SO asked in Cantonese:—

有關擁有遙控玩具必須領牌的規定，由於在執行方面有實際困難，政府可否考慮予以撤銷？

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

In view of the practical difficulties of implementation, will the Government consider rescinding the requirement for owners of radio operated toys to obtain licences for their use?

THE FINANCIAL SECRETARY:—Sir, the short answer to my honourable Friend's question is that the Telecommunications Authority is already considering this possibility. But I would not be too optimistic at this stage as to the outcome.

Let me explain, section 8 of the Telecommunication Ordinance (Cap. 106) prohibits, as it puts it, 'the establishment and maintenance of means of telecommunication except under a licence'. The Telecommunication Regulations provide for the Telecommunications Authority to issue licences for a number of purposes including 'model control' which covers the use of radio operated toys.

The main purpose of this system of prohibition and licensing is to limit as far as possible malfunctioning of radio equipment as a result of interference from other radio equipment. This purpose is particularly significant in respect of such essential services as the Police, Fire and Ambulance Services whose effectiveness depends considerably on efficient radio net works.

To turn specifically to toys, those seeking licences must have their equipment tested by the Telecommunications Authority. The Authority will issue a licence only when it is satisfied that likely interference will be minimal.

When the toys tested are likely to cause significant interference, the Authority has either instructed the owners to modify them or has refused to license them.

The licence also has a use *after* it has been issued. When the Authority receives reports of interference in a district, the staff will know the addresses of the owners of licensed toys in it and thus have some basis from which to start searching for the source. The outcome of these searches can either be further modifications to the equipment or instruction that the owners should not use them in certain localities. A recent example of this latter outcome occurred when radio toys were being used near a fire station and interfering with a vital radio link.

To sum up, Sir, the present licensing system has a clear object and an important one.

But in recent years there have been coming onto the market in increasing numbers toys which have such a low radio transmitting power that they are unlikely to cause serious interference. So the Telecommunications Authority has already started an enquiry to see whether there could be a modification

of the present prohibition and licensing system on a blanket basis for such toys. But a considerable range and variety of toys is involved. And we cannot take risks with the possibility of interference with radio equipment generally and particularly that used by the Police, Fire and Ambulance Services. So I do not expect to have the results of this enquiry until towards the end of the year.

Cultural, sports and recreational facilities in the New Territories

2. MR. YEUNG asked:—*Will Government state whether facilities for cultural, sports and recreation in the new towns and townships in the New Territories are being provided as planned in the form of overall development packages which were designed to co-ordinate and meet the needs of the projected increase in population?*

SECRETARY FOR THE NEW TERRITORIES:—Sir, the simple answer to this question is ‘no’. But it is not enough for me merely to let it go at that because it does not in any way reveal the true picture. Cultural, sports and recreational facilities are being provided broadly in pace with development in the New Territories. However the planned provision, and these were ambitious plans, for a number of capital projects had to be deferred for twelve months or more last year because of the very necessary constraints imposed on the gross rate expenditure of funds on public works in support of the economy as a whole. Priority in our new towns had to be given, and I am sure no one will question this, to the production of public housing and industrial land.

However we must not overlook the fact that a considerable range of projects involving many millions of dollars is being constructed either with public funds, or with the help of a subvention from public funds towards privately donated projects. These will add greatly to facilities in many of our New Territories towns in the next two years or so. The need for such facilities is kept in the forefront of our minds and every effort will be made to maintain the concept of balanced development within the limits of our resources.

MR. YEUNG:—*Sir, will the Secretary give assurance that no further delay would be occasioned for the provision?*

SECRETARY FOR THE NEW TERRITORIES:—Sir, I can’t give that assurance that there will be no further delay. For some of these projects it will depend entirely upon the financial resources available and the constraints on the economy.

MR. F. K. HU:—*Will the Government encourage private organizations to provide cultural and recreational facilities in the New Territories through*

private recreational lease, if the facility so provided can also be used by the general public?

SECRETARY FOR THE NEW TERRITORIES:—Yes, Sir, and I hope we are already doing so.

Obstruction of traffic lights by tall vehicles

3. MR. WONG LAM asked in Cantonese:—

請問政府可否考慮，將交通燈之位置更改，以免被高身之車輛所遮擋？

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

Will Government consider repositioning traffic lights so that they cannot be blocked by tall vehicles?

DIRECTOR OF PUBLIC WORKS:—Sir, the present arrangement of traffic lights at a signal controlled road junction is that normally three sets of traffic lights are provided: two sets at the nearside of the junction on each side of the road and one set at the far side, for each approach to the junction. Although an individual set may be obstructed by a tall vehicle, this arrangement by providing alternatives should ensure that drivers are able to observe at least one set and thus shall provide adequate control of traffic.

The suggestion of repositioning traffic lights to overhead locations has been considered but has been found not suitable for Hong Kong. The reasons are, firstly, that the proliferation of neon sign advertisements would, it is thought, make overhead traffic lights less easily distinguishable than roadside traffic lights and, secondly, because of the possibility of typhoon damage overhead lights should be mounted on rigid gantries and these would involve practical difficulties of siting the supports and would be very expensive to construct.

I would add, Sir, that there is no evidence which would indicate that the present system causes accidents because of the obstruction of traffic lights by tall vehicles but if in any particular case it is thought the present arrangements are causing difficulties, the traffic engineers in P.W.D. will be pleased to investigate the matter to see whether any improvement can be made.

MR. WONG LAM asked in Cantonese:—

閣下，可否考慮在繁忙而沒有霓虹廣告牌的街口安裝這些架空交通燈呢？

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

Sir, would the Government consider these higher lights in place where there is no neon lights and less congested traffic places?

DIRECTOR OF PUBLIC WORKS:—No, Sir, we think it would be a mistake to mix the two systems. Drivers would not be ready to observe traffic lights at a high level if they are used to observing traffic lights at the road side.

MR. WONG LAM asked in Cantonese:—

閣下，根據答覆第三段所說，並無證據顯示現時安置的交通燈因車身高車輛遮擋燈號而造成意外，請問是否有意外發生後才改善呢？

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

Sir, well according to paragraph 3 of the reply it says that there is no evidence which would indicate that the present system causes accidents because of the obstruction of traffic lights by tall vehicles, could I know whether we should have the accidents before we plan any improvements?

DIRECTOR OF PUBLIC WORKS:—Well, obviously not, Sir. But what I am saying is that there is no evidence that accidents are being caused by this system. And if there are any junctions where my honourable Friend would like to suggest improvements are necessary we would be pleased to look into it.

Cleanliness and tidiness of non-Government cemeteries

4. MR. LEUNG asked:—*Can Government state who is responsible for keeping non-Government cemeteries clean and tidy, particularly the Chinese Permanent Cemeteries at Tsuen Wan, Aberdeen and Chai Wan?*

DIRECTOR OF HOME AFFAIRS:—Sir, the cleanliness and tidiness of non-Government cemeteries is the responsibility of the organizations that are permitted to operate private cemeteries under the Private Cemeteries By-laws and the Private Cemeteries (New Territories) Regulations.

The Chinese Permanent Cemeteries at Tsuen Wan, Aberdeen and Chai Wan are under the management of the Board of Management of the Chinese Permanent Cemeteries, a statutory body established under the Chinese Permanent Cemeteries Ordinance.

I understand, Sir, that Mr. LEUNG's interest in this subject arises from concern at the state of the cemeteries during the recent Ching Ming Festival.

The position is that at the Ching Ming and the Chung Yeung Festivals the cemeteries are so intensively visited that they do get into an untidy state.

The field staff of the Board stationed at the cemeteries are able to ensure that cemeteries are kept in a tidy condition for most of the year but it is very difficult for them to do this for the few days on either side of the two main festivals.

Sir, it has therefore been the normal practice to mount an intensive cleaning up operation immediately after these festivals with special teams using casual labour engaged on a daily basis.

Absentee tenants in public housing

5. DR. HO asked:—*Will Government state:*

- (i) *the number of units of public housing which it has detected are being retained by absentee tenants in the past 12 months; and*
- (ii) *the measures being taken against such absentee tenants?*

SECRETARY FOR HOUSING:—Sir, tenants who do not make full and proper use of their flats and who have no need of public housing are initially asked to surrender their tenancies voluntarily.

During the last 12 months management staff discovered 1,143 cases where these conditions obtained. This figure represents a quarter of a per cent of the total number of tenancies managed by the Housing Authority. Of these, 722 tenancies were surrendered voluntarily; the remaining tenants, who refused to co-operate, were served with notices to quit.

In cases where absentee tenants have allowed their flats to be occupied illegally, the unauthorized occupants are required to surrender the premises. In many cases these unauthorized occupants have alternative accommodation, but if they are rendered genuinely homeless as a result of such eviction they are offered temporary housing accommodation in the New Territories.

DR. HO:—*Sir, can a fine be imposed by the Housing Authority on these wilful absentee tenants in addition to serving them with notices to quit in order to generate more deterrent effect?*

SECRETARY FOR HOUSING:—The absentee tenants, as the name implies, are not present. We can only take action against the unauthorized occupants. As I said, if they are rendered homeless and while they are awaiting the allocation of temporary housing, they are given a temporary permit which expires from month to month and a fee of twice the normal rent is payable.

MR. LO:—*Sir, surely not all absentee tenants are tenants who do not make full and proper use of flats, I assume some tenants can go away for a period.*

SECRETARY FOR HOUSING:—If they go away for a short period they are not regarded as absentee tenants, and they are allowed to retain possession.

DR. HENRY HU:—May I ask the Secretary for Housing for the remaining tenants who are served with a notice to quit, what were the results? Did they leave the flat or did they still occupy these flats?

SECRETARY FOR HOUSING:—They do invariably leave the flats as a result of notices to quit, but there were a few cases where physical eviction was necessary. Last year there were only ten cases out of these more than 1,000 cases.

Illegal alterations and additions to buildings

6. MR. YEUNG asked:—*Will Government make a statement on the effectiveness of the control of illegal alterations and additions to newly completed buildings, particularly in the new towns?*

DIRECTOR OF PUBLIC WORKS:—Sir, on previous occasions this Council has been advised that the policy is to take action against all works which contravene the Buildings Ordinance in buildings completed after July 1975 and to limit action against buildings completed before that date to those works which are a risk to life and limb, because of the very large number of buildings involved. This Council has also been advised that the pace of development has out-stripped the ability of the Buildings Ordinance Office to deal with problem of illegal alterations and additions.

The Building Surveyors who are responsible for taking action against illegal works have, as their primary task, the duty of processing applications in connection with new buildings, including the approval of plans, the issue of consents to commence work and the issue of occupation permits, all of which are subject to statutory time limits. They are also required to inspect new buildings under construction. All of these tasks must take precedence and therefore the lack of sufficient resources most significantly affects the area of illegal works.

The policy I have referred to and the action taken towards implementing the policy applies to the new towns in the same way as it applies to the rest of the territory. With the continued pace of development the situation as regards the control of illegal works is deteriorating in all areas. Additional staff is required to help to deal with the problem and when they are available some improvement in the present level of action will result.

The campaign of issuing posters illustrating the most common types of illegal work continues and is thought to have met with some success. It is impossible to measure the deterrent effect of these posters and of the limited enforcement work being carried out, but clearly both in the new towns and elsewhere the control of illegal works and alterations is of limited effectiveness.

Sir, the problem of illegal alterations and additions is an intractable problem of massive proportions and is one which I do not believe can ever be solved with the present approach to it. Recommendations will therefore be submitted to Executive Council in the near future which would on the

one hand limit the types of illegal works against which action should be taken and on the other hand, in certain areas, enable an individual owner who wished to carry out alterations to obtain approval quickly from the Buildings Ordinance Office, without employing professional advisers.

MR. YEUNG:—*Sir, would there be another period of just like 1975 when Government declared those buildings or alterations built before the date would be tolerated? If so, would the Secretary agree with me that it is indirectly encouraging people to break the law?*

DIRECTOR OF PUBLIC WORKS:—*Sir, that proposition is not being considered at the moment.*

Cleanliness of New Territories refuse collection points

7. MR. YEUNG asked:—*What steps are being taken by Government to improve the general orderliness and cleanliness of refuse collection points in the New Territories?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, the Government is providing new purpose-built and permanent off-street refuse collection points in the new towns and other development areas in the New Territories. So far 33 of these permanent structures have been built and a further 46 are in the Public Works Programme. Self-contained refuse collection points are also incorporated into new market projects and into cooked food centres where this can be done.*

In addition, there are over 300 minor refuse collection points in various rural areas which have been constructed with local public works and cleansing funds. Although many of these are relatively simple and rudimentary, there are plans to improve their standard by the provision, where possible, of water supply for cleansing after the rubbish has been removed and by roofing over the original structures.

The New Territories Services Department is also strengthening supervisory control over its cleansing staff with a view to maintaining a high standard of service; and additional refuse collection vehicles are being sought to help move refuse from the collection points more quickly and efficiently.

MR. YEUNG:—*Sir, has the Secretary himself any programme to visit those points in the New Territories in the future?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, I can't say that I had visited these collection points, though I was in the New Territories yesterday (laughter).*

Statement

Appointment of Commission of Inquiry

THE ATTORNEY GENERAL:—Sir, with your consent under Order 20 of Standing Orders, I wish to make a short statement.

I desire to announce publicly that yesterday the Honourable Mr. Justice T. L. YANG was appointed as a Commissioner under section 2 of the Commissions of Inquiry Ordinance (Cap. 86) to inquire into certain matters connected with the late Inspector MACLENNAN. I will indicate in a moment the terms of reference of that inquiry.

Honourable Members may recollect that on 23 May this year I announced that because the statutory requirements laid down in the Coroners Ordinance, which permit the Attorney General to order the re-opening of an inquest, had not, in my opinion, been fulfilled, there were no legal grounds permitting the re-opening of that inquest, and accordingly I had no power to re-open it. Indeed, as it seems to me, I could not in good conscience have acted otherwise than I did.

That decision was mine and mine alone as Attorney General. However, despite what has been constantly suggested recently in the press and elsewhere, I, as Attorney General, have no power whatsoever to order any inquiry. That power and responsibility resides alone in the Governor in Council under the Commissions of Inquiry Ordinance.

Before I announced my decision not to re-open the inquest, I had already referred for investigation by the Complaints Against the Police Office certain allegations made against some individual Police officers.

