

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 11 February 1981****The Council met at half past two o'clock****PRESENT**

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

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

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

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

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS  
MR. DENIS CAMPBELL BRAY, C.M.G., C.V.O., J.P.

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

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

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

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, C.M.G., J.P.  
CHAIRMAN, COMMITTEE TO REVIEW POST-SECONDARY AND TECHNICAL EDUCATION

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

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

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

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

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

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

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

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

THE HONOURABLE GRAHAM BARNES, J.P.  
DIRECTOR OF HOME AFFAIRS

THE HONOURABLE SELWYN EUGENE ALLEYNE, J.P.  
DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE COLVYN HUGH HAYE, J.P.  
DIRECTOR OF EDUCATION

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.

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE CHARLES YEUNG SIU-CHO, O.B.E., J.P.

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

THE HONOURABLE ALLEN LEE PENG-FEI, 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.

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, J.P.

THE HONOURABLE CHAN KAM-CHUEN, J.P.

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

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN

**ABSENT**

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

THE HONOURABLE DAVID KENNEDY NEWBIGGING, J.P.

**IN ATTENDANCE**

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

**Papers**

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Marine Fish Culture Ordinance 1980. Marine Fish Culture Regulations 1981.....	12
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The Chinese University of Hong Kong Ordinance. Statutes of the Chinese University of Hong Kong (Amendment) Statutes 1981.....	31
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Public Order Ordinance. Marine Closed Area Order 1981.....	35
Sessional Papers 1980-81: No. 32—Consumer Council Annual Report 1979-1980.	
No. 33—Supplementary provisions approved by the Urban Council during the third quarter of the fiscal year 1980-81.	

No. 34—Trustee's Report on the Administration of the Education Scholarships Fund for the year ended 31 August 1980.

No. 35—Li Po Chun Charitable Trust Fund Annual Report for the period 1 September 1979 to 31 August 1980.

No. 36—Report on the Administration of the Fire Services Welfare Fund for the year ended 31 March 1979.

### Oral answers to questions

#### Personal allowance for salaries tax

1. MR. OSWALD CHEUNG asked:—*Is the Financial Secretary aware of the widespread public concern that the present level of personal allowances for salaries tax is inadequate?*

THE FINANCIAL SECRETARY:—Sir, I read all four English language newspapers daily, I read three summaries of the Chinese press daily and I read two weekly summaries of opinions expressed in the Chinese press. I listen to English language radio programmes, even Radio Hong Kong, and I watch television (*laughter*). I read a weekly summary of news items and opinions expressed on all four T.V. channels. I read and acknowledge (when I can because many of them are anonymous) all letters addressed to me on the subject of personal taxation. And friends, and others, not infrequently draw me into conversation on the subject.

So, whether or not I agree or disagree with any of the points made, to the extent that concern is expressed about, for example, the adequacy of the present level of personal allowances for salaries tax, I am aware of that concern. Not that public concern, no matter how widespread it may or may not be, can be the only determinant of public policy: the public interest must be considered as well. But I am also, Sir, aware, in saying even that much at this time, that I am liable to be misreported, misinterpreted, misunderstood and perhaps, later on, unloved. Nevertheless, I hold no grudge against Mr. CHEUNG for asking the question (*laughter*)!

MR. OSWALD CHEUNG:—*I hope the Financial Secretary will continue to hold no grudge for my asking this supplementary. He has given us an impressive and wide reading list. Would he care to tell us how much of it he absorbs (laughter)?*

THE FINANCIAL SECRETARY:—I absorb it all—I absorb most of it, in fact I absorb all of it, but I do not believe all of it (*laughter*).

### **North Point wig factory fire**

2. MR. SO asked in Cantonese:—

關於最近北角一間假髮廠發生一場大火，政府可否將起火因告知本局，並說明將會如何防止這類事件重演？

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

*Will Government inform this Council of the cause of the recent tragic fire at a North Point wig factory and what measures it will take to ensure that a similar occurrence does not occur in the future?*

SECRETARY FOR SECURITY:—Sir, the fire which occurred on the second floor of a seven-storey industrial building in a wig factory in North Point on 20 January is still under investigation so no statement as to its cause can be made at this stage. It is expected that the investigation will be completed by early next week.

It is unfortunately impossible to ensure that such incidents do not occur given the fallibility of human nature but the Administration does make strenuous efforts to minimize the risk. For example, all building plans are scrutinized by the Fire Services Department prior to approval by the Building Authority to ensure that Fire Services installations and equipment are incorporated, having regard to the purpose to which the premises have been designed. Regular inspections then follow by the Fire Services and Labour Departments of all factories and industrial buildings to ensure compliance with Fire Regulations. During these regular inspections advice regarding fire safety is offered to factory proprietors.

Major campaigns are mounted regularly by the Government Information Services, covering all aspects of fire prevention both in domestic and industrial premises. The campaigns comprise the publication of leaflets and posters and the production of television commercials which are aimed at informing the public of the extreme dangers posed to life and property by fire.

Amending legislation will also shortly be submitted to the Executive Council and subject to its advice to this Council proposing substantial increases to the level of fines for offences relating to fire hazards in buildings.

### **Energy policy**

3. MR. PETER C. WONG asked:—*Will Government inform this Council of its long-term policy in dealing with the energy problem?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, Sir. But first by way of background, as Hong Kong is not a supplier of sources of energy and is not a

significant consumer by world standards, the Government's policies on energy are based on domestic rather than international considerations. They are also influenced by the fact that all the sources of energy in Hong Kong are in the hands of the private sector; and virtually all the users are in the private sector too.

In these circumstances, the Government's policy applicable when there are no international problems over supplies, is to keep a watch on the companies concerned to see that importers of sources of energy are satisfying Hong Kong's needs.

When there are prospects of international shortages, the Government's policy is to intervene as necessary to ensure that those steps that can reasonably be taken to guard Hong Kong against such shortages are taken.

Then, when there are shortages, the Government intervenes as necessary to ensure that the supplies we do have are used in such a way that the economy and basic every day living are affected as little as possible.

MR. PETER C. WONG:—*Sir, does the Government also keep a watch on the prices charged and ensure that they are not excessive?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, Sir.

### **Stranded woman in Sham Shui Po**

4. DR. HO asked:—*With reference to the woman who was found wandering in Apliu Street, Sham Shui Po on 23.1.81, would the Government state:*

- (a) what steps were taken by the Police to place her in a temporary home and*
- (b) why she was refused admission by the Social Welfare Department initially?*

DIRECTOR OF SOCIAL WELFARE:—Sir, in answer to the first part of the question, the Police attempted to trace the family of the old woman and, after this attempt failed, they referred her to the Social Welfare Department's District Office in Sham Shui Po for assistance on 23 January 1981.

She was not admitted initially to the Aberdeen Rehabilitation Centre because she was unable to produce proof of identity, which is required by all Government departments rendering personal services to individuals. When it appeared that she was a Hong Kong resident, she was accepted for temporary care and was admitted to the Centre in the evening of 24 January.

DR. HO:—*Sir, to what extent can a Social Welfare Officer in charge of the centre use his discretionary power to temporarily waive admission requirements for emergency cases?*

DIRECTOR OF SOCIAL WELFARE:—Sir, she has the complete power to do so and she could exercise her discretion in cases of emergency.

### **Statement**

**Census and Statistics (Survey of Imports and Exports of Services for 1980) Order 1981**

**Census and Statistics (Survey of Banks, Deposit-taking Companies and Representative Offices of Foreign Banks for 1980) Order 1981**

**Census and Statistics (Annual Survey of Industrial Production) Order 1981**

**Census and Statistics (Quarterly Survey of Industrial Production) Order 1981**

**Census and Statistics (Annual Survey of Wholesale and Retail Trades, Restaurants and Hotels) Order 1981**

**Census and Statistics (Monthly Survey of Retail Sales) Order 1981**

**Census and Statistics (Survey of Storage, Communication, Finance, Insurance and Business Services for 1980) Order 1981**

**Census and Statistics (Survey of Transport Establishments for 1980) Order 1981**

**Census and Statistics (Surveys of Employment, Vacancies and Payroll for 1981-82) Order 1981**

**Census and Statistics (1981 Land Population Census) Order 1981**

**Census and Statistics (1981 Marine Population Census) Order 1981**

SECRETARY FOR ECONOMIC SERVICES:—Sir, the Secretary for Economic Services has undertaken to make a statement in this Council each year when the Orders for Statistical Surveys are laid on the table.