During the ensuing period there was considerable discussion in sections of the press or some sections of the press and media upon the subject, and upon related matters.

The investigations by C.A.P.O. to which I have referred have just been completed. It would not, in my personal opinion, have been proper to hold any other inquiry until C.A.P.O. had completed its investigation into allegations which, it should be remembered, if substantiated, may have led to criminal proceedings. It is plainly undesirable to have two investigations of that sort going on at the same time.

Moreover section 7 of the Commissions of Inquiry Ordinance provides that ‘evidence given by any person before the Commission shall not be admissible against him in any civil or criminal proceedings’. It follows that, unlike a C.A.P.O. investigation, not all the evidence uncovered by a Commission might have been available for use in any prosecution were such to turn out to be the appropriate course of action. A Commission would be hampered in the sort of investigation that C.A.P.O. was set up—or should I say brought into being—in order to conduct.

Having regard to the above matters and to the continuing allegations as to the circumstances surrounding the death of Inspector MACLENNAN, the appointment of a Commission of Inquiry is now therefore considered both possible and desirable.

The report of the investigation by C.A.P.O. together with all statements taken or made available to it in the course of that investigation will be given to the Commission, as will all other relevant matters, including statements and investigations made for the purposes of the enquiry into the late Inspector MACLENNAN's death and the inquest into it. The Commission, honourable Members will know, has of course power to make such other investigations or to take such other evidence as it considers to be necessary or desirable.

I would like to turn now to the terms of reference of the Commission. The terms of reference will be gazetted in the normal way, and are as follows; and I quote:

‘Having regard to:

continuing allegations as to the circumstances surrounding the death of Inspector MACLENNAN, and the enquiries preceding it,

and to the fact that investigations by the Complaints Against the Police Office into some of the allegations have just been completed,

and to the confusion in the public mind created by these allegations, which makes it desirable to adopt new measures to establish the circumstances of the Inspector's death and related issues, both in the public interest and so that innocent parties may be cleared as well as any blame apportioned,

to conduct an Inquiry into:—

(a) whether, in the light of all the evidence available and any additional enquiries you make, there are good grounds for believing the death of Inspector MACLENNAN was other than suicide, and what conclusions you draw;

(b) what official investigations immediately after the death of Inspector MACLENNAN were conducted, whether there were any shortcomings in them, and if so what conclusions you draw as to the reason for these shortcomings;

(c) whether the charges which were about to be preferred against him on the day of his death were properly brought, and whether on evidence properly obtained;

(d) what investigations or enquiries (other than those resulting in the charges at (c)) were conducted regarding Inspector MACLENNAN, whether they were conducted with propriety, and what bearing, if any, they had on Inspector MACLENNAN's death;

(e) whether the investigations and enquiries under (b), (c) and (d) were properly motivated;

and to furnish a report to the Governor.’

The provisions of the Commissions of Inquiry Ordinance will of course govern the inquiry. These include provisions dealing with the right to legal representation, the holding of the inquiry or parts thereof in camera, and the publication or disclosure of proceedings before the Commission as well as other matters. It is of course for the Commissioner alone in his discretion to decide on the application in regard to any of those of these various provisions.

I should add one thing. The Commission's terms of reference do not, as honourable Members will have noticed, include any study of whether or not any change in the laws governing homosexual offences in Hong Kong should or should not be made. The Law Reform Commission, to whom this matter has been referred, commenced its deliberations on this matter at its last meeting last Saturday, and will continue its study of the subject.

And, Sir, lastly the Honourable Mr. Justice YANG has asked me to say that the Commission will begin its work as soon as possible after the necessary administrative arrangements have been made for it to commence.

Government business

Motions

EXCHANGE FUND ORDINANCE

HIS EXCELLENCY THE GOVERNOR moved the following motion:—Under section 3(5) of the Exchange Fund Ordinance, with the approval of the Secretary of State, that the aggregate amount of borrowings under section 3(3) of the said Ordinance shall not at any one time exceed fifteen thousand million dollars.

THE CHIEF SECRETARY:—Sir, the bulk of the Government's accumulated fiscal reserves, the General Revenue Balance, are invested by the Treasury with the Exchange Fund, against the issue by the Fund of interest-bearing debt certificates. Section 3(4) of the Exchange Fund Ordinance limits the amount the Fund may borrow from any source; and under section 3(5) this limit may be altered by the Legislative Council, by resolution proposed by the Governor with the approval of the Secretary of State.

Sir, the Government's fiscal reserves are held with the Exchange Fund to avoid the necessity of these reserves having to bear exchange risks. Furthermore, to the extent that these reserves represent part of the Exchange Fund's holdings of Hong Kong dollars, they play a part in the exercise of leverage on the liquidity ratios of the banking system. The mechanism for doing this is provided by section 4A of the Exchange Fund Ordinance, that is to say, when the Exchange Fund holds balances with banks in Hong Kong on demand, at call or at short notice those banks have to hold 100% liquid

assets against those balances. In this way, increases in those balances do not contribute to the process of credit creation.

Exchange Fund debt certificates issued to the Treasury have continued to rise throughout this year. On 31 December 1979 they amounted to \$5,520 million; on 31 March 1980 they amounted to \$8,517 million; and on 30 June 1980 they amounted to \$8,830 million. Although we face exceptionally heavy expenditure commitments over the next few months, I anticipate that the present borrowing limit on the Exchange Fund of \$10,000 million may be reached before the end of this financial year. This limit was fixed by a resolution by this Council on 12 March 1980. At that time, in fact, I forecast that the Fund's borrowing might be in excess of \$10,000 million before the end of this year, and that this would mean we would need to raise the borrowing limit yet again.

The opportunity is being taken on this occasion to increase the borrowing limit by 50% to HK\$15,000 million so as to reduce the number of times it will be necessary to introduce a similar motion into this Council.

Sir, I support the motion.

Question put and agreed to.

SCHEDULE OF WRITES-OFF FOR THE FINANCIAL YEAR 1979-80

THE FINANCIAL SECRETARY moved the following motion:—That the writes-off for the Financial Year 1979-80, as set out in the Schedule, be approved.

Schedule of writes-off authorized by Finance Committee in the financial year 1979-80

<i>Amount</i> \$	<i>Date of</i> <i>meeting</i>	<i>Category</i>	<i>Remarks</i>
47,965	14.11.79	Advance	Write off of the outstanding balance in an advance account opened in 1977 for money lost in the Royal Hong Kong Police Force.
1,759,362.96	26.3.80	Pensions	Write off of overpayment of pension increases in 450 cases still in payment on 30 September 1979 under the Widows and Orphans Pension Scheme.
Unknown	26.3.80	Pensions	General cancellation of an unknown amount in respect of the overpayment of pension increases paid to beneficiaries under the Widows and Orphans Pension Scheme which have now ceased to be payable.

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

The purpose of this motion is to seek the covering approval of this Council to those writes-off approved by the Finance Committee during the financial year 1979-80 and which are listed in the Schedule.

Sir, I beg to move.

Question put and agreed to.

ROAD TRAFFIC ORDINANCE

THE SECRETARY FOR THE ENVIRONMENT moved the following motion:—That the period for which there remains in force the limit on the number of motor vehicles which may be registered as Hong Kong and Kowloon Taxis, specified in the notice published as Government Notice No. 213 on 18 January 1980, be extended to 31 January 1981.

He said:—Sir, I rise to move the motion standing in my name on the Order Paper. It provides, under section 7E(3) of the Road Traffic Ordinance (Chapter 220), that the period for which there remains in force a limit on the number of motor vehicles which may be registered as Hong Kong and Kowloon taxis, as specified in the notice published in the *Gazette* as Government Notice No. 213 on 18 January 1980, should be extended to 31 January 1981.

On 8 January this year, under the powers conferred by section 7E(1) of the Road Traffic Ordinance, the Governor in Council ordered that the total number of vehicles that could be registered and licensed as urban taxis be set 10,000, to be reached as hitherto by issuing by tender 300 taxi licences every three months. Under section 7E(2) of the Ordinance the limit thus set remains in force until 18 July 1980, and can only be extended by the motion now tabled.

To that extent, therefore, this motion is little more than a formality to comply with the law as it is now written. I should add here that the number of urban taxi licences issued at the present time, including the 300 in the current tendering exercise, is 9,069, so the extension of the limit will allow further tender exercises to go ahead in September and December of this year.

A full review of taxi operations is now being conducted and it is expected that Your Excellency in Council will be consulted well before the end of the year on the limit on numbers subsequently to be set as well as on other matters affecting the taxi trade.

Sir, I beg to move.

Question put and agreed to.

Motion (in Committee)

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31 DECEMBER 1979

Council went into Committee, pursuant to Standing Order 58(2), to consider the motion standing in the name of the Financial Secretary.

THE FINANCIAL SECRETARY moved the following motion:—That this Council approves the supplementary provisions for the quarter ended 31 December 1979 as set out in Paper No. 57.

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

The schedule of supplementary provisions for the third quarter of the financial year 1979-80, that is for the period 1 October to 31 December 1979, covers a total amount of 743 million dollars. Of this sum, Public Works Non-Recurrent items accounted for 564 million dollars as a result of more rapid progress on a number of approved projects and the upgrading of 17 projects to Category A of the Public Works Programme.

Offsetting savings of 652 million dollars have been found under various other subheads of expenditure, or by freezing funds under Head 52 Miscellaneous Services Subhead 100 Additional commitments. Of the remaining 91 million dollars not offset by savings, the main items included 67 million dollars for the reinforcement of the garrison, 10 million dollars for an instalment payment for the purchase of nine Marine Police sector launches, 5 million dollars for personal emoluments in respect of three departments to meet the additional costs due to the pay increase approved for the civil service with effect from 1 April 1979 and 5 million dollars for various expenses relating to the maintenance of Vietnamese refugees.

The Finance Committee has approved all the items in the schedule. The purpose of this motion is simply to seek the covering authority of this Council.

Sir, I beg to move.

Question put and agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the motion had been agreed to in Committee without amendment.

Question agreed by the whole Council pursuant to Standing Order 58(4).

First reading of bills

CORONERS (AMENDMENT) BILL 1980

PHARMACY AND POISONS (AMENDMENT) BILL 1980

PNEUMOCONIOSIS COMPENSATION BILL 1980

LEGAL PRACTITIONERS (AMENDMENT) BILL 1980

SUPREME COURT (AMENDMENT) BILL 1980

WILD ANIMALS PROTECTION (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

CORONERS (AMENDMENT) BILL 1980

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Coroners Ordinance and to make a consequential amendment to the Judicial Service Commission Ordinance’.

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

A working party was established by the Chief Justice at the end of last year to look into the law and practice of the Coroners Court and it reported earlier this year. The working party was chaired by the Honourable Mr. Justice CONS and included from this Council my honourable Friends Mr. T. S. LO and Dr. Harry FANG, as well as Mr. Martin LEE the chairman of the Bar Association, Mr. Dominic LAI representing the Law Society, and other members from various Government departments and from my own Chambers.

The report when presented contained eight main recommendations five of which require changes to the law, and which are implemented by this Bill as I shall now explain.

First, the Bill amends the definition of 'official custody' to include persons in the custody of I.C.A.C. officers or any other officer having statutory powers of arrest. The significance of the definition is that a coroner must inquire into the death of a person in such custody.

Next, the criteria for appointment of coroners has been amended so that the appointee is no longer required to be a magistrate, however he must have legal qualifications. Steps have already been taken to establish the positions within the civil service and subject to the passage of this Bill two fulltime coroners may be operating by the end of this year.

Thirdly, under the present law, papers from every inquiry by a coroner are forwarded to the Attorney General's Chambers and this process creates a lot of double handling. Coroners papers will, under these amendments, only be forwarded to the Attorney General upon his request, for him to consider whether he should exercise his statutory responsibilities of ordering the inquest to be re-opened.

Lastly, the Bill also provides for discharge of jurors and for majority verdicts in accordance with the working party's recommendations. Jurors will be able to be discharged in the interests of justice or themselves without necessarily disrupting an inquest. Where there is disagreement between jurors after this Bill becomes law the coroner may accept a majority verdict after there has been sufficient consideration of the matter in private by the jury.

Two matters are included in the Bill which are not recommendations of the working party.

The first is the provision of a specific defence of reasonable excuse to a juror who fails to attend in answer to a jury summons. The amendment also increases the penalty for failure to attend from \$500 to \$3,000 to bring it into line with the provision in the Jury Ordinance.

Secondly there is an amendment of the Judicial Service Commission Ordinance which is in fact consequential upon the post of coroner being made independent of the Magistracy.

One recommendation relating to the appearance of Crown Counsel to assist the coroner's officer, Sir, requires an amendment to the Coroners Rules and a draft of that amendment has been approved by the Registrar of the Supreme Court and will be forwarded to the Chief Justice for making in the near future.

The other recommendations which are of an administrative nature and which will not require legislative action to implement include the retention of serving police officers as coroner's officers, the establishment of a separate coroners staff within the Judiciary, and no change in the law or practice which relates to the issue of death certificates or notification of particular

deaths to the coroner. Where necessary, the administrative changes are now underway.

I should add that the Chief Justice has indicated to me that he intends to ask the working party to reconvene to consider and make recommendations upon various matters relating to inquests which concern the Commissioner of Labour and myself.

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 ATTORNEY GENERAL.

Question put and agreed to.

PHARMACY AND POISONS (AMENDMENT) BILL 1980

THE DIRECTOR OF MEDICAL AND HEALTH SERVICES moved the second reading of:—‘A bill to amend the Pharmacy and Poisons Ordinance’.

He said:—Sir, I rise to move that the Pharmacy and Poisons (Amendment) Bill 1980 be read the second time.

The purpose of the Bill is to effect four main amendments to the principal Ordinance, these being:

- (1) to enable the Pharmacy and Poisons Board to establish executive committees to deal with licensing and related matters;
- (2) to introduce a new procedure for appeals against decisions of the Board or its executive committees;
- (3) to provide for the registration of importers and exporters of all pharmaceutical products; and
- (4) to provide that poisons may only be exported by permitted dealers in poisons.

The increasing scope and complexity of the work of the Board has drawn attention to the need for the Board to delegate its routine licensing and registration functions other than the registration of pharmacists to executive sub-committees. At present there are no provisions in the Pharmacy and Poisons Ordinance for the Board to establish such executive committees other than the wholesale licensing committee under section 29(1)(h). The present proposal is for the Ordinance to be amended to empower the Board to appoint executive committees to perform functions which include:—

- (a) the registration, licensing or certification of persons, poisons or pharmaceutical products; or
- (b) the maintenance of a list of authorized retailers of Part II poisons.