For 1981, eleven such orders are involved. They can be divided into three categories. The *first* consists of eight Orders authorizing surveys for collecting information relating to economic activity by sector. The *second* consists of one Order authorizing a survey for collecting statistics on the labour sector. The *third* is two Orders authorizing a census of the population.

### *Economic Surveys*

The first category is part of a long-term programme of economic surveys designed to provide *both* information leading to a basic description of the



structure of major economic sectors *and* a continuing assessment of the contributions made by each sector to the economy's output. For a description of the types of survey involved, I would refer honourable Members to my statement in this Council on the same subject on 16 January last year (*footnote*).

There are two *benchmark* surveys for 1981. *First* is a survey to collect data relating to financial institutions in 1980. Information so derived will provide us with a better understanding of the financial sector and will provide information on the value of imports and exports of services by financial institutions, thus improving our estimates of invisible trade. All establishments, around 500, will be included.

*Second* is the benchmark survey of storage, communication, financing, insurance and business services (other than those provided by financial institution) also for 1980. This survey together with other surveys of sectors of the economy will help to improve our estimate of the gross domestic product on the basis of output. It will cover all 7,000 identifiable establishments involved.

There will be four *annual follow-up surveys*. *First* is the survey of imports and exports of services. Formerly, surveys in this series were an interim measure to collect additional information on invisible trade, pending the launching of a cycle of economic surveys for the financial and related business services sector and the transport, storage and communications sector. As a result of his experience, the Commissioner for Census and Statistics now considers that the survey of imports and exports of services should remain a separate and permanent feature in his programme of annual surveys. The 1980 survey to be carried out in 1981 will be in essentially the same form as in previous years. About 3,500 establishments, which represent all those involved, will be covered.

The *second* annual follow-up survey is the survey of industrial production for 1980. This will be the second annual follow-up survey in the second five-year cycle on the sectors engaged in mining and quarrying, manufacturing and in the supply of electricity, gas and water. The survey will cover a sample of 8,500 establishments.

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*Footnote:*

The programme involves collecting statistics on each of the major sectors of the economy as part of a continuous effort. A cycle starts with a large scale and comprehensive benchmark survey on a particular sector with reference to a particular year. The benchmark survey provides the framework whereby annual follow-up surveys (usually smaller and simpler) can be conducted. As the sector is likely to change over time, the cycle starts again with another benchmark survey after about five years. For some selected sectors of the economy where more frequent up-to-date indicators of current output and activity are required, the cycle is supplemented by simple quarterly and monthly surveys. So in a particular year, the Commissioner aims to conduct a combination of economic surveys: there are usually one or two benchmark surveys, a number of annual follow-up surveys, and quarterly and monthly surveys as required.

The *third* is the survey of wholesale and retail trades, and restaurants and hotels. The survey for 1980 will be the second of the smaller scale and simpler annual follow-up surveys to the benchmark survey of 1977. A sample of about 5,000 establishments will be covered.

The *fourth* annual follow-up survey is the survey of transport establishments for 1980, a pilot study for the first benchmark survey to be conducted in 1982. It will also provide the minimum data required for estimating the gross domestic product on the basis of output. A sample of 9,000 establishments out of a total of 45,000 will be included.

The *more frequent than annual surveys* to be conducted in 1980 and which require Census and Statistics Orders, include two series. There is a series of quarterly surveys of industrial production. At present, the Commissioner for Census and Statistics surveys textile production (spinning and weaving) only. He now proposes to extend the scope of these quarterly surveys to cover all industries in the manufacturing sector. A sample of about 1,500 textiles and clothing establishments and 1,500 other manufacturing establishments will be covered.

Also there is a series of monthly surveys of retail sales aimed at providing an up-to-date assessment of trends in consumer demand, an important indicator of developments in the economy and the results may also be useful to the private sector. A sample of about 700 establishments will be included. When a reasonably long series has been established, the Commissioner will compile a monthly index of retail sales.

#### *Statistics on the labour sector*

So much for the first category dealing with activity by sectors of the economy. The second category, which concerns the labour sector, consists of a survey of employment, vacancies and payroll for 1981-82. The Census and Statistics Department has in fact, for a number of years, surveyed employment and vacancies for selected sectors. In the second quarter of 1980 the Commissioner replaced these surveys with a comprehensive survey of employment, vacancies and payroll in almost all sectors. But the response is voluntary, and has not been adequate. Since information from the survey is used to determine the samples for most economic surveys, a full response is of vital significance and a Survey Order is thus necessary. The number of establishments to be enumerated each quarter varies from about 120,000 to 70,000.

#### *Population Censuses*

Turning to the third category, on 13 February 1979 the Governor in Council ordered that a population census should be conducted in 1981. The two Orders now before this Council are to bring this census into effect for the land and the marine populations.

## Government business

### Motions

#### WHITE PAPER ON DISTRICT ADMINISTRATION IN HONG KONG

##### Resumption of debate on motion (21 January 1981)

That this Council welcomes the proposals set out in the Government White Paper 'District Administration in Hong Kong' for providing a better focus for administration, consultation and participation by the community at the district level.

MR. WONG LAM delivered his speech in Cantonese:—

督憲閣下：行政立法兩局非官守議員會設立一專案小組，研究「香港地方行政的模式」綠皮書的各項建議，本人亦為小組成員之一。我們曾多次與有關的政府高級人員磋商，又與外界團體會晤，聆聽彼等的意見。小組成員除有若干提議外，對該份綠皮書大致上表示贊同。當局其後擬訂白皮書，經已採納了我們部份的提議。

本人對香港地方行政白皮書的各項建議及工作方針，頗感滿意，只有一點特別的地方，提出討論。

有關區議會與地區管理委員會的關係，白皮書第廿三段指出，如果區議會對地區管理委員會的反應不滿時，可以將問題提交部門首長，或民政署長，或民政司，或新界政務司，再作研究，此點本人認為合理，而布政司亦在一月廿一日在本局再次申明此點。不過，本人認為與區議會發生不同的意見的，並不一定是地區管理委員會，而可能是中央政府。

由於着眼點或輕重緩急之不同，區議會很可能在某些問題上與中央政府出現不同的看法。在這種情形下，區議會可能認為不適宜將問題提交任何一位部門首長，而是代表中央政府的布政司或督憲閣下。

舉例來說，灣仔區區議會可能反對拆去修頓球場作地下鐵路站，因為這球場是該人口稠密地區的市肺。這類問題，因為牽連政府整體的交通或土地政策，一旦地區管理委員會不能處理時，很可能由最高當局作最後決定。

所以本人認為，為了表示政府對區議會的重視，應該容許區議會在必要時將問題提交最高的行政首長，包括市政司及閣下理處。

如果政府能夠這樣重視區議會的意見，則市民對區議會的支持和信心，一定更大，同時對有關的選舉，一定更加熱心。

閣下，香港地方行政白皮書的發表，對地方的管理，官民的溝通和了解，肯定是一項重要和正確的改革。希望政府在推行白皮書的建議時，能夠大力鼓勵市民的參與，無論在競選或選舉區議員方面，或參與實際工作方面，都大力支持。本人深信，市民對政府改革地區行政的努力，一定有良好的反應。

督憲閣下，本人謹祝賀政府這份白皮書的發表及支持此項動議。

*(The following is the interpretation of what Mr. Wong Lam said.)*

Sir, the Unofficial Members of the Executive and Legislative Council set up an *Ad Hoc* Working Group, of which I was a Member, to study the proposals in the Green Paper: 'A Pattern of District Administration in Hong Kong'.

We held a number of discussions with the senior Government officers concerned and interviewed representatives of interested bodies to listen to their views. Whilst the Working Group generally supported the Green Paper in principle, Members also made a number of recommendations, some of which were adopted by the Government and incorporated in the White Paper.

I am quite satisfied with the recommendations and objectives in the White Paper on District Administration. There is only one particular point which I would like to raise for discussion.

On the relationship between District Boards and District Management Committees, it is explained in paragraph 23 of the White Paper that if a District Board is not satisfied with the District Management Committee's response to its advice, the Board's recourse will be to bring the matter either to the attention of the Heads of Departments concerned, or of the Director of Home Affairs, the Secretary for Home Affairs or the Secretary for the New Territories for further consideration. This arrangement is, I think, reasonable. Indeed, the Chief Secretary has reiterated this point in this Council on 21 January. However, I feel that it could well be the Central Government, and not necessarily the District Management Committees, which would hold a different view from that of the District Boards.

It is possible that because of different viewpoints or sense of priorities, a District Board and the Central Government may hold divergent views on certain matters. Under such circumstances, the District Board may think it would be more appropriate to bring the matter direct to the attention of the Chief Secretary, who represents the Central Government, or Your Excellency.

Take for instance, the Wan Chai District Board may object to removing the Southorn Playground for the construction of a M.T.R. station since the playground is regarded as the 'Lung' of that densely populated district. As such problem has a direct bearing on the Government's overall transport and land policies, it may be necessary for the highest authority to make a final decision once it becomes clear that the District Management Committee is not the adequate authority to deal with the problem.

Therefore, in order to show that the Government values the importance of the District Boards, I think they should be allowed to refer problems, where necessary, to the highest level in the Government, i.e. the Chief Secretary and Your Excellency. If the Government can by doing so demonstrate the significance that it attaches to the recommendations of the District Boards, the public will give more support to and have greater confidence in the District Boards. Moreover, there will also be greater public enthusiasm for the elections concerned.

Sir, the publication of the White Paper on District Administration in Hong Kong is definitely a significant and proper step in improving district management and the channel of communication between the Government and the

people. When the recommendations in the White Paper are implemented, I hope that the Government can encourage public participation as far as possible so as to elicit their active support both in running for elections and voting and in actual work participation. I firmly believe there will be good public response to the Government's efforts in improving district administration.

Sir, I congratulate the Government on the release of this White Paper and I support the motion.

MR. YEUNG:—Sir, the declared intention of the Government to move towards better departmental co-ordination and responsiveness by the administration at district level and towards greater participation by the inhabitants has, as expected, been acclaimed with overwhelming public approbation.

The Government has to be congratulated on its initiatives, innovative ideas and receptiveness to public opinion. The scheme deserves every success.

It is, however, regrettable that there are still two missing links in the chain of authority which will materially minimize the efficiency of the administrative system.

The District Management Committee which is run along the lines of a cabinet with executive responsibility and taking part in policy formulating process at the district level will not be open to participation of the people at the grass-roots. Nonetheless the supreme executive and policy-making powers of the Government has already been for a long time shared with unofficials at the Executive Council level. This contradiction in principle belies the good faith and trust of the Government and its genuineness of intention underlying the district administrative system.

One may present a plausible argument that as the District Management Committee is charged with the duty to find ways to be more responsive to local aspirations, as far as practicable, it is the Government officials' job but not that of the unofficials. The answer is 'why not'. Would it not be easier to find better ways with the assistance and wisdom of the unofficials who can speak with authority and experience of the local community and conditions. If the aspirations are not practicable for Government adoption, would it not be more convincing to the local inhabitants if they know that their unofficials have taken part in the deliberation and have accepted the Government position or will bring the matter to higher authority for more balanced and thorough consideration.

Some may venture to suggest that as much of the work of the District Management Committee involves detail planning, monitoring and co-ordination of the works programme and projects, the presence of unofficials will serve no meaningful purpose. Sir, I beg to differ. We have to remember that all departmental representatives are independently accountable and answer-

able to their respective departments and they know that one department has no authority over the other. Therefore a representative can afford to be negative in thinking and approach or even restive and obstructive. For the purpose of argument alone, an expert may say that he objects to a scheme on professional or technical ground without even bother to convince his peers with reasonable explanations, knowing full well that he will not be successfully challenged by other department at that level. The participation of unofficials will bring pressure to bear upon him to be more co-operative and reasonable for he knows that the proposed scheme may not rest at that level and he may have to justify his objection in a higher forum and his view may be put to acid test by other experts.

Furthermore, the district administrative system in its entirety is the best training ground for the local grass-roots leaders to acquire the skill and knowledge of administration. Is it fair to deny local leaders in the make the opportunity of such training and is it in the best interests of Hong Kong to be deprived of trained and adept leaders? Government's reconsideration will surely be appreciated.

I now turn to the upper end of the ladder. The centre of power and authority in the administration is, of course, the Governor himself. Although the authority to manage the central administrative machinery has been delegated to the Chief Secretary and the duty to administer the public finances has been entrusted to the Financial Secretary, yet the political, social and community responsibility are still very much the responsibility of the Governor as head of the Hong Kong Government and the representative of Her Majesty the Queen. In this capacity, the Governor is omnipotent and looked upon by the people with deference and reverence. To maintain the shining image as the Supreme leader of the community, he has to be omnipresent which can most effectively be achieved through special personal representatives in the form of Deputy Governors, directly reporting and answerable to him and charged with the responsibility to nurture and to protect the district administrative system within which the community spirits grow and flourish.

The spirit and intendment of the district administrative system is the creation of a more congenial political atmosphere, a more harmonious social setting and a better community. The success of the system depends very much upon the charisma and dynamism of its supreme leader radiating through his sociopolitical Deputy Governors and enshrined by their adroitness in local politics, knowledge of the social norm and awareness of the community aspirations, thereby they can get the right things done at the right time and in the right way. These essential sociopolitical qualities can only be acquired by accumulation through a long exposure to local politics, through acceptance by the local society and through involvement in local affairs, as they will generate confidence, trust and affection which are the base of effective communication and understanding between the Government and the governed.

The inherent weakness and danger in the district administrative system set out in the White Paper is found in the missing links in the chain of direct authority.

The proposition envisaged in the White Paper is that when local aspirations are not met, the District Board will look to the Secretary for the New Territories, the Secretary for Home Affairs or the Director of Home Affairs (as the case may be) to champion their cause. The question is how and how effective if those champions are not equipped with armours and weapons to run the gauntlet of independent equal or higher authorities.

For practical illustration of what can be done in a local public works project, I wish to take the present situation of the Secretary for the New Territories, not because of my personal favour but because of the fact the district administrative system germinates from the time-honoured New Territories Administrative system. When he is in agreement with the proposal of the District Advisory Board after full consideration by all the necessary departmental and inter-departmental committees, the proposal has to be presented to the Public Works Department. If the proposal is not accepted by the Public Works Department, it will possibly die at that level. Even if the Public Works Department is persuaded to accept the proposal, it may be delayed in going through the mill of the various committees such as the Public Works Vetting Committee, Priority Committee and the Public Works Sub-Committee of the Finance Committee. Each and every department and Committee has the lethal weapon of negative decision making power thereby a project proposal may be aborted or delayed. If it also concerns Government policy, it has to go to the Environment Branch and the Secretary for the Environment has the absolute authority to control the passage, the mode and speed of the proceedings (*laughter*). The survival and rate of implementation of the project proposal are therefore subject to multifarious human and bureaucratic factors. Unless the champion is armed with spears to penetrate the protective shell of independent authorities by having the power to call upon them to justify their objections and having the control of the proceedings, it is doubtful that the just aspirations of the people can be met in the right time and in the right way.

The effect-producing lustre and magnetism of the district administrative system will stimulate interest at grass-roots and attract public-minded citizens to become involved. They come to answer the call of the Government with high hope and great expectations, willing and prepared to contribute their time, knowledge and energy to participate in the joint effort of the Government and the people to build a better society and a more efficient government. These people will be rights-conscious and they are the leaders of their respective communities. If their community aspirations are frustrated for reason of having no person at the top hierarchy who is specifically designated to be responsible to champion their just cause effectively and to bring their grievances to the Governor they will become disenchanted and disillusioned.

If their aspirations are aborted by Government Secretaries and heads of departments and their expectation stifled or delayed by the negative decision power of Government committees for reason of having no Deputy Governor with influence and authority transcending the domains of such Secretaries and departments through direct communication with the Governor and access to the Executive Council, they will be unsatisfied and disparaged, resulting in adopting the passive attitude by withdrawing themselves from the service to community or the active course of galvanizing public support to raise their fists against the authorities leading to eventual collapse of the administrative system.