Under the existing legislation appeals against a decision of the Board on matters concerning licensing, registration and the issue of certificates may be made only to the High Court. While it is agreed by all parties concerned that the provision for appeal to the High Court should remain, it is felt that in the first instance many of the disputes could be resolved more appropriately and expeditiously by an intermediate appeal committee which is constituted to provide the necessary legal, scientific and professional expertise. Accordingly, clause 8 proposes that the Ordinance be amended to make provision for an independent Pharmacy and Poisons Appeals Tribunal with jurisdiction to hear and determine:—

- (a) any appeals against a direction of the Board under section 25(3) of the principal Ordinance;
- (b) any appeals against a decision of a committee of the Board in respect of which provision authorizing such appeals is made in regulations under section 29 of the principal Ordinance. Where the Board assumes the functions of a committee by virtue of the new section 4A(8), an appeal will lie against a decision of the Board made in exercise of these functions.

The Tribunal will comprise of persons to be appointed by you, Sir, which shall include a chairman who should be legally qualified and other persons representing the medical and pharmacological professions, the pharmacists association, the pharmaceutical industry and the retail pharmaceutical trade.

The opportunity is also taken to provide for the registration of importers and exporters of all pharmaceutical products and not only those which contain poisons as at present. There are a large number of widely used pharmaceutical products which do not contain poisons and which are not required to be registered with the Board under the existing legislation. This is unsatisfactory as many of the products are susceptible to deterioration due to poor storage condition and the premises in which they are held are not subject to inspection. In order that more effective control be exercised for these products, it is proposed that all importers and exporters of pharmaceutical products should be registered.

At present, there is nothing in the Ordinance which applies to the export of poisons outside Hong Kong and it is not made clear that an exporter must be authorized to engage in the business of exporting poisons. It is therefore proposed that section 32(b) of the Ordinance be amended to clarify that poisons may be exported by registered exporters or licensed wholesale dealers in poisons.

As consequential amendments to the regulations will be required, it is proposed that the Bill, if passed, should come into operation on a date to be appointed by Your Excellency.

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 DIRECTOR OF MEDICAL AND HEALTH SERVICES.

Question put and agreed to.

PNEUMOCONIOSIS (COMPENSATION) BILL 1980

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to establish a scheme for compensating persons or their dependants in respect of incapacity or death resulting from pneumoconiosis and for purposes connected therewith’.

He said:—Sir, I rise to move the second reading of the Pneumoconiosis (Compensation) Bill 1980.

In Your Excellency’s address at the opening session of this Council on 10 October 1979, you said that the Silicosis Compensation Scheme approved by the Council in 1978 had proved unexpectedly difficult to implement, and the details of a revised scheme were being finalized and amending legislation would be introduced. The Bill now before Council gives effect to this revised scheme.

As honourable Members are aware, the original scheme, as embodied in the 1978 Workmen’s Compensation (Amendment) (No. 2) Ordinance, has remained inoperative because of difficulties encountered in the course of drafting the subsidiary legislation. These were due to two main factors: first, the scheme being insurance-based required proof of employment in a specified trade or industry for a worker to qualify for compensation. Secondly, the construction industry, in which the great majority of pneumoconiosis cases occur, has a very high degree of labour mobility which would make compliance with the legislation extremely difficult.

To ensure effective enforcement of the legislation it would have been necessary for employers in the specified trades and industries to maintain detailed records of workers (e.g. name, identity card number, employment dates, wages and other benefits) and to submit this information to the Labour Department in the prescribed form. Such apparently simple requirements, however, would have faced employers in the construction industry, where the majority of workers are employed on a daily or short-term basis and move frequently from site to site, with an almost impossible task. In addition, most construction workers are engaged by sub-contractors or sub-sub-contractors so that the site management could not realistically be expected to maintain the required records with any hope of accuracy. Site managements often do not know which workers are engaged on a particular day by subcontractors, and many workers are reluctant to produce their identity cards. These difficulties threw serious doubts on the enforceability of the subsidiary

legislation, and it would have put the employers at risk of prosecution for failure to carry out statutory obligation which would be beyond their capabilities to fulfil.

The revised scheme does not require proof of employment in a specified trade or industry for a worker to qualify for compensation and replaces the individual employer's liability by a system of collective liability. The fact of having pneumoconiosis is to be regarded as in itself proof that the worker has worked in the 'dusty' trades. And the insurance principle is to be replaced by the collective liability based on the principle of a flat rate levy.

The revised scheme is to be implemented in two stages. Under stage I, persons who are diagnosed as pneumoconiotic before the date of commencement of the new legislation will be compensated by the Government out of general revenue. This will honour Government's commitment in the previous scheme to meet the compensation for existing diagnosed cases. The *ex gratia* payment scheme which is not incorporated in this Bill will be put to the Finance Committee of this Council as soon as possible. Payment will be on a once-and-for-all basis, the calculation of which will be based on a flat rate irrespective of the actual earnings of each individual, and on relevant compensation provisions of the Workmen's Compensation Ordinance at the date of commencement of payment. Account will also be taken of the progressive nature of the disease. Before payment can be made a person afflicted with pneumoconiosis must prove only that he has lived in Hong Kong for five years or that he has contracted the disease in Hong Kong. This condition is necessary to prevent new residents who did not contract the disease in Hong Kong from eligibility.

The second stage of the revised scheme is the subject of the Bill before the Council. Its main effect is to repeal the Workmen's Compensation (Amendment) (No. 2) Ordinance 1978 and to introduce a compensation scheme outside the framework of the Workmen's Compensation Ordinance. It establishes a fund financed by a levy on the major industries which cause the vast majority of pneumoconiosis cases. Under this scheme, any person diagnosed to be pneumoconiotic is qualified for compensation without having to prove employment in the specified trades or industries or to identify his employer, subject to a residence qualification of five years as provided in clause 4.

To make allowance for the progressive nature of pneumoconiosis clause 7 makes special provisions for election of compensation payment. Details of these arrangements are mainly embodied in clauses 8 and 9. Clause 8 provides for a once-and-for-all lump sum payment, including an award for progressive deterioration up to 50% of the incapacity initially assessed. This is the same as that provided for in the original scheme. Clause 9 however introduces a new concept of two assessments within a period of six to eight years and according to medical opinion such arrangements will ensure a fairer assessment

of the ultimate degree of incapacity. Clauses 5 and 24 supplement these arrangements.

The types of benefit and the levels of compensation are provided in clauses 5, 6, 10, 11 and 12, and the First Schedule and the Second Schedule, and will be the same as those under the Workmen's Compensation Ordinance, which are being revised by the Workmen's Compensation (Amendment) Bill 1980. They will be adjusted to equate with any changes that may occur in the Workmen's Compensation Ordinance in future. I will move amendments at the committee stage of this Bill to accommodate changes that may be made in those levels later this afternoon.

Clauses 14 to 21 set out the procedure for assessment and payment of compensation. Settlement of compensation is by means of a certificate system operated by the Commissioner for Labour who also determines the distribution of compensation to the dependants in case of death. Appeal against the decision of the Commissioner for Labour will be to the District Court. These represent a significant difference from the Workmen's Compensation Ordinance which provides for settlement of compensation by agreement between the employer and worker in non-fatal cases and determination by the District Court in fatal cases.

Clauses 22 to 24 provide for the establishment of the Pneumoconiosis Medical Board which may require certain persons to undergo medical examination, determine whether a person is suffering from pneumoconiosis and decide on other medical aspects in relation to the claim for compensation. Clause 23(3) requires employers to give workers leave with pay to attend for medical examinations as required by the Pneumoconiosis Medical Board.

Clauses 25 and 34 provide for the establishment of the Pneumoconiosis Compensation Fund Board to collect levy and to administer the Pneumoconiosis Compensation Fund which should be used to pay compensation and benefits provided in the Bill, damages under clause 13, medical examination fees under clause 23 and incidental expenses. Details of the Fund Board are embodied in the Third Schedule.

For any levy system to work successfully it must be simple to administer. With the concurrence of the construction and quarry industries, which together account for over 95% of pneumoconiosis cases, a levy is to be imposed on these two industries initially. This is effected by clause 35. A levy on other pneumoconiosis-prone trades and industries, which are very small, would be unlikely to cover administrative expenses, and in any case an effective levy system would be difficult to devise. Consideration will be given to imposing a levy in future on other trades and industries if circumstances change substantially and if it is thought feasible to do so.

By virtue of clause 26 the Pneumoconiosis Compensation Fund Board may make recommendation to the Government with respect to the rate of levy while clause 36 empowers this Council to prescribe by resolution the rate of

levy. It is estimated that initially a levy of 0.2% of the value of quarry products and construction works of certain size will have to be imposed in order to yield sufficient funds for the first year of operation. The financial effect of such a levy on the two industries however will be very small. A levy base for 'construction works' already exists in the Construction Industry Training Authority Ordinance and this will in itself reduce the administrative expense of introduction and collection in a levy scheme.

The basis and procedures for assessment and collection of levy on the two industries are spelt out in a set of regulations which have been drafted and will be presented to the Executive Council for approval in accordance with clause 47 after this Bill is enacted.

Sir, the revised Pneumoconiosis Compensation Scheme is the result of extensive consultations with and the support of the two industries on which the financial burden falls. During the consultation stage the Government agreed to give the two industries six months notice before the scheme comes into operation to allow them time to make necessary adjustments. The construction industry in particular requires six months lead time in preparing tenders for construction projects. This notice was given on 30 June 1980 and it is intended that the second stage of the revised scheme will come into operation on 1 January 1981. This date does not affect the ex gratia payment for the existing backlog cases, we shall endeavour to pay this compensation as soon as practicable after the necessary funds are approved.

With the enactment of this Bill Hong Kong will be able to apply in full International Labour Convention No. 42—the Workmen's Compensation (Occupational Diseases) Convention.

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 COMMISSIONER FOR LABOUR.

Question put and agreed to.

LEGAL PRACTITIONERS (AMENDMENT) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—'A bill to amend the Legal Practitioners Ordinance'.

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

Earlier this year the governing body of the Law Society changed its name from the 'Committee' of the Society to the 'Council' of the Society. This Bill amends the Legal Practitioners Ordinance in consequence of that change. The Bill also makes some minor amendments to the Ordinance.

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 LAW DRAFTSMAN.

Question put and agreed to.

SUPREME COURT (AMENDMENT) BILL 1980

THE LAW DRAFTSMAN moved the second reading of:—‘A bill to amend the Supreme Court Ordinance’.

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

The purpose of this Bill is to enlarge the membership of the Rules Committee, which make the rules governing procedure and practice in the Supreme Court, by including the Attorney General or his representative. This amendment is proposed because the Legal Department, in particular its Civil Division, is much concerned with civil proceedings and procedure.

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 LAW DRAFTSMAN.

Question put and agreed to.

WILD ANIMALS PROTECTION (AMENDMENT) BILL 1980

THE DIRECTOR OF AGRICULTURE AND FISHERIES moved the second reading of:—‘A bill to amend the Wild Animals Protection Ordinance’.

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

Hunting is an established sport in Hong Kong but is practised by only a small number of people and there are now very few places where hunting can take place lawfully and in safety. This is because it is already severely impeded by territorial restraints. The Wild Animals Protection Ordinance of 1976 prohibited hunting in extensive areas, and also makes it an offence ‘to shoot at any wild animal from any place situated within 100 yards of an inhabited house or a road normally used by motor vehicles’. The extension of urbanization and of the road network in the New Territories leaves very few areas still available for hunting, and the trend is bound to continue.

Further restraints were introduced in 1977 when the Government began to designate areas as country parks. In country parks, hunting is totally banned, except in special circumstances when I am able to issue a permit, because it cannot be reconciled with other far more popular recreational activities. In recent years, the general public has taken to countryside recreation with great enthusiasm. Places which were seldom visited are now sought by hikers and campers who visit even the most remote areas in great numbers. Over seven million visitors were recorded in areas managed by the Agriculture and Fisheries Department in 1979-80, compared with only half a million in the same areas in 1970-71. Against this background, it is considered that game hunting is incompatible with the presence of large numbers of people in the countryside and commonsense and the interests of public safety dictate that hunting of game should be banned entirely.

I should add, however, that under section 15 of this Ordinance and also under section 6 of the Country Parks and Special Areas Regulations, the Director of Agriculture and Fisheries will still be able to permit hunting. This permission will only be given in special circumstances such as, for instance, when it is necessary to control the population of wild pigs or other species of animal which may be causing a serious nuisance.

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 DIRECTOR OF AGRICULTURE AND FISHERIES.

Question put and agreed to.

ESTATE DUTY (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 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).

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

Resumption of debate on second reading (11 June 1980)

Question proposed.

MR. NEWBIGGING:—Sir, on behalf of Unofficial Members, I would like to state that while we welcome the introduction of this Bill, which is intended to stop tax avoidance through contrived business cessations, we were not happy with the original proposal to make it retroactive to 1 April 1979.

Basically we do not agree with the principle of retroactive legislation in inland revenue matters except under exceptional circumstances. In the present case the so-called loophole has existed for some time and Government has been aware of it, so we do not feel the circumstances are exceptional.

Whilst there may be precedents in other jurisdictions, we believe that the introduction of retroactive inland revenue legislation here would cause unnecessary uncertainty in the management of businesses generally and it risks undermining Government's own credibility. I suggest therefore that these considerations should outweigh the comparatively small amount of revenue lost to Government.

Since the introduction of the Bill, Unofficial Members have received strong representations from a number of organizations representing the interests of commerce and industry, and from professional bodies. Many of these would not be directly affected by the Bill, but they objected to the principle of retroactivity.

The proposed amendment goes some way towards meeting this objection by stating that the Ordinance shall not apply to any person assessed prior to 27 February 1980, when Government's intention to amend the Bill was first announced. However, there may be some who had filed returns but had not been assessed before 27 February 1980 who would be subject to the Ordinance and, for them, the Bill will have been effectively retroactive. It is this principle of retroactivity which the Unofficials object to.

However, if the proposed amendment is as great a concession as Government is prepared to make to the principle of retroactivity we would accept the position, albeit with some reluctance.