True enough, for important issues of territory-wide implications, the Governor will be well-informed. There are, however, many local issues which are minor in the eyes of some Government Secretaries and departments, but they are, nonetheless, very important and urgent to a particular district or community and the failure to address Government effort to such issues timely may have profound political and social repercussions. These local issues by its very minor nature will not be brought to the attention of the Governor unless some one is charged with the duty to do so. It is, therefore, a definite advantage, if not a must, to have Deputy Governors to undertake and perform the onerous and time-consuming sociopolitical functions so as to bring the people closer to the Government.

In this juncture, I have noted the attempted improvement in the White Paper of allowing District Boards to appeal to Government department heads in addition to the right of appeal to the Secretary for the New Territories, the Secretary for Home Affairs or the Director of Home Affairs. However, the proposition is only palliative at best and may be viewed as a veneer to a specious measure to fob off the justification of the creation of Deputy Governors.

Geographically and administratively the urban Hong Kong and the New Territories are homogeneous and should therefore have a single unitary system for administration. However, temporary differences do exist between these two territories such as the presence of the Urban Council, Heung Yee Kuk and rural committees and in recognition of these differences the White Paper has devised two separate but parallel systems, one for the Urban Area under the wing of the Secretary for Home Affairs and the Director of Home Affairs and one for the New Territories headed by the Secretary for the New Territories. Therefore, in order to achieve the desired results it is better to have, in any case initially, two Deputy Governors one for the Urban Area and one for the New Territories so that he may concentrate on planning the development, to monitor the progress and to guide the district administration with appropriate responsiveness to the dictate of the circumstances peculiar to each territory through the important but difficult formative stage.



The seemingly strong argument against the creation of such sociopolitical Deputy Governors is that their authority enabling them to by-pass the Government Secretaries and department heads upsets the usual pattern of central administration and impairs the usual process of checks and balances. It is, however, not the case. Constitutionally, by virtue of the Letters Patent all the administrative powers vest in the Governor and the supremacy of the Executive Council, being legalistically advisory in nature, is subject to the over-riding power of the Governor and all civil servants draw their authorities from the Governor. The only effective check of the Governor's power is found in the Whitehall and the Westminster. The sociopolitical Deputy Governors have no power per se and they are as powerful as the Governor would like them to be and they can only do what the Governor would like them to do on his behalf and no more. The usual pattern of administration is, therefore, not disturbed.

The ultimate authority of providing checks and balances to the administration is with the Governor and, as far as the administration directly affecting local inhabitants is concerned, the assistance of the sociopolitical Deputy Governors will strengthen the effectiveness of the Governor in the full spectrum of checks and balances in the administration.

If the argument against the proposal be allowed to extend to say that a project initiated from the bottom will be able to subject to all the usual checks and balances of various committees, departments and Secretaries whilst a similar project proposal coming from the top will not have such benefits for fear of the displeasure of the Governor. I will not discount the possibility of human frailty but let us examine the relative methodology and result.

A project proposal initiated at the bottom rung of the ladder will have to go through all the departments and committees one by one and, usually, one after another, which is very time consuming, and each one of them can exercise the negative decision powers, thereby frustrating or delaying the project. As an illustration, a public works project proposal by the District Officer, after going through all the in-house and inter-departmental committees may not find a place in the Government's Public Works Programme or advance to a high priority category because of the negative decision of the vetting or priority committees against which there is no opportunity of appeal. There is, indeed, checks but where is the balances. This is the very fault in our Government people are aspiring to get rid of.

On the other hand when a project proposal comes from the top rung of the ladder, it will undoubtedly go to all the necessary departments and committees for comments and approval. The difference is that those who wield the power of negative decision will have to justify their decisions which will be weighed against other comments and overall considerations and an overriding decision can be made despite some objections. This is how the checks

and balances should work. Furthermore, for matters of great importance and magnitude to the community, the consent of the people provides the ultimate checks and balances.

No matter how perfect is the system and how high the quality of the administrators, the standard of the end product still depends on the manner of the persons running the system. This brings me to my final point on district administration—the mannerism of the officials.

District administration is community-based. This calls for special emphasis on community relations, the goodwill between the Government and the people, the mutual respect between officials and unofficials, the courtesy between civil servants and the public.

It is common knowledge that insolence of office, contumely of authority, arrogance of the high and sarcasm of the mighty will only debilitate the Government and drive a wedge between the Government and the governed while courtesy, patience, frankness, openness, fairness and equity will promote goodwill, bridge the gap of misunderstanding and cement the Government and its people into a solid monolithic society.

Unfortunately, glaring examples of such human weakness are found though in diminishing scale within every stratum of our civil service. The other day I was asked by a reporter of a reputable Chinese newspaper to express my views on the manner of civil servants with particular reference to the treatment of unofficial members of Government councils, boards and committees drawing as examples the speeches and answers of the officials of this Council. Without fire, there is no smoke, so it is said. The very fire, if not smothered and extinguished in time, will spread and may ultimately consume the very structure of our administrative system and destroy the mutual respect, trust and co-operation upon which our society is built.

Good manner and civility are, therefore, the postulates for the selection of leading posts and for community-based appointments in our Government as the image which they project reflects the mentality and attitude of the Government.

What I have said, Sir, is not meant, and, I pray, not to be interpreted as an invidious attempt to discredit the Government or any of its officials but rather as an expression of hope to see improvement and augmentation of its public relations in community building.

Sir, it is my great pleasure to support the White Paper on the introduction of the district administrative system, to which the people of Hong Kong are looking forward to witnessing a new era of successful partnership between the Government and the people, an invigorating community and an inspired society under your able leadership.

DR. HO:—Sir, the publication of the White Paper on District Administration represents a milestone in the administrative history of Hong Kong. It confirms the Government's convictions and commitment towards greater participation by the inhabitants of each district and towards better co-ordination of, and responsiveness by, the administration. It augments and improves the proposals of the Green Paper.

The White Paper reiterates not only the main theme outlined in the earlier consultative paper, but also incorporates some significant modifications as a result of the comments received from individuals, community leaders in business, industry, civic bodies, neighbourhood organizations, Government departments and newspapers editorials during the process of public consultation on the Green Paper proposals.

I should like to take this opportunity to highlight three points of significance which I mentioned in my speech to this Council on 23.10.80, namely, the merit of increased representation, the relationship between the District Management Committees and the District Boards, and the problem of manpower planning.

The District Board is the key instrument in this scheme of administrative reform. I am glad that the White Paper has included proposals to introduce direct elections to seats on the District Boards both in the Urban Area and in the New Territories. Not only has the size of the District Boards been enlarged by a larger membership, but direct elections will make elected councillors more accountable, responsible and responsive to the needs of their constituencies. The Boards for the various districts will no doubt provide a forum where district problems will receive close scrutiny.

Secondly, I would also like to refer to the emphasis placed by the Chief Secretary on the District Boards' avenues of recourse mentioned in his address on 21 January. The success of the District Boards to a large extent depends on whether they are given adequate support by their corresponding District Management Committees. I welcome the provision that should a District Board consider that the response to its advice from the District Management Committee is unsatisfactory the Boards will have direct access to the head of department concerned, the Director of Home Affairs, the Secretary for Home Affairs or the Secretary for the New Territories. It is imperative that a channel of communication be established between Central Government and the districts.

In addition to improved district administration, the proposals in the White Paper will have far-reaching implications on civic development. In the foreseeable future, as opportunities are being cultivated for grass-roots inputs into the decision-making process at the district level, more residents will come forward to take an active interest in local matters that have a bearing on their daily living. With the establishment of the District Management Committees and the District Boards, local residents will feel that the distance

between them and the Central Government is shortened and they will realize that the Central Government is more comprehensible and accessible on the one hand, and is receptive and responsive to public views and requests on the other. They will gradually come to believe that they are, to a greater extent than ever before, the architects of their environment and lives. In the more distant future, out of pride, sense of achievement and involvement, the residents will develop an identification with, and subsequently a feeling of belonging to, the community in which they live. This civic spirit will give impetus to greater local involvement, leading to the development of a more close-knit, a more mutually caring community.

Thirdly, a scheme to involve the public, however well conceived, will not generate the expected results, if it does not have the people's support. Whether local leaders will come out to run for election will depend on the success of the District Management Committees and the District Boards in meeting their district's expressed needs and wishes. The District Management Committees and the District Boards can discharge their functions efficiently only when there is adequate staff support, both in terms of quality and quantity. Though the Chief Secretary has given his assurance in this respect in his address on 21 January, I would like to reiterate my concern in view of the importance of the manpower factor in relation to the success of the whole scheme.