Sir, with these remarks, I support the motion.

THE CHIEF SECRETARY:—Sir, as Mr. NEWBIGGING has said, Unofficial Members accept that this Bill is concerned with countering a tax avoidance device through the use of contrived cessations of business. However, they do not consider it appropriate that the proposed amendments should be effective for the year of assessment in which it was first announced, that is to say with effect from 1 April 1979. This view has also been expressed by a number of accountants, lawyers and professional bodies.

Now, Sir, although retrospectivity in fiscal legislation is unusual, it is by no means unique. Let me take just four examples: in *Australia*, legislation enacted on 6 December 1976 to change the definition of royalty was retrospective to 1 July 1968 and applied to all such income derived on or after that date except where assessments had been made prior to 5 July 1976.

Perhaps more to the point is the anti-tax avoidance legislation introduced in October 1979 to prevent the carry forward after 30 June 1978 of losses incurred under the various tax avoidance schemes which had earlier been legislated against. That provision will have a retrospective effect in that it will deny a deduction of losses incurred under schemes which were valid at the time that they were implemented. In *New Zealand*, legislation was enacted on 4 July 1975 applicable to sales or dispositions of certain land made on or after 23 October 1974, thereby making it retrospective for some 8½ months. In *South Africa*, an example of retrospective legislation can be found in section 103 of the South African Income Tax Act, an anti-tax avoidance provision, which is sweeping in nature and applies to transactions, operations or schemes entered into or carried out to avoid tax whether entered into or carried out before or after the commencement of the Act. Here, in *Hong Kong* honourable Members will no doubt recall the many tax concessions introduced from time to time and which applies to the previous year's tax liability (*laughter*)—notably the recent increases to personal allowances which are to be effective from 1 April 1979—but, as these involved conveying a benefit to the taxpayer, I was not besieged with protests (*laughter*) that the proposals were retrospective!

In this particular case, I think that retrospectivity is both proper and correct, as we are dealing with an avoidance device, which, incidentally, has arisen not through an oversight, but through a genuine desire on the part of a benevolent tax administration (*laughter*) to provide adequate terminal relief to *bona fide* cessations following the change in the basis of assessment for profits tax in 1975-76.

But, having regard to the near unanimous view of Unofficial Members and a degree of unease in the mind of the Attorney General, and to the remote possibility that they are right and I am wrong (*laughter*), I shall move reluctantly an amendment acceptable to Unofficial Members at the committee stage as I would not wish to have any fiscal legislation enacted on a split vote. And Sir Alexander GRANTHAM said in this Council on 6 March 1958 when he reported on a decision of the Secretary of State to relax the financial control which the latter then exercised over Hong Kong, '(the) very important and considerable extension of our financial independence brings with it its responsibilities which I am confident that honourable Members will gladly share in'.

The amendment that I shall be proposing at the committee stage will make the provisions of this Bill, in so far as they relate to the year of assessment 1979-80, apply only to assessments to be raised after 27 February 1980. I am afraid I am unable to agree to a further adjustment to the effective date, as substantial sums of revenue are at stake from companies which had ceased business in 1979-80. Incidentally, most of these companies did not file their returns with the Commissioner of Inland Revenue until after 27 February 1980.

Before closing, Sir, I feel I must touch on one further point made by Mr. NEWBIGGING. I rate the preservation of fiscal credibility as highly as anyone, but I cannot agree that this Bill, even in its present form, will undermine that credibility. This Government has a record of consistency and stability in its fiscal policies (*laughter*). And it is on that record that we should be judged. Moreover, in annual budget speeches, I have been at pains to sketch out possible amendments to revenue legislation over the following year or so. These amendments have been those I have considered necessary to meet our fiscal needs, as well as those stemming, for example, from the Government's views on recommendations of the Third Inland Revenue Ordinance Review Committee. So this Bill can in no way be described as capricious and as likely to undermine the credibility of the Hong Kong Government.

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).

MONETARY STATISTICS BILL 1980

Resumption of debate on second reading (25 June 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).

ROAD TRAFFIC (AMENDMENT) BILL 1980

Resumption of debate on second reading (17 April 1980)

Question proposed.

THE ATTORNEY GENERAL:—Sir, when the Secretary for the Environment moved the second reading of this Bill on 17 April 1980, he explained that

its objective was to strengthen the law to deal with persons who avoid prosecution for serious traffic offences by refusing to disclose who was the driver at the time the offence was committed.

The problem is that the penalty for failing to disclose the name of a driver involved is frequently much less than is the penalty imposed for the offence itself. Furthermore, the court has no means at present of judging the gravity of the conduct which probably motivated the driver or owner to refuse to give his name.

The objects of the Bill have, I believe, generally been conceded to be desirable but there has been much discussion as to the best method of securing the objectives. The Bill has been criticized in its present form on the grounds that it would, in effect, require the courts to punish persons for offences which might not have been properly proved. This clearly involves a matter of legal principle and, with the agreement of the Secretary for the Environment, I have undertaken discussion with a working group of Unofficial Members, and have accepted responsibility for steering this Bill through its remaining stages.

Unofficial Members and I, in discussion, have tried to find a better method of achieving our joint objectives. As a result of these discussions I shall be moving amendments at the committee stage which will do two main things.

First, they will modify the proposals contained in the Bill as to the disqualification of persons who commit the offence created by section 29 of the Ordinance of withholding information; the amendments will enable, rather than in some cases automatically require, the courts to disqualify the offender. Magistrates will therefore have a discretion whether or not in a particular case to order disqualification.

Second, the amendments will remove from the Bill those proposals which would have empowered the courts themselves to order disclosure of the required information on pain of a continuing fine or imprisonment. Having considered all the arguments, I now feel, and the Chief Justice has indicated that he agrees, that it would not be desirable to allow a sort of confrontation to occur between a Magistrate who ordered disclosure and a defendant who perhaps in the face of the court refused to give it and said perhaps that he would under no circumstances give it. The original proposal in the Bill might on some occasions possibly have led to this sort of situation.

But if people are to be discouraged from refusing to give the name of the driver when they know it perfectly well because they consider the penalty for the driving offence is likely to be much higher than for the failure to disclose the name, then it is essential in my view that the Bill should retain the provision (contained in the proposed new subsection 5(A)(b)) requiring the courts to have regard to the underlying facts of the traffic offence when passing sentence for the offence under section 29.

As amended, the Bill I think will make a modest contribution to strengthening the law of a more modest contribution than was originally envisaged, but that contribution will still, I think, be a useful one. I am very grateful to my Unofficial colleagues, both for the discussions we have had and the coffee that kept us awake during them (*laughter*), and for their help in formulating the principles which have given rise to the amendments which I propose to move in committee.

Sir, I move that the Bill be read a second time.

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).

DANGEROUS DRUGS (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 1980)

Question proposed.

MR. PETER C. WONG:—Sir, the Secretary for Security has stated clearly why it is necessary to make it an offence to deal with fake narcotics.

Contrary to popular belief, the principal Ordinance was not designed specifically to deal with trafficking in narcotics. The Dangerous Drugs Ordinance, as its name implies, regulates the sale, use and manufacture of dangerous drugs. These are specified in Part I of the First Schedule.

Basically, the Bill introduces two amendments—

1. That a person who offers to traffic in a substance which he believes to be a dangerous drug commits an offence, even though it is not in fact a dangerous drug.
2. That a person who traffics or offers to traffic in a substance represented by him to be a dangerous drug which is in fact not a dangerous drug also commits an offence, but with lighter penalties similar to those provided for the offence of deception.

Since these amendments were introduced to deal with offences connected with fake narcotics, the ad hoc group of the Unofficial Members had to consider the effectiveness of the amendments in this regard as well as the implications they might have on legitimate transactions of other dangerous drugs controlled under the principal Ordinance.

On 27 June 1980, the group had a useful meeting with the Commissioner for Narcotics, the Chief Staff Officer for Narcotics and a Crown Counsel from the Legal Department. After an hour-long discussion, it was agreed that clause 3 should be amended to make it clear that the new section 4A deals specifically with fake drugs. In this connection, the question of possible abuse by law enforcement agencies was very much in the mind of Unofficial Members. Government has now agreed that, as a safeguard, a new subsection be added to the new section 4A to the effect that no prosecution in respect of fake drugs should be instituted without the consent of the Attorney General.

Other than the above-mentioned agreed amendments, the group is satisfied that the Bill is both necessary and desirable and will have no adverse effect on legitimate transactions of other dangerous drugs controlled under the principal Ordinance. The group's view is supported by the Unofficial Members of this Council.

Sir, with these observations, I support the motion.

SECRETARY FOR SECURITY:—Sir, I am grateful to Mr. Peter WONG and his ad hoc group for the consideration which they have given to this Bill. He has given notice that he will be moving two amendments at the committee stage, when I shall be very glad to support them.

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).

ROYAL HONG KONG AUXILIARY POLICE FORCE (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 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).

ELECTRICITY NETWORKS (STATUTORY EASEMENTS) BILL 1980**Resumption of debate on second reading (11 June 1980)**

(Mr. T. S. LO vacated the Council Chamber during the resumption of debate on the Electricity Networks (Statutory Easements) Bill 1980.)

Question proposed.

MR. YEUNG:—Sir, I do not think that I have any interest to declare under Standing Order 65(1) of this Council as I have no direct personal pecuniary interest. I would like to state however that I am, like all Members here, a consumer of electricity and am also, like most of Unofficial colleagues, a landed property owner.

But unlike most, if not all Members of this Council, I am a villager and was born and bred in the New Territories. Since the two new power stations under construction are in the New Territories, as this Council was informed by the Secretary for the Environment in his speech when he introduced this Bill, the New Territories inhabitants, especially the indigenous people in whose hands nearly all the private lands there are held, have the distinct disadvantage of being affected most by the very high voltage electricity networks of these two new stations. I am therefore attempting to interpret and relate their feeling and sentiment to my honourable Friends here.

The Government has been conscious of the need to maintain a sensible balance between public interest and minority rights according to the time honoured principle of a good government and within the spirit of the British individual constitutional right. I am therefore most surprised to note that the Secretary for the Environment in his speech said that the route of the transmission lines of the two power stations, their impact on the environment and the cost are '*matters of concern to the Government as well as to the power companies*'. Certainly the concerns of the indigenous villagers, the general inhabitants and the property owners in the New Territories are no less than those of the Government and the power companies as these people will bear the brunt of the blow of environmental despoliation and economic depreciation when they find huge pylons of 150 feet high with a base of a few thousand square feet rising immediately in front of their villages and houses, standing in the middle of their land and a cluster of rope-like wires charged with 400KV electricity slung over their heads.

I support the intention of the Bill in so far as it enables the power companies, for the benefit of the public, to acquire statutory easements and right of access for the construction and maintenance of the high voltage networks which, once constructed, are very inflexible for local minor readjustment.

However, I utterly refute the proposal that people affected by the networks should not be given an opportunity to express their views and

objections to the routing and the manner of running the lines. The reasons given by the Secretary for the Environment were and I quote, 'The choice of a route for the transmission lines and the location of pylons to carry the 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*.' For that reason, this Council is asked to vest absolute statutory power of determination of the alignment of the routes and how to run the lines in the hands of the power companies and the Government. I would, however, respectfully submit, Sir, that such reasons are untenable and do not justify the departure from the basic legal principle of natural justice and the deprivation of a citizen's constitutional right, especially when the Secretary for the Environment has admitted, albeit by reference only, that there are alternative routes to choose from and therefore the route preferred by the power companies and the Government may not be the best or the most reasonable route. As it is a matter of fundamental principle and as it may create dangerous precedent, I regret that I cannot support the Bill as it stands.

I understand that the Secretary for the Environment is going to give an assurance to this Council that the District Advisory Boards and the Rural Committees will be consulted before a proposed scheme is approved by him. If such an assurance can be given, I cannot see why statutory provision to hear the views and objections of the affected people cannot be made as in the case of the Town Planning and other ordinances where private rights are affected.

It may be argued that in the interest of the public electricity from these two stations has to be made available to the people speedily and an objection procedure may cause delay. Such an argument is again untenable as the time factor for objection should be included in the programme plan. Moreover, this Bill is not limited to these two electricity networks under construction alone but also applies to any future networks for which time is not an essence. I note that the Secretary for the Environment, after discussion with the Legislative Council Ad Hoc Group, has agreed to move an amendment at the committee stage to exclude existing electricity networks from the scope of the Bill.

Another fundamental concept of democracy is that no government institution or the majority of a community should be allowed to abrogate the social contract by expropriation of the property and deprivation of the proprietary rights of the minority and the individual without fair and reasonable compensation. The construction of a pylon on private land, which effectively renders the land useless is tantamount to the expropriation of the land and the oversailing or underground running of a high voltage conductor line over or under private land is a deprivation of the full proprietary right. The question is whether the formula for compensation provided in the Bill is

fair and reasonable. I submit, Sir, with respect, that it is not as far as the land and property in the New Territories are concerned. Full deliberation would take a long time if I were to take this Council through the long and involved history of political, social and economic evolution of the New Territories coupled with the effect of the Government's land and development policy in the New Territories as distinguished from those in the urban area. Instead I would propose to put the matter in a nutshell by a rhetoric. How can the compensation be considered fair and reasonable when the rate and amount of compensation payable by the power companies under the Bill is a few times less than what is required to be paid by the Government in such cases?

I also note the amendment to be moved by the Secretary for the Environment in committee to make power companies liable for consequential damages caused by or arising out of the exercise of the statutory rights.

Yet another peculiar feature introduced in the Bill which has no equivalence in the similar statutes in the United Kingdom or similar ordinances in Hong Kong is the imposition of a heavy criminal penalty in the form of a fine and imprisonment against a person obstructing or interfering with the rights of the power companies. I would therefore welcome a statement from the Government on why it found it necessary to introduce a fine and imprisonment as a penalty for obstruction when no such provision exists in other similar ordinances.

MR. ALLEN LEE:—Your Excellency, I rise to speak in support of the Electricity Networks (Statutory Easements) Bill 1980.

The Legislative Council Ad Hoc Group discussed this Bill at length and even though we could not reach a unanimous agreement, the majority of my Unofficial colleagues expressed support for the Bill and for the amendments which will be moved by the Secretary for the Environment during the committee stage.

Whilst we recognize that the provision of electricity is undoubtedly in the public interest, there are two aspects of the Bill which concern us. Firstly, we consider it essential that, during the planning stage of a network's alignment, all parties concerned are fully consulted. We are therefore seeking an assurance from the Secretary for the Environment that prior consultation with the District Advisory Boards and Rural Committees will be carried out at the earliest possible opportunity. It is important that this assurance be given in order to minimize possible disputes and ensure that the route chosen is the optimum one. Secondly, with regard to the amount of compensation to be paid to landowners by the power companies, the Environment Branch in consultation with the power companies must strike a balance between providing on the one hand a fair deal for private landowners affected by the network, whilst on the other safeguarding the interests of consumers.

MR. F. K. HU:—Sir, due to the hard working nature of Hong Kong people, Hong Kong has enjoyed continuous prosperity over the last two decades. Even when there was a world wide economic recession, Hong Kong's industry still managed to expand steadily. Since then, new towns and new industrial centres have been built or are in the course of development. This additional industrial production naturally requires additional supply of electricity. Prosperity also raises the standard of living of Hong Kong people who require more electrical appliances for better living conditions, which they could not afford in the past. Therefore, domestic electricity consumption will also increase year by year. As a result, electricity supply in Hong Kong has been increasing at the rate of 12% per annum and is estimated to maintain this rate during this decade. With the setting up of new towns and industrial centres, electricity networks will have to be provided to bring electricity to these areas in accordance with the progress of development.

It is imperative that the power companies make adequate forward plans in order to ensure that the supply of electricity can match the estimated additional demand. If the supply of electricity fails to catch up with the demand, our industrial expansion and requirements for a better standard of living will be affected. Such a situation is definitely against the public interest.

The choice of the route for any major transmission network is a very technical and time-consuming exercise. Years of planning and intensive negotiations among interested parties, Government departments and power companies are required before a decision is reached on a final selected route which will be a compromise between the conflicting interests involved.

I can fully appreciate the reason for not allowing public hearing after the approval of the final selected route as it would cause unavoidable delay. Even if we were to allow a public hearing, it might not, in actual fact, change the approved route, but only cause delay which is against the public interest.

There can be no question that Government departments and the power companies alone should decide the final route, without consultation with interested parties, under the pretext of public interest. The view of people affected must be considered seriously and sympathetically before the final route is decided upon. The right of private property owners should not be overlooked.

Whenever possible, adjustments in the route should be made in order to cause minimum interference to the people affected by the route. I would therefore suggest that consultation with the relevant District Advisory Boards and the Rural Committees should be carried out at the earliest possible opportunity in the planning process and every effort should be made to avoid private property from being affected.

With these remarks, Sir, I support the motion.

SECRETARY FOR THE ENVIRONMENT:—Sir, I thank my honourable Friends, Mr. Charles YEUNG, Mr. Allen LEE and Mr. F. K. HU for the views they have expressed on this Bill. I am happy to note that there is complete agreement on the need to legislate for statutory easements for the construction and maintenance of electricity networks in the overall public interest.

The question of giving people affected an opportunity to express their views with regard to the routing of the transmission lines is not, in itself, a problem as I am very ready to give an assurance that the relevant District Advisory Boards and Rural Committees will be consulted at the earliest possible opportunity in the planning of any future networks and that their views will be taken into account before routes are finalized. However, the question of whether to provide for a statutory framework or to rely on an administrative system for this purpose is more complicated than Mr. YEUNG would have us believe. The conclusion reached by the Government and which is endorsed, I think, by a number of my Unofficial colleagues who have studied the matter is that consultation during the planning process and before various options for routes are narrowed down provides for greater flexibility, and leaves more room for manoeuvre, than a system which allows for objections to be made after the routing has been examined in detail and had become more rigid.

Mr. Charles YEUNG has also questioned the fairness and reasonableness of the formula for compensation provided under the Bill since it would provide for much less compensation than the Government would pay. This, however, appears to make the comparison with Government resumption of land which is a completely different matter to the creation of statutory easements which do not extinguish title to land.

Nevertheless, Sir, in the course of discussion with the *ad hoc* group of Unofficial Members considering this Bill it was suggested that some form of non-statutory, *ex gratia*, payment should be considered in order to give *prima facie* recognition to the disturbance and possible inconvenience that may be suffered by affected landowners. I am pleased to say that this has now been looked at by the Government and the power company concerned and that a scheme, which will enable every landowner affected by the oversailing of transmission lines to receive a sum of *ex gratia* payment, has been agreed in principle. The details are still being worked out but, in the case of the 400 KV transmission line in the New Territories, it is expected that the total amount of *ex gratia* payment could come to somewhere between \$20 million and \$25 million.

There are a few points of detail on certain aspects of the Bill for which amendments have been agreed as a result of my discussions with the *ad hoc* group of Unofficial Members. As a result, I will be moving the following amendments at the committee stage:

first, in respect of the definition of ‘electricity network’ in clause 2, to make it quite clear that the Bill does not cover existing transmission lines. This is to avoid any possibility of a power company seeking the creation of a statutory easement to override agreements which it might have reached with individual landowners regarding the conditions for the use of land for supporting structures and / or the oversailing of land; *secondly*, in respect of clause 4(1), to put it beyond any doubt that the power companies will not be able to use the procedures for statutory easement instead of resumption as a means of acquiring land for the purpose of construction of pylons; and *thirdly*, in respect of clause 11, to enlarge the scope of claim to include any losses arising from the prevention of use of land for profitable gains as a result of the sterilization of any land during the period when temporary works are being carried out by a power company.

Finally, Sir, Mr. Charles YEUNG has also raised the question of the penalty provided for in clause 12 of the Bill. This is intended to deal with a situation where a landowner decides to obstruct a power company carrying out works by creating some obstruction on his own land. If such a situation ever did arise, there could conceivably be serious consequences for the continued maintenance of electricity supply. It is therefore considered that provision must be made for this eventuality, given that the obstruction in question would be on the landowner’s own land.

Clause 12 is therefore felt to be a necessary provision as it reflects the ‘public’ nature of the easements in question and is a protection of the wider public interest. Hopefully there will be no occasion to use this provision but without it the public interest could not be fully assured.

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).

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) (NO. 2) BILL 1980

Resumption of debate on second reading (25 June 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).

(4.10 p.m.)

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

(4.30 p.m.)

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

WATER POLLUTION CONTROL BILL 1980

Resumption of debate on second reading (25 June 1980)

Question proposed.

MISS DUNN:—Sir, Unofficial Members formed an ad hoc group to study the Water Pollution Control Bill. We understand and agree with the objects of the Bill, which are to contain the present situation in relation to water pollution in the short term, to prevent further deterioration in the medium term, and to seek improvements in the longer term. However, during our deliberation, we were—and still are—concerned that, inasmuch as the Bill is a piece of enabling legislation only, it is difficult to assess the implications, especially the economic implications, of its provisions. It will not be possible to do so, in fact, until the regulations are available.

This explains why such consultations that have been held with industry have been in very general terms only for, until industry knows precisely how the law is to be applied and enforced, it is quite impossible to identify the extent to which particular trades will be affected.

The final view taken by Unofficial Members, therefore, will depend on the content of the regulations to be made at a later stage, the extent of consultations with industry in drawing up these regulations and the notice period before the regulations become effective.

But, meanwhile, this Bill, which contains the principal Ordinance is before this Council. To enable Unofficial Members to lend it their support, despite the uncertainty surrounding its practical effects, I sought three assurances from the Secretary for the Environment: *first*, I asked that, in drawing up the regulations, consultations would not be limited to E.P.C.O.M. and that the major industrial associations would also be consulted. There are representatives from these associations on E.P.C.O.M., but E.P.C.O.M.'s terms of reference, nevertheless, require it to advise on 'appropriate measures

which might be taken to combat pollution of all kinds'. The views of industrial associations as such on the economic effects of measures deemed to be appropriate to combat pollution are essential in order to strike a sensible balance between conservation and the economy. *Secondly*, I asked that there should be a period of three to six months after the publication of the regulations before they become effective, in order to enable industrialists and the associations to study them and make such representations as they thought necessary for their views may not be adequately taken account of despite the earlier consultative process. *Thirdly*, I asked that the period of two weeks allowed for Unofficial Members to consider rules, regulations and by-laws should be extended in this case, in order to give Members sufficient time to study what will undoubtedly be a highly technical subject.

The Secretary for the Environment has undertaken that major industrial associations will be consulted in addition to E.P.C.O.M. and has informed us that the Economic Services Branch will assess the economic implications of the regulations.

The Secretary for the Environment also agreed that the regulations will not be brought into effect for at least three months after their publication. I should add here that, although the regulations are to be applied to new or potential factory owners, existing factories might be affected if they failed to obtain exemptions in the period between the first and second appointed days. It is, therefore, essential that ample publicity is given between these two days to prevent any factory, especially small factories, being penalized by default.

However, the Secretary for the Environment did not feel able to extend the two-week period allowed Unofficial Members of the Council to consider the regulations. While I understand that to allow a longer period would involve an amendment to Standing Orders, I do feel that the Government should be prepared to move their suspension in this instance. It is dangerous to make decisions on difficult and complex issues in haste; and, in this case, unnecessary too for pollution of our rivers and streams and of the waters in our harbours is a problem of long standing. To limit the time available for consideration of the regulations to two weeks, rather than allow, say, four / six weeks will not have any practical effect even in respect of the short-term object of containing pollution. Yet in an atmosphere of haste, we run the danger of making mistakes which could damage the chances of success in the medium and longer term; *and* the viability of some industries could be prejudiced, such as the dyeing and finishing industry. (Here I would interpolate that representatives of that most important industry, conscious of the pollution caused by their processes, have sought assistance from the Government for a designated area for resiting their factories, but have met with a negative response and I would ask that their request be re-examined.)

I make this general plea for less haste and more care in the interests of better, sounder government and against the background of the number of bills which come before this Council these days. Despite the obvious care which has been taken to avoid imposing hardships on existing factories, some factories are bound to be affected. While all of us, industrialists and non-industrialists alike, accept that increasing consideration should be given to preserving the environment, the economy must always come first. Furthermore, we must avoid drifting into a situation whereby new commitments strain our resources at the expense of existing commitments; and into a situation in which the enactment of one piece of legislation after another— each perhaps justified in its own right—leads to an ever larger and more costly bureaucracy whose existence depends on more and more restrictive controls being imposed. We are a long way, as yet, from being in that situation in Hong Kong for we have not allowed the public sector to grow irrespective of sensible budgetary considerations, but we must not be complacent and assume that we shall not allow the private sector and private initiative to be cramped and starved of opportunity.

Finally, Sir, it should be noted that the sort of control measures envisaged in this Bill are bound to create opportunities for corruption. I, therefore, urge the Environment Branch to liaise closely with the I.C.A.C. in drawing up implementation and enforcement procedures.

Sir, I support the motion.

MR. WONG PO-YAN:—Sir, it is acknowledged that industrial activities inevitably affect the quality of the environment. In the last two decades, our industrial development has been remarkable. Fortunately, our level of pollution has not increased correspondingly and is still within acceptable limits by international standards, although there were isolated incidents which had drawn harsh public criticisms. However, as we hold out higher expectations for a better quality of life, we naturally need some form of environmental control to produce a cleaner environment. The Secretary for the Environment told us that the present Bill was a product of extensive consultations over the last few years between Government, Urban Council and industry through such bodies as T.I.A.B., Federation of Hong Kong Industries, Hong Kong General Chamber of Commerce, and Chinese Manufacturers' Association. For all intents and purposes, the Bill fulfils the need to protect our water environment. I think it deserves to be supported.

While environmental protection is a perfectly laudable objective, may I appeal, Sir, that we ought to be mindful of any adverse economic consequence the legislation may bring about. I feel that our attitude towards this Bill should be a well-balanced one. On the one hand, we wish to ascertain that Hong Kong waters are prevented from further contamination. On the other, we have to make sure that there will not be any unnecessary adverse impact on the economy. In this regard, I find myself in complete agreement with

the Advisory Committee on Diversification who in their report clearly and emphatically gives the following warning, and I quote:

‘Where the legislation is aimed at improving the quality of the environment, we consider that careful account must be taken of its possible economic effects when setting both the standards that are to be met and the pace at which they are introduced ...’

I notice that there are some very stringent provisions in the Bill governing deposits and discharges. For example, an exemption or licence will cease to be operative if there is a change in the place or period or composition of a certain deposit or discharge, or if 30% of its quantity or rate or temperature is different from what is originally permitted. In these circumstances, approval for changes will be required. But a decision on an application will not be known until at least 30 days after the day of public notice of such application. It is well known that our industry survives on its ability to respond promptly to changing market conditions and demands. The conditions stated above can easily cause delays and upset the production schedules of industries which discharge considerable quantities of effluents. Additional expenditures have to be incurred in the procurement and maintenance of equipment and facilities used for the monitoring and control of discharges. Moreover, even if an exemption or licence is in force, an Authority can still order cancellation or variation of that exemption or licence, thereby causing undue disruption to a production process. I wish to point out that if the law is not sensibly enforced, industrial production would be adversely affected and our manufacturers’ overseas image would be severely damaged, not to mention the tremendous materials losses. The effect of such damages could be far-reaching. I would like to mention, in particular, two important industries which are most liable to be affected by the new legislation. They are the textile dyeing, printing and finishing industry, and the electroplating industry.

The importance of textile and garment industries to our exports needs no further elaboration. Apart from exports, our textiles products also serve as raw materials for local garment manufacturers. It is worthwhile noting that the garment industry is still importing a range of fabrics. The fact that our textile industry is not able to fully supply the needs of the garment manufacturers is not without reason. Some fabrics simply cannot be produced locally because the technology is not here. However, as diversification within the textile industry proceeds by moving up-market, new technologies will be introduced. New products will be made, and these will assist positively in the further development of our garment industry. In this respect, stringent water pollution control measures might impede the development process.

Similarly, the electroplating industry which by nature requires extensive use of chemicals and discharges significant quantities of effluents could suffer drastically from any over-strict implementation of the Bill. Electroplating renders an indispensable supporting service to the metal industry. Its significance has been highlighted in the report of the Advisory Committee on

Diversification. Over the last two years, output in fabricated metal products experienced one of the fastest growth rates among Hong Kong's numerous manufacturing industries, only ranking after the electronics and plastics industries. Electroplating is therefore one of our most promising and growing supporting industries. It provides an important link in the manufacturing process. Any stringent regulations in this regard would be in danger of killing the bud before it flowers.