The manpower issue manifests itself in two areas: The Home Affairs Department and the New Territories Administration will inevitably need to increase its Executive and Administrative staff significantly to cope with an increased demand for activities arising from the implementation of the White Paper. I understand, however, that there are difficulties even in filling the existing vacancies of these posts in the Government departments concerned. For example, 23% of the Executive Officer posts in the present establishment of the Home Affairs Department have not yet been filled.

It seems that the Government needs to tackle the manpower problem with vigour in order to fill the existing vacancies as soon as possible and to provide for additional general grades staff to cater for future needs.

Apart from that, officers of sufficient experience and seniority will also be required in professional departments to serve on District Management Committees so that they can react promptly to the decisions and recommendations of the District Boards. However, I understand that there are general shortage in departments such as the Public Works Department, the Registrar General's Department and the Crown Land and Surveys Office, just to name a few. In addition, some departments such as the Housing Department and the Labour Department, have not yet been regionalized to the extent that their district staff can have sufficient responsibility and authority to serve efficiently on District Management Committees. Interdepartmental collaboration may therefore suffer.

Finally, the existing establishment of Chinese Language Officers also needs to be strengthened considerably in order that the District Boards can be provided with adequate translation and interpretation services. Such services are essential to ensure that the language factor will not become a barrier to the potential local candidates who would like to participate in District Board activities.

All these problems need to be dealt with urgently and with determination before the new district administration scheme can succeed. I therefore earnestly call on the Government to pay serious and urgent attention to the issue of manpower planning amid its preparation in launching the scheme.

Sir, with these remarks, I have much pleasure in supporting the motion.

MR. SO delivered his speech in Cantonese:—

督憲閣下：地區性問題往往是要有地區內的人士群策群力去解決的。

香港政府透過香港地方行政綠皮書和白皮書的發表，表明了行政方面注重地方精神和地方的需要。布政司在動議白皮書時很堅決的說，只許區議會成功，不許它失敗。政府既已許下這諾言，今後地方行政執行的成效，便端賴市民能否積極參與和支持這項計劃了。

談到積極參與，使我想起某地有一隊足球隊的故事；球隊新聘了一位教練，但發覺他不但毫不合作，而且令人討厭，於是便向足球總會投訴。該會起初否認認識那位教練，經過徹查，才發覺他竟然是附近一間精神病院的病人。這當然是一個極端的例子，但可以提醒我們，作任何選擇時，都必須審慎和留心。

地方行政既然影響地區內居民的福利，公共設施和服務，因此選擇領袖時無論是選舉或委任，必須小心，以確保工作能順利進行和盡量避免流弊。香港各區的居民，要擔當明智和勇敢的角色去辦好地方行政。

白皮書最終的目的，是建立一個較理想的香港社會，和透過市民的參與，建立市民對地區的歸屬感。所以執行白皮書的工作，必然要動用龐大的人力和財力。在人力方面，白皮書間接已有交待，但是在推行這項計劃時，全部經費估計要多少，政府尚沒有公佈。政府若能公佈預算，市民將更能了解這項巨大的嘗試，如何對自己有切身的關係！

督憲閣下，本人謹此陳辭，支持這項動議。

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

Your Excellency, local problems can best be solved by the coordinated efforts of the local people.

Through publication of the Green Paper and the White Paper on District Administration in Hong Kong, the Government has made clear its concern for district spirit and district needs in public administration. The Chief Secretary said with determination, when moving a motion on the White Paper, 'The district boards will be successful, and there will be no failure.' Now that the Government has made a pledge, the success of the district administration scheme will depend on the people's support and active participation.

The reference to 'active participation' reminds me of a story about a football team in a certain place. The team recruited a coach but found, not

much later, that the man was uncooperative and a nuisance. So it lodged a complaint with a football association. The association denied knowing anything about the coach at first; only after some thorough investigation was it learnt that the man was a patient of a mental hospital nearby. This is of course a rare example, but the story serves to remind us that we must be prudent and vigilant in making selections. Prudence must be exercised in the choice of leaders in the district, be it by election or appointment, because district administration affects the well-being of local residents, as well as public facilities and services for them. Prudence in this respect will ensure the proper conduct of affairs and avoid abuses as much as possible. Residents of all districts must play an intelligent and courageous role if they want to make the scheme a success.

The ultimate aims of the White Paper are to establish a better society for Hong Kong and to engender a sense of belonging in the people through their participation in local affairs. Hence, implementation of the proposals in the White Paper will inevitably involve a tremendous outlay of both manpower and money. Manpower has indirectly been accounted for in the White Paper; but how much money is required to carry out the scheme is not disclosed by the Government. If the Government could project and make known its budget for the scheme, the people would understand this tremendous venture better and have a stake in it in more ways than one.

Sir, with these remarks, I support the motion.

MR. F. K. HU:—Sir, the Government has assured us of how genuinely keen it is to involve the public in district affairs and that the District Boards will be successful. The Government has control in selecting and appointing persons of high quality and ability to serve on the District Boards as official and unofficial members, but it has no control over the quality of elected members. The voters can only choose from a list of candidates who seek election to the District Board of his choice. Any member of a District Board has to spend considerable time in attending meetings, discussions, visits and other related activities if the member is to play a useful and valuable role in the function of the District Boards, but time spent would mean financial or career sacrifice on the part of the member as he would have to spend less time on his career or employment and might face objection from his family or employer. These considerations could discourage many suitable potential candidates, especially among the younger generation, from coming forward and the final choice from the list of candidates might be limited. In order to overcome this possible problem, I would suggest that a reasonable allowance should be made available to the elected member of District Boards so that they would not suffer financially because of their contribution to community involvement. This arrangement might encourage more good candidates to come forward to seek election.

I agree that to require formal educational qualification as a requirement for registration as voters might rule out older people who do not possess them. However, the present nine-year compulsory education was introduced in 1979, therefore, most people residing and educated in Hong Kong would meet this minimum nine-year education requirement upon reaching the age of 21 in 1988, when this requirement for registration as voter should be considered again without affecting those persons already registered who may not meet this requirement.

Sir, with these remarks I support the motion.

THE CHIEF SECRETARY:—Sir, I should like to thank Mr. WONG Lam, Mr. Charles YEUNG, Dr. Ho Kam-fai, Mr. Andrew So and Mr. F.K.HU for their general support for the proposals in the White Paper. In particular I am pleased that our—the Government's—confidence that the plans for improving district administration will be successful has been accepted and echoed in full.

In their speeches Mr. WONG and Dr. Ho drew attention to the possibility of divergent views between District Boards and the Central Government. They suggested that in such a situation the District Boards should be able to approach the Governor or the Chief Secretary direct. I should like to take this opportunity to clarify our view of the relationships between the District Boards, the District Management Committees, Government departments and the Central Administration.

Subject to further consideration in this Council of the necessary legislation, we propose that the District Boards should advise the Secretary for Home Affairs or the Secretary for the New Territories as the case may be on a wide range of matters affecting the people in the district concerned. It will be for the appropriate District Management Committee to deal with that advice. An important function of the District Boards will be to monitor Government activity at the district level, and in particular they will be expected to monitor the performance of the District Management Committees. If a Board is not satisfied with that performance, they can approach the Secretary for Home Affairs or the Secretary for the New Territories or, if they consider it more appropriate, the Director of Home Affairs or the head of the Government department concerned. Thus there will be a wide range of options open to the District Boards. Advice from the District Boards concerning general policy which has territory-wide implications will be considered by S.H.A. or S.N.T. and, where appropriate, taken up with the policy Secretaries in the Government Secretariat. Additionally, as I have already stated in this Council on 21 January, I expect that both the S.H.A. and the S.N.T. will bring matters of significance to your attention, Sir, or to mine. Certainly I can assure Members that the Chief Secretary will be taking a continuing and substantial interest in the affairs of the District Boards and will make certain that everything possible is done to ensure the success of

these proposals. I believe that such a system will ensure a fruitful relationship between the Boards and Committees and the Administration. I believe too that in the circumstances I have outlined there is no need, indeed it might well be counter-productive, to attempt to lay down specific and rigid rules for dealing with a situation which, hopefully, will very seldom if ever arise. The important point is that there should be flexible arrangements for considering the advice from the District Boards and for acting upon it. Any difference in opinion between the District Boards and Central Government is unlikely to be one of interest or principle, but rather of degree or priority, as Mr. WONG has so clearly illustrated in his example of the Southorn Playground.

Mr. YEUNG'S idea of introducing Deputy Governors for the New Territories and the Urban Area is intriguing and thought provoking. Nevertheless, Sir, as I have said before, the White Paper is concerned with the devolution of Government activities to the district level. With that thought firmly in mind, my first reaction is that if we were to proceed as envisaged by Mr. YEUNG it could well mean that we might find ourselves going into reverse from sincerely intended devolution to a high degree of centralization. But I fully understand and appreciate Mr. YEUNG'S worry and it is up to us in the Government to make sure that these proposals, which represent a genuine effort to meet the day to day needs and wishes of the people at the grass roots, do work so that his fears are not realized. The Secretary for Home Affairs and the Secretary for the New Territories are both very experienced and, if I may say so, highly regarded civil servants; they are members not only of this Council but also of the Executive Council; their authority and responsibility for ensuring that Government's activities are carried out and public services provided in the most appropriate manner is well established and recognized. It has been embodied in instructions giving the right to ensure, and I quote, 'by intervention if necessary that departments operate in the manner appropriate to circumstances'. Furthermore as I have already said, both the Chief Secretary and you yourself, Sir, will be taking a direct personal interest in District Administration matters. In other words, it is my view that the S.N.T., the S.H.A., I and particularly you, Sir, have sufficient spears to protect the interest of the District Boards. Sir, I believe that in the light of these considerations and to reiterate what I have already said, we can be sure that there will be ample high level consideration of the affairs of District Boards without injecting the Deputy Governors suggested by Mr. YEUNG for the handling of these matters.

I now wish to comment, Sir, on Mr. YEUNG'S suggestion that the District Management Committees should include unofficial members from the District Boards. If I have understood his suggestion correctly, the role of the unofficial members on the Committee would be to represent the Board when its advice is being considered by the officials on the Committee, and to participate in the process of implementing that advice. Perhaps we have



not made our intentions entirely clear. The key organizations envisaged in the White Paper are the District Boards: their importance must not be under-rated: they will be powerful bodies, deriving their power through influence and access, and the right to be consulted. It must be remembered that the District Board will include official members from the District Management Committee and any issue will be thoroughly debated in the Board by both official and unofficial members. The District Management Committee is the executive arm. It is the District Board's task to give advice, including if necessary advice on implementation, leaving actual implementation to the Government departments concerned. The Board will thus be free to comment on performance at any time. This approach follows the manner in which the Boards have developed with some success, I think, in the New Territories.

The Government shares the concern of Mr. So and Mr. Hu that only the ablest persons should be elected or appointed to serve on the District Boards. The Government will seek to ensure that the qualifications and disqualifications for candidates, as outlined in Chapter 5 of the White Paper, will be embodied in the law and be applicable to both elected and appointed members. For its part, the Government must be, and will be, careful to select the best persons available as appointed members in accordance with the prescribed qualifications. As regards elected members, while the minimum qualifications are laid down in law, it will be the voters who decide finally who they want to elect as their constituency representative. I am confident that the good sense of Hong Kong people will prevail at polling time to make the best possible choice: and it is important that this should be not only because we wish to ensure good calibre within the District Boards themselves, but also because we shall be looking to the Boards for future leadership of our community—potential candidates for appointment to other advisory and statutory bodies, and in due course perhaps to this Council.

The Government agrees that some form of payment by way of an allowance should be made available to District Board members. Our reasons, however, are rather different from those suggested by Mr. Hu. Detailed proposals will be submitted to the Finance Committee of this Council for consideration and, subject to approval, it is envisaged that an allowance will be payable to all elected and appointed unofficial District Board members, to ensure that they will not be out of pocket through attending meetings.

As regards the franchise, I can assure Mr. Hu that this is a matter which will be reviewed from time to time, to ensure that it keeps pace with the changing circumstances of Hong Kong.

Dr. HO and Mr. SO mentioned the problem of additional staff required in the Home Affairs Department and the New Territories Administration to support and service the District Boards and the District Management Committees, and in other Government departments to carry out an increased level of activity initiated by the District Boards. I assure them that the

Government is fully aware of the importance of adequate staffing, both in terms of quality and quantity, in ensuring a successful district administration scheme. The district administration scheme will have suitable priority as far as staffing is concerned.

Mr. YEUNG refers to the need for goodwill, mutual respect, fairness and courtesy between the Government and the public. These are of course fundamental to good government and I accept that we must be constantly on our guard against any abuse of these precepts.

Last but certainly not least, I confirm that sufficient funds will be provided in the districts, to be spent on small scale district projects as advised by the District Board. I am afraid however that it will not be possible to give a total figure in the manner requested by Mr. SO. This is because there will be funds for improving district services included in departmental expenditure, in addition to the \$15.7 million which I referred to in my earlier speech on 21 January. Whatever the amount specifically voted for disbursement by the District Boards may be, I can assure Mr. SO that the District Boards will, in addition, through the quality of their advice be able to influence departments in the priority of their expenditure in the district, so as to meet the needs of the district in the most effective manner. Although difficult to compute at this stage, clearly the funds involved will be very significant.

Finally, Sir, I repeat that the Government will do its utmost to ensure that the District Boards are successful: that given the support and assistance of this Council and, in particular the support of the people of Hong Kong, I have no doubt that the objectives of the White Paper will be achieved.

Sir, I beg to move.

*Question put and agreed to.*

## **MASS TRANSIT RAILWAY CORPORATION ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion:—Under section 12(1) of the Mass Transit Railway Corporation Ordinance that the Schedule to the Resolution of the Legislative Council published as Legal Notice No. 242 of 1975 in the *Gazette* on 31 October 1975 amended from time to time be further amended by adding as item 32 the following—

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| <p>‘32. Loans arranged by Lazard Brothers &amp; Co. Ltd. to finance contracts placed to the U.K.</p> | <p>245,000,000 Hong Kong Dollars and such amounts as may become payable in respect of interest including deferred interest, provided that the liability of the Government under the Guarantee in respect of deferred interest shall be limited to 7,500,000 Hong Kong Dollars.’</p> |
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He said:—Sir, I rise to move the motion standing in the Order Paper.

Section 12 of the Mass Transit Railway Corporation Ordinance requires the authority of the Legislative Council for the Financial Secretary, on behalf of the Government, to grant guarantees in respect of the repayment of loans and other indebtedness incurred by the Mass Transit Railway Corporation.

The motion I am seeking to introduce today seeks authority for a Government guarantee to cover repayment of a principal sum of two hundred and forty-five million Hong Kong Dollars including interest and deferred interest, although Government's liability in respect of deferred interest is to be limited to seven and a half million Hong Kong Dollars.

The sums borrowed under this guarantee will be financed under a United Kingdom export credit and used to take up an option to purchase seventy additional railcars for the Tsuen Wan Extension of the Mass Transit Railway system.

If Members approve this motion, the Government's total guarantee commitment in respect of the principal of loans available to the Mass Transit Railway Corporation will be eight thousand five hundred and thirty million Hong Kong Dollars. This contingent liability is well secured within our fiscal reserves.

Sir, I beg to move.

*Question put and agreed to.*

### **First reading of bills**

#### **AUXILIARY FORCES (PENSIONS) BILL 1981**

#### **MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS) (AMENDMENT) BILL 1981**

#### **ROAD TRAFFIC (AMENDMENT) BILL 1981**

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

### **Second reading of bills**

#### **AUXILIARY FORCES (PENSIONS) BILL 1981**

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend certain Ordinances relating to the pensions of members of the Auxiliary Forces and the dependants of members’.

He said:—Sir, I move that the Auxiliary Forces (Pensions) Bill 1981 be read a second time.

This is a technical amendment explained in the Explanatory Memorandum. It is necessitated by a change in the U.K. legislation governing the payment of pensions and other awards in respect of death or disablement while in the service of the Naval, Military or Air Forces of the Crown.

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

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

*Question put and agreed to.*

**MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS)  
(AMENDMENT) BILL 1981**

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance’.

He said:—Sir, I rise to move the second reading of the Mass Transit Railway (Land Resumption and Related Provisions) (Amendment) Bill 1981.