Sir, let me further illustrate my point with a 'kitchen analogy'. For reasons of economy and convenience, a house cannot do without a kitchen. When there is cooking, pollutants will be discharged in the form of smoke and smell. The house will be polluted, but we have to live with it. Likewise, Hong Kong cannot exist without industry which will inevitably pollute the environment to some extent. We have to be realistic and accept it provided it does not go beyond the limit of health hazard.

It is all too easy to jump for joy to the prospect of a beautiful living environment. Some industrialized countries in the past had imposed stringent regulations on the use of coal under the pressure of environmentalists. Today, when oil runs short, they are turning back and considering relaxing control in order to encourage the use and production of coal. There is something to be learned in these countries' experience.

I am gratified by the Secretary for the Environment for his insight in his speech, and I quote:

'... the imposition of blanket controls, which could seriously inconvenience existing industries, will be avoided. ... It is the firm intention of the Government that this Bill should be implemented in such a manner as to minimize inconvenience and cost to industry and the economy generally ...'

When drawing up regulations, I hope the Government will adhere to this policy guidance, exercise the powers with care and flexibility, adopt a realistic approach and take care of the needs of particular industries.

Sir, with these remarks, I support the motion.

SECRETARY FOR THE ENVIRONMENT:—Sir, I am grateful for the support which Miss DUNN and Mr. P. Y. WONG have given to this Bill. I note that both of them remain concerned about the possible effect on industry and the economy generally of regulations that could be made in the future under the powers conferred in the Bill. In response, I can only draw attention to the assurances I gave when moving the second reading and which have, in part, been quoted by Mr. WONG and to confirm that I stand by those assurances.

There remains the question of consultations on, and the provision for representations to be made about the effect of, particular regulations which may be made in the future. Here I would again emphasize that there will be close consultation with industrial associations and other interested parties in the course of preparing the draft regulations and that any points they make

which are unresolved will be drawn to the attention of the Governor in Council. I have also indicated that the likely economic effects of all draft regulations will be assessed by the Economic Services Branch.

Next I have given an assurance that regulations will not be brought into effect until at least three months after they have been published in the *Gazette* so as to allow more time for those concerned to assess their effects. And I would also point out that Part VI of the Bill, that is clauses 29 to 34, provides for a very extensive appeals procedure.

With all these provisions for consultations, representations and appeals I can hardly see how I merit Miss DUNN's accusation of wanting to rush things (*laughter*). But she does make the point, and I quote her, 'the Secretary for the Environment did not feel able to extend the two-week period allowed Unofficial Members to consider the regulations.'

Sir, the reason why I did not feel able to meet Miss DUNN on this particular point was that I do not have the power to do so. The two-week period in question is laid down in section 34 of the Interpretation and General Clauses Ordinance (Chapter 1) and it therefore cannot be changed by me in a particular instance or instances. Should, however, Unofficial Members generally feel that this provision should be re-examined, no doubt it would be looked at. But it would involve broader issues than this particular Bill.

Finally, Sir, I can assure Miss DUNN that I am already in consultation with the I.C.A.C. on procedures that might be introduced to minimize corruption opportunities in the administration of the measures provided for in this Bill and in other items of environmental protection legislation.

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).

SUPPLEMENTARY MEDICAL PROFESSIONS BILL 1980

Resumption of debate on second reading (30 April 1980)

Question proposed.

DR. FANG:—Sir, this Bill which is intended to cover a multiplicity of paramedical professions has encountered considerable difficulties in the drafting stage and has taken the Government some six to eight years to have it introduced into this Council (*laughter*). I welcome wholeheartedly the Bill's aim in establishing a system of control and regulation over various professions

supplementary to medicine to protect the public. The setting of training standards, qualifications and provision of registration procedures for persons who are concerned with the care of patients in the operation of health services will be widely welcomed by the public as well as the professions concerned. Proper control is crucial in improving and expanding Hong Kong's medical services. I hope Government will not take long in producing the regulations for the respective professions in order that the aims of the Bill can be implemented as soon as possible.

Since this enabling Bill covers a wide field of para-medical professions each with its own special problems, Unofficial Members of this Council considered that its provisions need to be examined carefully to ensure that it will be acceptable to all concerned. An ad hoc group of Unofficial Members of this Council which was formed to examine the Bill met with Government representatives three times.

In the course of the group's deliberations, a number of amendments to the Bill were introduced and my colleague, Mr. Peter C. WONG, will be speaking on them later today. In the original draft, provisions were made to some extent to accommodate people in the professions who have been practising for some time and I am glad that Government has accepted Unofficial Members' suggestion to go one step further to provide for special registration of the 'grandfathers' of the para-medical professions. These are the senior members of the professions who have practised for a long time and have a great deal of professional experience but, because of their age and educational background, will find it difficult to acquire further academic qualification to meet the new professional standards.

I wish to compliment Government on its intention to implement this Bill in stages. This will minimize any disruption to existing services, provide time for professions to adjust and will undoubtedly be reassuring to those already practising in the relevant professions.

Unofficial Members are concerned that the provisions of this Bill should not supersede those of the existing ordinances, such as the Radiation Ordinance, and that this Bill should be complementary to existing provisions of control as stipulated in other relevant ordinances.

Unofficial Members have stressed the importance of the Legislative Council having ample time to study the regulations to be made for each of the paramedical professions by the Governor in Council under section 29(1). The present provision of two weeks, that is one sitting of this Council, allowed under the Interpretation and General Clauses Ordinance for the scrutiny of the regulations tabled at the Legislative Council is considered inadequate for this purpose. Public consultation, particularly with the numerous professional bodies involved in these professions is essential. Government should therefore ensure that the views of the interested and concerned parties are

sought before the respective regulations are enacted. My colleague, Dr. HO Kam-fai, will elaborate later on this point.

Finally, it is noted that this Bill only includes four of the para-medical professions, namely the medical laboratory technicians, radiographers, physiotherapists and occupational therapists. There are others in the profession whose control is equally necessary for public protection. I therefore urge Government to consider expanding the scope of this omnibus Bill to cover these other professions as soon as possible.

Sir, with these observations, I support the motion.

MR. PETER C. WONG:—Sir, Dr. FANG has asked me to speak on the proposed amendments to the Bill. I shall be as brief as possible.

Altogether there are ten amendments—

1. Clause 5 will be amended to make it clear that the chairman of a board must be a member of the Council.
2. Clause 12 will be amended to give effect to the proposal referred to by Dr. FANG that the ‘grandfathers’ of the para-medical professions will be able to apply for a certificate of registration rather than a provisional certificate. This is definitely desirable, otherwise these senior members will for the rest of their career be holding only a provisional certificate.
3. Clause 15(2) will be amended by the deletion of the words ‘over a considerable period of time’. Apart from being vague, these words serve no useful purpose.
4. Clause 19(2) will be amended by requiring that authorizations to enter and inspect premises used for the practice of a profession must be signed by the chairman of the board. Such requirement is in line with provisions contained in related ordinances.
5. Clause 20(1) will be amended by making it clear that where a company carries on the business of practising a profession, only the persons practising the profession who are employed by the company need hold a certificate. In other words, their assistants need not be registered under the Bill, so long as they work under them. A strict construction of the original provision if carried to the extreme may require an amah, for instance, to hold a certificate.
6. Clause 26 will be amended by the deletion of subclause (1) and substituting it with a new subclause so that a board may prepare Codes of Practice covering a wider ground, in particular, the activities of registered persons in the supervision and control of unqualified persons assisting them. In proposing this amendment, the ad hoc group, consisting of no less than ten Unofficial Members of this Council and chaired by Dr. FANG, had in mind the need for the training of persons wishing to acquire professional experience with a view towards qualifying for registration.
7. Clause 27(1) will be amended to make penalties of offences uniform.

8. Clause 29(1) will be amended to enable the Governor in Council to make regulations in respect of the licensing of premises and the supervision and control of trainees. The latter amendment complements the amendment to clause 20(1) referred to above.
9. A new clause 32 will be added. This is to meet the point referred to by Dr. FANG that the Bill should be in addition to and not in derogation from any other ordinance that regulates the manner in which a person may practise a profession.
10. The Schedule will be amended—
 - (a) so that the designation ‘Medical Laboratory Scientific Officer’ will head the list of designations in respect of persons practising this profession,
 - (b) so that the interpretation of radiographer will include radionuclear equipment including isotopes, and
 - (c) so that the interpretation in respect of physiotherapist will be more accurately phrased.

Sir, this concludes my summary on the proposed amendments. Two further points, however, should be mentioned—

- (1) There is an error in the Chinese translation of the word ‘laboratory’ in the Explanatory Memorandum. This will be rectified by the issued of a corrigendum.
- (2) So far only one set of regulations in respect of Medical Laboratory Scientific Officers, Technologists and Technicians have been drafted. We await eagerly the publication of regulations relating to the other three para-medical professions already brought within the ambit of the Bill. It is fair to assume that this eagerness is shared by persons practising these professions, who must be anxious to know the manner in which their respective professions will be regulated.

The Bill, on the whole, is well-conceived and credit must be given to all concerned. The Secretary for Social Services, the Director of Medical and Health Services and the Law Draftsman have all been most helpful in our deliberations. To them, Sir, I wish to express our appreciation.

Sir, I support the motion.

DR. HO:—Sir, any measure to safeguard the public interest by controlling the practice of para-medical professions and promoting their standards must be welcome.

For certain ordinances, there is a set of accompanying regulations for more specific control and supervision. Similarly, a series of regulations will be made under the Supplementary Medical Professions Bill 1980 after its enactment to provide for the registration, procedures to be followed in disciplinary inquiries and the specific control for each of the para-medical professions included in the Schedule.

The existing law provides that all rules, regulations and by-laws shall be laid on the table of this Council at the next sitting after their publication in the *Gazette*. The regulations when laid, will be passed at the subsequent sitting. It is felt that the process by which regulations are made as stipulated in section 34 of the Interpretation and General Clauses Ordinance (Chapter 1) does not give this Council sufficient time to consider the issue at stake. I therefore propose that this practice be reviewed and that Government should look into the possibility of extending the one-sitting requirement for passage of the regulations to two sittings so that regulations such as those to be made under the present Bill could be studied thoroughly and allow for a longer period of public consultation.

Sir, with these remarks, I support the motion.

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, first of all, I should like to place on record my deep appreciation for the support given to the Bill and for the very meticulous and comprehensive way in which Members of the ad hoc group of Unofficial Members of this Council under the chairmanship of Dr. FANG have examined this Bill. As a result much useful and practical amendments to the Bill have been suggested and agreed to by the Government. There is hardly any need for me to elaborate on the rationale behind the proposed amendments as these have been most ably and lucidly summarized by Mr. Peter C. WONG. I shall be moving the appropriate amendments in the committee stage.

It remains for me to comment briefly on the specific points raised by my honourable Friends Dr. FANG, Mr. Peter WONG and Dr. HO just now.

Firstly, it has always been the intention of Government to cater for, inter alia, the interests of those in the para-medical professions who have been practising for a considerable period of time and have gained their professional expertise in a practical way. Such talents should not be lost to the community. Thus, it is agreed that provision in the legislation for the registration of such persons should be made, be they grandfathers or uncles.

Secondly, I should like to state that the provisions of this Bill are not intended to supersede those of existing and related ordinances. Whenever necessary, appropriate amendments will be made so that provisions in the legislations are complementary to one another.

Thirdly, the point made by Dr. FANG and Dr. HO in regard to section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) is noted. If this is the general view of the Unofficial Members of this Council, I am sure the Government would be prepared to give it due consideration.

Fourthly, as I have stated in my speech when this Bill was first introduced into this Council on 30 April 1980, only four para-medical professions are covered by the Bill at present. It is certainly possible to expand the scope of

the Bill to cover other similar professions should this be necessary at the appropriate time.

Finally, I should like to reassure Mr. Peter WONG that the regulations in regard to the other three para-medical professions will be drafted as soon as it is practicable, bearing in mind the complexity of the subjects and that consultations with the relevant professional bodies and other interested parties have to be carried out before the regulations may be finalized.

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).

APPRENTICESHIP (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 1980)

Question proposed.

MR. TIEN:—Sir, I rise in support of the Apprenticeship (Amendment) Bill 1980 introduced by my honourable Friend, the Commissioner for Labour. The principles underlying the Bill were extensively discussed by the Hong Kong Training Council and its Committee on Apprenticeship, in particular, the two provisions on related technical education. The Training Council is in full support of giving preference to registered apprentices over other applicants when allocating part-time day release places. This is in recognition of the need for a properly trained technical person to be conversant with both the theory and the practice of his trade. The opportunity to receive technical education is the privilege of a registered apprentice. But he also has obligations to discharge. The Training Council therefore supports the second provision on education and feels that should such an apprentice misbehave or repudiate his contract, he should be immediately suspended from the technical course, whether or not he is in a designated trade. This is necessary and, I understand, has been found useful in dealing with delinquent apprentices in designated trades.

As the Chairman of the Hong Kong Training Council, I am pleased to note that the Apprenticeship Ordinance has been effective in promoting proper apprentice training not only in designated trades but also in other trades. The latter significantly points to the fact that employers are beginning to find the legal framework brought about by this legislation useful and acceptable in the training of their technicians and other skilled workers.

Sir, an old nursery rhyme comes to my mind (*laughter*):—
‘This way leads to London,
This way leads to York,
Little lambs to mutton grow,
and little pigs to pork.’

Apprentice may be looked, like ‘little lambs’, in age and knowledge and under the apprenticeship scheme they will grow and become properly trained technical persons (but not ‘mutton’ of course (*laughter*))!

As the number of apprentices under training still falls short of the requirement revealed by the Training Council manpower reports, particularly in the non-designated sectors, I would appeal to my fellow industrialists to step up their training efforts and expand their apprenticeship schemes by offering more opportunities for these young persons who wish to make their career in industry, and to register their apprenticeship contracts under the Apprenticeship Ordinance.

Sir, I support the motion before Council.

COMMISSIONER FOR LABOUR:—Sir, I should like to thank my honourable Friend Mr. Francis TIEN and his colleagues for their support and, if I may, endorse his plea for industrialists and employers to expand their apprenticeship schemes, and perhaps with a wish that these young people may grow into the tigers of technology (*laughter*).

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).