The purpose of this Bill is to enlarge the scope of the principal Ordinance so as to bring within its ambit the proposed Island Line of the Mass Transit Railway. It will, among other things, enable property owners affected by stages 5 and 8 and a small portion of stage 9 of the railway to seek appropriate compensation under the provisions of the principal Ordinance. In addition, clause 2(a) seeks to amend the definition of ‘Railway’ to include within its meaning proposed extensions to the existing Mass Transit network.

Only when this Bill is enacted, Sir, may steps be taken to resume the land and acquire the easements necessary for the construction of the Island Line. The procedures involved are lengthy and, if the timetable for the works related to the Island Line is to be met, it is imperative that the Bill should be enacted before the end of this month. For this reason and because the Bill is not controversial it is proposed that it should be taken through all its stages today.

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).*

## **ROAD TRAFFIC (AMENDMENT) BILL 1981**

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

He said:—Sir, I rise to move the second reading of the Road Traffic (Amendment) Bill 1981.

The purpose of this Bill is to augment and clarify the provisions for the issue of contract hire car permits which were included in the amendments to the Road Traffic Ordinance enacted in June 1977. The intention behind those amendments was to provide existing pak pai operators with the general opportunity to legalize their operations. This Bill, by spelling out the proposed arrangements for the issue of permits, seeks to provide safeguards for the contract hire car scheme when it is brought fully into effect to ensure that this original purpose is maintained.

Clause 2 of the Bill makes provision for the Governor in Council to make regulations whereby the Commissioner for Transport may issue, or refuse to issue, or cancel hire car permits, and to set limits on the number of permits to be issued for any type of hire car service. Draft regulations to this effect will be submitted to the Governor in Council to be made if this Bill is passed into law. Under the new draft regulations it is intended that different permits will be issued for different types of service, namely hotel hire cars, tour hire cars, airport hire cars, school hire cars and private hire cars. The majority will be in the two latter categories which have hitherto been largely served by pak pai operators.

The proposed new conditions under which contract hire cars will operate will deter them from plying for hire as illegal taxis, by providing that they should only operate from a designated address, that they should only accept hirings on prior booking and that, apart from airport and hotel hire cars, their vehicles should not display any distinguishing markings on the outside. Provision is also made for the Commissioner for Transport to attach such additional conditions to a permit as he may see fit. Only hotel and airport hire cars will be permitted to have two-way radios and permits will only be issued in respect of vehicles in good condition and which are properly insured.

Clause 3 of the Bill will give the Commissioner for Transport discretion to give priority to any applicant, to limit the number of permits which may be issued to any one applicant, and to determine applications by lot. The purpose of this is to limit the number of permits to be issued so as to prevent large fleets of new contract hire cars appearing on the roads in addition to

the existing pak pai operators who apply, and who can comply with the requirements of the new regulations.

To ensure the proper administration of the scheme and to regulate the powers of the Commissioner for Transport, clauses 2 and 4(a) of the Bill make provision for the setting up of Transport Tribunals to review decisions of the Commissioner, such as refusal to issue a permit or the cancellation of a permit. Clause 4(b) specifies that the Chief Secretary may appoint any person as Chairman of a Tribunal, together with two other members who, under the existing legislation, will not be public officers.

Here I must emphasize again that the primary objective of the scheme, in accordance with the intentions of previous legislation, is to provide an opportunity for existing and *bona fide* pak pai operators to legalize their business under certain controlled conditions. The operators concerned would be well advised to avail themselves of this opportunity because, thereafter, all illegal carrying without a contract hire car permit and all plying and soliciting for hire or reward by vehicles other than taxis will be subject to stiffer legal sanctions, such as the impounding of vehicles and the suspension of vehicle licences, in addition to the existing penalties of a \$1,000 fine and imprisonment for three months for a first offence and six months for subsequent convictions. The additional sanctions are contained in Part IVB of the Road Traffic Ordinance, which was enacted in June 1977, but which will not be brought into force until the majority of existing and genuine pak pai operators who apply have been issued with hire car permits. This is expected to be within six months after the new legislation has been made. Transport Tribunals would hear appeals against action taken under Part IVB, after it is brought into force.

The provisions of this Bill, if enacted, and its twin approach of legal contract hire car permits and sanctions against all illegal operations will also serve to fill a gap in vehicle insurance coverage and I am glad to say that the Bill's publication and the Government's stated intention to apply stronger sanctions against illegal operations in the future has enabled the Council of the Motor Insurer's Bureau to agree to bring the Bureau into operation.

In short, Sir, the new contract hire car scheme represents an endeavour on the part of the Government to regularize and provide a legal basis for the pak pai trade so as to meet a legitimate, established, demand for a mode of convenient, properly insured, personalized transport service operating under properly controlled conditions.

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

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

*Question put and agreed to.*

**URBAN COUNCIL (AMENDMENT) BILL 1981****Resumption of debate on second reading (21 January 1981)**

*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) BILL 1981****Resumption of debate on second reading (21 January 1981)**

*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).*

**SUMMARY OFFENCES (AMENDMENT) BILL 1981****Resumption of debate on second reading (21 January 1981)**

*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).*

**OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1980****Resumption of debate on second reading (19 November 1980)**

*Question proposed.*

REVD. JOYCE M. BENNETT:—Your Excellency, this Bill which is facing its second reading today and changing the laws relating to abortion is one of the most controversial to come before this Council in recent years. Unofficials have during the past months studied this Bill and discussed it both amongst themselves and with Government representatives. We now have the opportunity to disagree with the Government on certain points and provide evidence that the Government does in some respects listen to the Unofficials. Certain amendments are being introduced into this Bill in answer to representations from the Unofficials. The question therefore that I had to consider was whether these amendments met all my objections to this Bill and go far enough to allow me to vote in its favour.

This Bill has two main clauses which have attracted the public's attention, clause 4 which widens the opportunity for legal abortion and clause 5 which provides new sections to the Offences Against the Person Ordinance to clarify the law regarding child destruction and infanticide. Throughout the discussions clause 5 has been accepted and appreciated as a necessary and important improvement in the law. I am glad Hong Kong will have in its code of law such clear condemnation of child destruction and infanticide. I support this clause and wish that the official side in our discussion had agreed to separate clause 5 from clause 4 so producing two bills amending the Offences Against the Person Ordinance. Unfortunately this suggestion was turned down in face of the considerable work that would have been involved in separating into two bills, two such widely different subjects as child destruction and child preservation.

Sir, I am in favour of child preservation, but I am opposed to child destruction at any stage of life in the womb unless the reasons for this destruction are clearly medical. Clause 4 has brought together three different opportunities for the doctors to be permitted to perform an abortion—when he considers there is 'a substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be seriously handicapped'; when the girl is under a certain age on the date of the termination of the pregnancy and when the woman has made a report within three months of the incident to any Police officer alleging that she was the victim of sexual intercourse either resulting from incest or rape, or procured by threats, false pretences or drugs.

Certain amendments we understand will be introduced at the committee stage by the Government to meet some of the Unofficials' objections. I have examined these amendments and considered whether they would meet my conscientious objections to allowing a girl or a woman on non-medical grounds to have an abortion.

I wish to discuss the different parts of clause 4 in turn. Regarding the provision which allows the termination of the pregnancy when 'the continuance of the pregnancy would involve risk to the life of the pregnant



woman or of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated'. I agree I think we should accept abortions when the life of the mother is in danger. However the addition of the reference to mental health provides a complication since our knowledge of mental illness and our ability to deal with it in Hong Kong is far from adequate. I find myself therefore in theory acknowledging the necessity to widen physical health to include mental health, but in practice wondering whether we have the necessary competence to put this effectively into practice without developing a situation where abortion is given on demand. In the United Kingdom a similar clause has led to abortion on demand being performed by medical practitioners who do not have conscientious objections to abortion. The vast majority of abortions in the United Kingdom are granted on these grounds.

Turning to the proposal which will allow an abortion when 'there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be seriously handicapped'. A group of the Unofficials suggested adding a clause or phrase qualifying the adverb 'seriously handicapped'. Some of us could see situations where a person could be considered seriously handicapped and yet make a very useful and positive contribution to his or her family and community. Unfortunately the Officials could not accept any change here, so I am grateful to one of my Unofficial colleagues for proposing such an amendment today. I said just now that 'unfortunately' the Officials were unwilling to accept any change in the wording of the Bill at this point. I consider this to be so because I cannot accept as valid the argument put forward by the Officials that the Act in the U.K. Parliament is worded thus, so that the Ordinance here should be the same. Such an argument plays havoc with all our work in this Council. Were we to accept that reasoning we might as well close down this Council and accept all the U.K. laws in their entirety!