WORKMEN’S COMPENSATION (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 1980)

Question proposed.

REVD. MCGOVERN:—Sir, during the past few years two unconnected actions were going on in the field of employees’ compensation. The first was that of the Working Party on the Comprehensive Review of the Workmen’s Compensation Ordinance. The Working Party report was presented in December 1978 and distributed for comment during 1979.

At the same time there was a growing awareness among workers’ organizations of the magnitude of the increase in industrial accidents and the consequent

need for greater stress on industrial safety. But as some accidents will happen, the interest in industrial safety led in turn to a study of the Workmen's Compensation Ordinance. As a result of this study, and workers' practical experience, a list of carefully worked out suggestions for improving the law was submitted to UMELCO by several workers' organizations.

A Legislative Council ad hoc group examined the Working Party report, the Bill and the suggestions of the workers' organizations. We were happy to find that this Bill, and the proposed future bill, largely reflected the suggestions of the Working Party report and at the same time met most of the main criticisms and suggested remedies of the workers' organizations, such as, for example, the removal of the wage ceiling by which the provisions of the Bill will be extended to all employees.

As a final step the ad hoc group met the Commissioner for Labour to seek clarification of several points, and as a result we were satisfied as to the intentions expressed in the Bill. Before meeting the Commissioner the ad hoc group had worked out a set of figures to propose as an increase in the maximum amounts payable in order to bring them more in line with the increase in costs and wages since the Bill was drafted. We were again happy to find that our figures coincided almost to the dollar with similar figures prepared, quite independently, by the Commissioner for the same purpose. These increased sums will be the subject of an amendment to be proposed in committee.

With these remarks, and of course, as we are dealing with labour law, the inevitable but irresistible further remark of 'better late than never' (*laughter*), I support the motion.

DR. HO:—Sir, the Workmen's Compensation (Amendment) Bill 1980 introduces the more urgent recommendations of the Working Party which was set up by the Commissioner for Labour in 1978 to review the Workmen's Compensation Ordinance.

The Bill provides wider protection for injured workers by expanding the coverage of the principal Ordinance to cover all salaried employees, irrespective of their earnings. It also raises the maximum and minimum levels of compensation for death and permanent disability to take into account the increased cost of living and rise in wages since 1974 and introduces a new system for assessing compensation based upon the age of the injured worker. In addition, employers will now be liable to meet the initial cost of fitting, repair and renewal of prostheses and surgical appliances for the injured workers for a ten-year period, after which time the Government will be responsible for meeting any further costs. The First Schedule to the Bill has also been revised to assign more adequate compensation for the various injuries listed.

Employers will have to shoulder additional financial burden as a result of these new provisions and I hope that this Bill will induce them to become more conscious of the importance of industrial safety in their work place.

Every improvement made in our labour legislation will assist us to repudiate the criticisms so often levelled at us by our overseas trading rivals of unfair competition based on sweated labour thus contributing, in some measure, towards improving our trading reputation.

With Hong Kong's present sub-contracting system of production, workers often experience great difficulties in claiming compensation for work injuries. I therefore suggest that the liability of sub-contractors be given more legislative attention.

With these remarks, Sir, I support the Bill.

MR. ALLEN LEE:—Sir, I rise to speak in support of the Workmen's Compensation (Amendment) Bill 1980.

Hong Kong industrialists by and large are conscious of their role in the community. Since 1974, we have made significant progress in our exports. This could not have been achieved without the support of our industrious workers who day in and day out work in our factories without much complaint. Even though their contributions are recognized by continuous rises in their earnings, one area to which we must pay more attention is the amount of compensation payable in cases of accidents. Unfortunately accidents happen even in the safest factories. I am glad to see that the Commissioner for Labour, after discussion with the ad hoc group, has agreed to further adjust the amount of compensation to take into account the increases in wages and cost of living which occurred during 1979-80.

I am also glad to support clause 3 of the Bill which removes the wage ceiling of HK\$5,000 per month for non-manual employees to cover all employees irrespective of their earnings, as I believe all employees should be entitled to compensation in case of accident. Furthermore, it is sensible to retitle 'Workmen's Compensation Ordinance' to 'Employees' Compensation Ordinance' as some people have thought in the past that 'workmen' meant only male workers. I hope, Sir, that you will agree that in our society we should treat male and female alike.

Sir, I support the motion.

COMMISSIONER FOR LABOUR:—Sir, I am grateful to my honourable Friends for supporting the Workmen's Compensation (Amendment) Bill 1980.

When I first introduced the Bill in this Council on 25 June 1980, I said, 'if honourable Members consider that the proposed new levels of compensation are still on the low side and wish to adjust them further to take into account of the increases which have taken place during 1970-80, I should

be prepared to consider this at the committee stage.’ After a discussion with the ad hoc group, I feel that there is a strong case for such adjustments. The proposal is now that the maxima in the Bill at \$147,000 and \$168,000 respectively for death compensation and for permanent total incapacity be raised to \$168,000 and \$192,000 with consequential alteration to the minimum compensation figures. Additionally the burial expenses figures should be raised from \$2,000 to \$3,000 and the constant attention allowance from \$67,000 to \$77,000. I will propose the necessary amendments at the committee stage to bring into effect these increases which I have agreed with the ad hoc group.

I thank Dr. Ho for suggesting that ‘the liability of sub-contractors be given more legislative attention’. Under section 24 of the existing Ordinance, the principal is liable to pay compensation to an injured employee of his contractor. However, the injured employee may claim compensation either against his direct employer *or* the principal. On the whole in our experience injured employees working for sub-contractors have not encountered particular difficulty in claiming compensation. There could be cases, however, where an injured employee is not aware of which contractor was actually employing him. In such a situation, he can still claim against the principal. However, I will examine this problem further and if it is felt that improvements could be made to ensure that employees in this industry get compensation to which they may be entitled, I will include the appropriate amendment in the second stage of this legislative review which I hope to bring before Council next session.

I thank my honourable Friend Mr. Allen LEE for his support and that of our industrialists in general. I welcome the continuing support of my honourable Friend Father MCGOVERN who chides me gently on the pace of our reform, but my experience in this field has taught me the need to build carefully a broad tripartite basis of support for improvements in labour law, otherwise it may alas be a case of ‘more haste less speed’ (*laughter*)!

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).

THEFT (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 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).

DUTIABLE COMMODITIES (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 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).

EDUCATION (AMENDMENT) BILL 1980

Resumption of debate on second reading (25 June 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.

ESTATE DUTY (AMENDMENT) BILL 1980

Clauses 1 to 5 were agreed to.

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

Clause 1

THE CHIEF SECRETARY:—Sir, I move that clause 1 be amended as set forth in the paper which has been circulated to honourable Members.

This amendment meets Unofficial Members' view that the effective implementation of proposals to plug the avoidance device should not precede the date when Government's intentions were announced, that is to say, on Budget Day 27 February 1980. The amendment will provide complete relief from further liability to tax for the year of assessment 1979-80 to those who ceased business in that year of assessment and who had been assessed under section 18D(2) of the Inland Revenue Ordinance prior to 27 February 1980.

Proposed Amendment

Clause 1

That clause 1 be deleted and replaced by the following—

‘Short title and application. **1.** (1) This Ordinance may be cited as the Inland Revenue (Amendment)(No.2) Ordinance 1980 and, subject to subsection (2), shall apply to the year of assessment commencing on 1 April 1979 and subsequent years of assessment.

(2) As respects the year of assessment commencing on 1 April 1979, this Ordinance shall not apply to any person assessed under section 18D(2) of the principal Ordinance prior to 27 February 1980.’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 and 3 were agreed to.

MONETARY STATISTICS BILL 1980

Clauses 1 to 5 were agreed to.

ROAD TRAFFIC (AMENDMENT) BILL 1980

Clause 1 was agreed to.

Clause 2

THE ATTORNEY GENERAL:—Sir, I move that clause 2 be amended as set out in the paper circulated to Members. I gave the reasons for the amendment earlier this afternoon.

*Proposed Amendment***Clause 2**

That clause 2(a) be amended—

- (a) in the proposed new subsection 5(A)—
 - (i) by deleting paragraph (a) and substituting the following—
'(a) may disqualify such person from holding or obtaining a driving licence for such period as the court or magistrate thinks fit; and';
 - (ii) in paragraph (b) by deleting ' ; and' at the end and substituting a full stop;
 - (iii) by deleting paragraph (c); and
- (b) by deleting proposed new subsection (5B).

The amendment was agreed to.

Clause 2, as amended, was agreed to.

DANGEROUS DRUGS (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

Clause 3

MR. PETER C. WONG:—Sir, I move that clause 3 be amended as set out in the paper circulated to Members. I gave the reasons earlier on in my speech.

*Proposed Amendment***Clause 3**

That clause 3 be amended in the proposed new section 4A—

- (a) in subsection (1) by inserting, after 'drug' wherever it occurs, the following—
'but which is not in fact a dangerous drug';
- (b) by inserting after subsection (3) the following—
'(4) No prosecution for an offence under this section shall be instituted without the consent in writing of the Attorney General, but this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for any such offence, or the remand in custody or on bail of a person charged with such an offence.'

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4 was agreed to.

ROYAL HONG KONG AUXILIARY POLICE FORCE (AMENDMENT) BILL 1980

Clauses 1 to 13 were agreed to.

ELECTRICITY NETWORKS (STATUTORY EASEMENTS) BILL 1980

Clause 1 was agreed to.

Clause 2

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 2 be amended as set out in the paper circulated to Members. The reasons for all the amendments I will propose this afternoon were explained by me in my speech in the prior debate on the second reading of the Bill.

Proposed Amendment

Clause 2

That clause 2 be amended in the definition of ‘electricity network’ by inserting after ‘lines’ the following—

‘, but does not include any such system which is in operation at the commencement of this Ordinance’.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3 was agreed to.

Clause 4

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 4 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 4

That clause 4(1) be amended by deleting paragraph (c) and substituting the following

—

‘(c) the right to enter on and pass over or under such land with such persons, animals, vehicles and equipment and to do all such acts thereon as may be necessary for or incidental to the exercise of any right conferred by this section,
but nothing in this section shall authorize the power company to place, construct, erect or retain any permanent structure, pole, mast or pylon on such land.’

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 8 were agreed to.

Clause 9

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 9 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 9

That clause 9(1) be amended by deleting paragraph (c) and substituting the following—
‘(c) where the owner is not known or cannot be found or for any reason it is not practicable to serve the notice in accordance with paragraph (a) or (b), it is published—
(i) in the Gazette; and
(ii) in 2 Chinese language newspapers and an English language newspaper, not less than 30 days prior to the exercise of such right.’

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clause 10 was agreed to.

Clause 11

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 11 be amended as set out in the paper circulated to Members.

*Proposed Amendment***Clause 11**

That clause 11 be amended by deleting subclause (2) and substituting the following—

‘(2) Where by reason of the exercise by a power company of any rights under this Ordinance in or over any land—

- (a) any fixtures, growing crops, farm produce or plants on such land are damaged; or
- (b) in the case of land which is used exclusively for the purpose of tillage, the use of such land for that purpose is temporarily prevented or restricted to such extent as to cause any loss.

the company shall be liable for such loss or damage notwithstanding that the company acted with reasonable care or that the loss or damage could not have been avoided without preventing or hindering the exercise of such rights:

Provided that if the company proves that the loss or damage resulted wholly or partially either from an act or omission done with intent to cause any loss or damage by the person who suffered the loss or damage or from the negligence of that person, the company shall be exonerated wholly or partially from its liability to such person.’

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clause 12 was agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT)(NO. 2) BILL 1980

Clauses 1 to 5 were agreed to.

WATER POLLUTION CONTROL BILL 1980

Clauses 1 to 51 were agreed to.

First to Fourth Schedules were agreed to.

SUPPLEMENTARY MEDICAL PROFESSIONS BILL 1980

Clauses 1 to 4 were agreed to.

Clause 5

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 5 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 5

That clause 5(1) be amended by deleting paragraph (a) and substituting the following

—

‘(a) a Chairman appointed by the Governor from among the members of the Council, other than a member appointed under section 3(1)(d)(iv);’.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 11 were agreed to.

Clause 12

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 12 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 12

That clause 12(1) be amended—

(a) by deleting the full stop at the end of paragraph (b) and substituting the following

—

‘; or’; and

(b) by adding after paragraph (b) the following—

‘(c) a person who, on the date on which this section commenced to apply to a profession, is practising that profession and who by reason of his education, training, professional experience and skill satisfies the Council, after consultation with the relevant board, that he is a fit person to be registered.’.

The amendment was agreed to.

Clause 12, as amended, was agreed to.

Clauses 13 and 14 were agreed to.

Clause 15

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 15 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 15

That clause 15(2) be amended by deleting ‘over a considerable period of time’.

The amendment was agreed to.

Clause 15, as amended, was agreed to.

Clauses 16 to 18 were agreed to.

Clause 19

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 19 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 19

That clause 19(2) be amended by inserting after ‘board’ the following—
‘,which shall be signed by the Chairman of the board’.

The amendment was agreed to.

Clause 19, as amended, was agreed to.

Clause 20

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 20 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 20

That clause 20(1) be amended by deleting paragraph (a) and substituting the following
—
‘(a) all persons practising the profession who are employed by the company are registered in respect of that profession;’.

The amendment was agreed to.

Clause 20, as amended, was agreed to.

Clauses 21 to 25 were agreed to.

Clause 26

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 26 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 26

That clause 26 be amended by deleting subclause (1) and substituting the following—

‘(1) A board may prepare and revise Codes of Practice for the relevant profession for the purposes of this Ordinance—

- (a) prescribing standards of conduct and practice for persons practising that profession, for the employers of persons practising that profession and the directors of any company carrying on the business of practising that profession; and
- (b) regulating the activities of persons practising that profession including the activities of such persons in the supervision and control of unqualified persons assisting such persons in the practice of the profession.

and the Codes of Practice may prohibit specified activities.’.

The amendment was agreed to.

Clause 26, as amended, was agreed to.

Clause 27

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 27 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 27

That clause 27(1) be amended—

- (a) in paragraph (e) by inserting after ‘\$5,000’ the following—
‘and to imprisonment for 6 months’; and
- (b) in paragraph (f) by deleting ‘\$2,000’ and substituting the following—
‘\$5,000’.

The amendment was agreed to.

Clause 27, as amended, was agreed to.

Clause 28 was agreed to.

Clause 29

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that clause 29 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 29

That clause 29(1) be amended by inserting after paragraph (b) the following —
(ba) the licensing of premises used by persons to practise professions;
(bc) the supervision and control of unqualified persons who assist registered persons in the practice of a profession;’.

The amendment was agreed to.

Clause 29, as amended, was agreed to.

Clauses 30 and 31 were agreed to.

New clause 32 ‘Ordinance not to derogate from other Ordinances’.

Clause read the first time and ordered to be set down for second reading pursuant to Standing Order 46(6).

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, in accordance with Standing Order 46(6) I move that new clause 32 as set out in the paper circulated to Members be read a second time.

Question put and agreed to.

Clause read the second time.

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that the new clause be added to the Bill.

Proposed Addition

New clause 32

That there be added after clause 31 the following—
‘Ordinance not to **32.** This Ordinance shall be in addition to and not in
derogate from other derogation from any other Ordinance that regulates the
Ordinances. manner in which a person may practise a profession.’.

The addition of the new clause 32 was agreed to.

Schedule

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I move that the Schedule be amended as set out in the paper circulated to Members.

Proposed Amendment

Schedule

That the Schedule be amended—

- (a) in item 1 by deleting the professions listed in column 2 and substituting the following—
‘Medical Laboratory Scientific Officer
Medical Laboratory Technologist
Medical Laboratory Technician’; and
- (b) in column 3 of item 2—
 - (i) by deleting the full stop at the end of paragraph (b) and substituting the following—
‘;or’; and
 - (ii) by inserting after paragraph (b) the following—
‘(c) radionuclear equipment including isotopes.’; and
- (c) by deleting the interpretation in column 3 of item 3 and substituting the following
—
‘A person trained to assess and treat physical disabilities by means of remedial exercises, manual therapy and mechanical, thermal or electrical energy.’.

The amendment was agreed to.

The Schedule, as amended, was agreed to.

APPRENTICESHIP (AMENDMENT) BILL 1980

Clauses 1 to 6 were agreed to.

WORKMEN’S COMPENSATION (AMENDMENT) BILL 1980

Clauses 1 to 3 were agreed to.

Clause 4

COMMISSIONER FOR LABOUR:—I move that clause 4 be amended as set out in the paper circulated to honourable Members. This amends the amends the figures as given in my speech on the Bill.

*Proposed Amendment***Clause 4**

That clause 4 be amended—

(a) in proposed new section 6—

(i) in subsection (1) by deleting ‘\$147,000’ wherever it occurs and substituting in each place the following—

‘\$168,000’;

(ii) in subsection (2) by deleting ‘\$49,000’ and substituting the following—
‘\$56,000’; and

(iii) in subsection (5) by deleting ‘\$2,000’ and substituting the following—
‘\$3,000’; and

(b) in proposed new section 7—

(i) in subsection (1) by deleting ‘\$168,000’ wherever it occurs and substituting in each place the following—

‘\$192,000’; and

(ii) in subsection (2) by deleting ‘\$56,000’ and substituting the following—
‘\$64,000’.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clause 5

COMMISSIONER FOR LABOUR:—I move that clause 5 be amended as set out in the paper circulated to Members.

*Proposed Amendment***Clause 5**

That clause 5 be amended in proposed new subsection (4) by deleting ‘\$67,000’ and substituting the following—

‘\$77,000’.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 16 were agreed to.

THEFT (AMENDMENT) BILL 1980

Clauses 1 to 6 were agreed to.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1980

Clauses 1 to 5 were agreed to.

EDUCATION (AMENDMENT) BILL 1980

Clauses 1 to 4 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

ESTATE DUTY (AMENDMENT) BILL

MONETARY STATISTICS BILL

ROYAL HONG KONG AUXILIARY POLICE FORCE (AMENDMENT) BILL

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT)(NO. 2) BILL

WATER POLLUTION CONTROL BILL

APPRENTICESHIP (AMENDMENT) BILL

THEFT (AMENDMENT) BILL

DUTIABLE COMMODITIES (AMENDMENT) BILL

EDUCATION (AMENDMENT) BILL

had passed through Committee without amendment and that the

INLAND REVENUE (AMENDMENT)(NO. 2) BILL

ROAD TRAFFIC (AMENDMENT) BILL

DANGEROUS DRUGS (AMENDMENT) BILL

ELECTRICITY NETWORKS (STATUTORY EASEMENTS) BILL

SUPPLEMENTARY MEDICAL PROFESSIONS BILL

WORKMEN'S COMPENSATION (AMENDMENT) BILL

had passed through Committee with 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.

Unofficial Member's motion

GREEN PAPER ON PRIMARY EDUCATION AND PRE-PRIMARY SERVICES

Resumption of debate on motion (25 June 1980)

SECRETARY FOR SOCIAL SERVICES:—Sir, Miss BENNETT, Dr. HU, Mr. WONG Lam, Dr. HO and Mr. SO have made a number of valuable observations on the Green Paper on Primary Education and Pre-Primary Services. I note their concern as well as their enthusiasm.

Let me say at the outset that I do not understand Miss BENNETT'S surprise at the inclusion of a review on primary education in this Green Paper, or her preference to leave that to the proposed overall review of our education system, in view of Your Excellency's earlier announcement of the Government's intentions to review both the primary and pre-primary sectors and your assurance that the proposed overall review of our education system as a whole would not deter current plans and planning.

Miss BENNETT and Dr. Ho are concerned about the Government's refusal to act on a view in the Board of Education that there should be one department and one ordinance to control services for the pre-school children. They consider that the problems of the pre-school child should be examined as a unity and they propose the creation of a separate department for preprimary services in the belief that such an arrangement would produce better co-ordinated services for the young. Dr. HU, however, considers that these are partly social welfare and partly education in content, but that it was fit and proper for these matters to be linked together.

I share their view that the needs of the pre-school child should be considered in an overall context, but I am not persuaded that Miss BENNETT

and Dr. HO's solution is either necessary or desirable—indeed, the Social Welfare Advisory Committee is not convinced of the need for a single department to oversee services for the pre-school child. This latter approach is also consistent with the view that Government organization should be on the basis of functional services, and not on the age group or class of person served.

However, we all appear to have common ground in that the services currently offered to the pre-school child are not sufficiently co-ordinated. Accordingly, the Green Paper proposes the establishment of a Standing Committee to co-ordinate the activities of the Education Department and the Social Welfare Department in this field. I am glad to be able to state, Sir, that this Standing Committee has already been convened under the chairmanship of one of my Principal Assistant Secretaries, and I am sure that this will go some way to meeting the need for proper co-ordination in this area.

Both Miss BENNETT and Mr. WONG Lam feel that the Government is heading in the wrong direction by suggesting that reduction of competition for entry to primary schools would best be achieved by regionalizing schools and replacing tests and interviews by a computerized allocation system. Comments received so far on the Green Paper generally support the view that something must be done to do away with the present system of tests and examinations of entry into primary school and both Miss BENNETT and Mr. WONG share this view. If we accept that this is a major fault with the present system, then an alternative must be found which remedies the situation. It has taken us over two years to produce the system which is set out in the Green Paper and I note that, although critical of it, my Unofficial colleagues have not put forward alternative proposals which may work better in practice.

The Government fully acknowledges the valuable service which the aided schools—particularly those with a long service of excellence in the quality of the education they provide—have given and are giving to Hong Kong, and I, for one, am loathe to interfere with a system which, apart from the problems of entry into it, is working well. However, I am also aware of the views of a large sector of the community which feels that the present system does not give their children a reasonable chance of participating in the best sort of education that Hong Kong can offer. We shall certainly have to think very carefully about this vital area before finalizing our proposals for inclusion in the White Paper.

A point I cannot fail to note is that all five speakers in this debate are unanimous in proposing a centralized institute for pre-school training to cover the training of workers in all pre-school institutions. This sensible idea will be very seriously considered, but as a long-term project. For the time being, in order to get things moving as quickly as possible we must, as the Green Paper proposes, try to make the best use of existing resources.

Miss BENNETT deplors the level of the minimum qualifications for training of workers in this field and Dr. Ho recommends a qualification at School Certificate level for entry to his proposed new institute. Dr. HU supports them, but I am slightly worried as to whether applicants for such courses with these qualifications will come forward. Nevertheless, this proposal is also worthy of further consideration.

In Miss BENNETT's comments on current training she is very skeptical of the ability of those in charge of a technical institute to organize child care training. May I emphasize that in the appointment of senior staff it is not only their technical expertise that is the prime consideration, but their qualities as organizers, administrators and educators? The specific expertise is required at the appropriate level where I can assure Miss BENNETT it will be provided. Similarly steps are being taken to ensure that those connected with kindergarten training will have the necessary expertise.

Again, both Miss BENNETT and Dr. Ho are not happy with the proposed method of assisting needy families rather than subsidizing the institutions direct. Dr. HU suggests that some free child care centres and kindergartens should be set up. Direct subsidy in an area of education, currently entirely in the private sector, is a course of action which needs very careful consideration and should not be embarked on lightly. The system has not, as the Green Paper points out, worked too well with child care centres so far, and this is why the new system has been devised. We could examine this idea further, but I think it would be more realistic to carry out the scheme of assistance as proposed in the Green Paper and review the rates of assistance to parents if they prove inadequate.

While Dr. HU largely supports the Green Paper, he joins Miss BENNETT in urging the Government to persuade the Housing Authority to bring the letting policy for child care centres and kindergartens into line. I can assure them that I am in discussion with the Secretary for Housing, and there appears to be no reason why a workable solution will not emerge.

Mr. WONG Lam made three points on rather different issues not mentioned by his colleagues. He felt that English should either be improved in primary schools or dropped as a medium of instruction in secondary schools. He commented on the lack of concrete proposals for moral education and drew attention to deficiencies in the school management system. The subject of the role of English is already being considered separately and was not therefore studied in detail in the Green Paper; moral education was mentioned but appeared to be a matter primarily for consideration by the Curriculum Development Committee; and the management of schools was intentionally excluded from the Green Paper as the problems are not confined to any particular section of education.

One final matter which concerned Miss BENNETT and Mr. So was another exclusion from the Green Paper—the consideration of care for children below

the age of two and, in Mr. So's case, the limited interest taken by the Green Paper in two-year-olds. The reason for this apparent omission is that Government policy in regard to this younger group is within Family Welfare Services referred to in the White Paper 'Social Welfare into the 1980s'. This is spelt out in greater detail in the annually rolled-forward Five-Year Plan for Social Welfare Development which is tabled in this Council. If I may be forgiven for saying so, the Government cannot be expected to relieve parents of all responsibility for their young, and our services must, of necessity, be limited to supervision or residential care (including foster care) for all vulnerable children who cannot be adequately looked after by their families, and for whom no other better alternatives are available. Of course, I recognize that there is always room for improvement in these services, and the Director of Social Welfare will give full and careful consideration to the constructive suggestions made by Mr. So in developing any future proposals in this field for the advice of the Social Welfare Advisory Committee.

Apart from the two major issues of the overall administration of kindergartens and child care centres and the method of entry to primary school, most of the comments of Miss BENNETT and her colleagues appear to concentrate on doing more, doing it better, and doing it more quickly. It is difficult to quarrel with this in principle but I must point out that especially in the area of teacher training it is inadvisable to be too ambitious about numbers at the beginning. The teacher trainers themselves have to be recruited and/or trained and suitable premises for training may not be immediately available, furthermore the courses themselves need to be modified in the light of experience. However, once the initial stages are passed, I agree that it is important to review the situation to see whether in fact targets can be redefined in order to accelerate progress.

Finally, in looking at the Green Paper, especially in regard to kindergartens, I think we must appreciate its aims. The situation is currently not satisfactory, and for various reasons, largely a question of priorities, the Government has not previously played an active part in this sector. The Green Paper proposes the first steps considered necessary to give a firm basis for improvement. The Government does not consider that the time is ripe, nor the base sufficiently firm for a major reorganization of the whole of this sector of education at present. Essentially the proposals in the Green Paper represent a beginning rather than a final design.

Sir, I support the motion.

MR. ALLEN LEE:—Your Excellency, I would like to present Miss BENNETT's reply to the Secretary for Social Services' speech on the Green Paper on Primary Education and Pre-Primary Services as expressed in a speech by Miss BENNETT who is not at present in Hong Kong. I quote what she says:

'I very much appreciate the sympathetic appraisal by the Secretary for Social Services of the suggestions put forward by the Unofficials in this

debate. I should like to thank him particularly for taking up these matters so quickly on his return to Hong Kong. I am grateful to his support of the motion, because I believe it represents Government's sincere intention to improve our pre-school services. I take note then of his final sentence that "essentially the proposals in the Green Paper represent a beginning rather than a final design".

Yes I acknowledge his perception that we wish to improve the situation faster than the Green Paper proposes. I urge that the Social Services Branch re-examine the proposals to see which can be brought in more quickly. Indeed I am delighted at his favourable reaction to the suggestion for a centralized institute for pre-school training to cover the training of workers in all pre-school institutions.

I am glad to hear that the Standing Committee to co-ordinate the activities of the Education Department and the Social Welfare Department has already been convened. I hope that UMELCO can be informed in writing of its terms of reference, so that we may channel to it the needs of the families with pre-school children.

I appreciate that we did not put forward any alternative proposals to the computerizing of primary school entry. We do accept that there is much to commend in this proposed new method, but there is need to ensure that Hong Kong do not get foisted with the snags that could have been avoided by further discussion. I hoped to spare the whole Council a complicated examination of this problem. It is important to realize that until there is a more vigorous attempt to improve the quality of primary schools throughout the urban areas, there is going to be dissatisfaction with the proposals in the Green Paper. We have got to do far more to ensure that all schools receiving Government subsidy maintain the standards demanded by the parents.

I am very concerned that a system of allocation by which parents have to choose all the schools in their area in order, despite the technique of optimization, will in fact enable proportionately very few parents to obtain their first choice of school for their children. Will any study be made of the schools which are consistently at the bottom of parents' lists? Will any special assistance be given to them to improve their performance? Why do the parents have to choose all the schools in their area? Does the Director of Education fear that some schools would be chosen by no parents or insufficient parents? They must be very bad schools!

Sir, I am glad to know that there is so much interest in this Green Paper. I beg to move the motion.'

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, 23 July 1980.

Adjourned accordingly at fifteen minutes to six o'clock.