I understand from my friends in the medical profession and from my considerable reading of the literature on the subject in preparation of this debate, that medical science is becoming increasingly able to diagnose the condition of the child to be born. We may not yet have in Hong Kong enough equipment and facilities to carry out these diagnosis on a widespread scale but such diagnosis will become increasingly available. I shall therefore support an amendment to this part of clause 4 which states that the abortion shall only be permitted when 'there is substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be so seriously handicapped that the child would not be able to exist without substantial care or assistance for life'.

The next part of clause 4 to be considered relates to abortion on demand for any girl under the age of 17 years. Following representations from the Unofficials that this did not reflect the law permitting girls to marry at 16 years, I understand that an amendment will be made to replace 'the age

of 17 years' by 'the age of 16 years'. This makes more sense relating it so closely to the Crimes Ordinance where it is an offence for any man to have 'unlawful sexual intercourse with a girl under 16'. I have ascertained from the Officials that it would be policy to prosecute the man who had caused the girl under 16 years old to become pregnant. However it is not clear what the procedure will be for finding him and charging him. Indeed I wonder what effect this will have. Where the girl under 16 has been raped or been the victim of incest or sexual intercourse under threats, false pretences or drugs, she will under this Bill be able to have an abortion provided she made a report to the Police within, three months of the alleged offence. Thus to have a separate clause to allow the termination of pregnancy to anyone under 16 is a very new departure from the present law. In the Official amendment which we shall consider today, I understand that this age criteria has also been tied into the medical grounds for the termination of pregnancy. I wonder whether this is not concealing the real situation. On what medical ground can a doctor allow a girl under 16 to have an abortion? I was given to understand by the Medical and Health Department at our meeting on the 18 December 1980 that there was no medical reason to single out women under 17 years of age as eligible for abortion on medical grounds.

This clause referring to age was, we were told by the Officials, added in on social grounds to offer protection to those not yet mature enough to shoulder the responsibilities of parenthood. Medically it is clear that the girl old enough to conceive is old enough to bring the child to full term. There are dangers in pregnancy and in child-birth, but those dangers are present to those in their twenties and thirties as well as in their teens. All life brings risks and dangers. All life brings problems. Are we becoming afraid of meeting life's problems? Have we given up on the challenges that ordinary living brings? Are we succumbing to suicidal tendencies that so many in Hong Kong are recommending we follow China, Taiwan, Singapore and Japan and permit abortion on demand?

It appears that the argument for allowing abortion to the girl who has conceived under 16 is that as she is unable to be a good mother, let us dispose of this result of her sexual intercourse. However do not forget that this result of her sexual intercourse is not just some unwanted tissue, it is a tiny life that will grow and develop into a new-born baby. On day 21 the heart starts to beat and that is at least as dramatic as birth. By day 65 the baby will leap up and down in the womb with coordinated movements. Now we are proposing to say that by law in Hong Kong you may destroy that life just because the girl who is pregnant is too young. Sir, I cannot in my capacity as legislator forget my professional position as a School Principal. I raised this topic of abortion on demand for those under 17 during the period when this Bill was under discussion with my Upper Sixth girls. A science student who hopes to be a doctor and is not a professed Christian

insisted that such a law would introduce a very 'bad trend into Hong Kong'. This student recognized that to provide abortion on demand to those under seventeen struck at the root of the moral concepts she had learnt at home and at school. In recent months many have advocated a greater emphasis on moral teaching in our schools. Certainly in the Christian and Church schools with which I have been connected we have always attempted to provide sound moral teaching. I accept that the majority of those attending these schools and the majority in our community do not accept Christian morality and reverence for life. However we also have to recognize that many of Hong Kong's local population do revere life and are opposed to the taking of life. We need, I think, to have a far greater study of the effect of abortion on demand on the whole moral climate of the community. Some will argue that allowing abortion more freely will reduce the number of unwanted children and so reduce the incidence of child-battering. My research into this subject has given contrary evidence. Not all unwanted pregnancies result in unwanted children. Once the community has lost its reverence for life in the womb, it is an easy step to give less respect and honour to the children who are born. Certainly child-battering and the need to place children in care has increased in some countries of the West where abortion is easily obtainable.

There is one further misconception to note. I understand that many medical practitioners and social workers welcome these proposed changes in the law as they understand that the new law will result in fewer illegal abortions with their dangers to the mothers. However the literature on abortion does not wholly support this thesis and I quote from R. F. R. GARDNER, *ABORTION*, page 42: 'Experience in ... countries such as Sweden where the abortion laws have been liberalized showed that the incidence of recourse to criminal abortion was not reduced and might be increased, since criminal abortion seemed less criminal in this situation.' The evidence has indicated that the new legal abortions have been performed on a new group of women who would never have gone to the back-street abortionist.

I shall be glad therefore for an assurance that if this Bill is passed today the Government will keep very careful statistics of the number of legal abortions performed on girls of under sixteen, of the number of prosecutions and convictions of the men involved and of the number of live births to girls who conceived under the age of sixteen. These statistics will be important in a few years time when this law, if it is passed today, is reviewed.

There is one final paragraph of clause 4 on which I wish to comment and that relates to the proposal where the woman is allowed 'a period not exceeding three months after the date upon which she alleges' she was the victim of an offence against section 47, 118, 119, 120 or 121 for making a report to any Police officer. I am unable to accept the argument put forward by the Officials that this does not detract from the Fight Crime Committee's attempt to encourage people to report crime as soon as possible. To put on

our law books the suggestion that it is alright to delay in the reporting of crime for up to three months after an alleged offence seems to me to make a mockery of our support to the Police in the execution of their duty. I accept that a report after a delay is better than no report. But surely the Police should be given the support of the legislature which should encourage reporting to be done as early as possible. Why do we have to state this period in our Bill? Why can we not omit the phrase 'within a period not exceeding three months'? There are now to be provisions to ensure that no abortion should normally take place 'of a pregnancy which is of more than 24 weeks duration', so that this mention of three months seems to me to serve no useful purpose; because of this I intend moving a committee stage amendment to delete the provision for a three months reporting period.

Sir, I am concerned that we do not pass unsatisfactory laws, which after a few years we shall regret. I consider this Bill to amend the Offences Against the Person Ordinance does not satisfy the high requirements which we are accustomed to see in the bills laid before this Council. I therefore oppose this Bill and shall vote accordingly when the time comes.

MR. S. L. CHEN:—Sir, the Offences Against the Person (Amendment) Bill 1980 proposes a number of changes to the circumstances under which an abortion can be performed, a time limit so that abortions cannot normally be carried out if the pregnancy is of more than 24 weeks duration and introduces the offence of child destruction in recognition of the rights of unborn, but viable, foetus.

Whilst I support the majority of the Bill's provisions, I am seriously concerned by the proposal which allows women under 17 years of age an abortion. Although I understand that the Secretary for Social Services will be moving a committee stage amendment to bring this provision in line with an existing criminal law by substituting women under 17 years of age to women under 16, this in no way alters my concern about this issue. I would like to point out, Sir, that no such provision is contained in the United Kingdom legislation. My concern is based on the following observations.

Firstly, if risk of pregnancy with its consequential responsibilities may still be regarded as a sort of psychological and moral restraint to discourage improper sex conduct, the proposal to allow women under 16 abortion, virtually on demand, is tantamount to removing any such restraint. It could encourage young people to practise sex more freely and indiscriminately. This is quite wrong morally.

Secondly, although an abortion, as with any surgical operation on a girl of this age, could only be carried out with the consent of the parents, one must appreciate that in cases of this nature parental consent is very seldom withheld, particularly with Chinese parents if they think abortion is the last resort to protect the name of the family. Therefore, the young woman would in fact

be left with the decision on whether to have an abortion or not. If one is indeed concerned that a young woman of this age is not physically mature enough to shoulder the responsibilities of parenthood, and should therefore be protected, is it fair then to impose upon her the mental burden of taking a decision which may terminate a very natural human relationship between herself and her child?

Thirdly, for cases where the pregnancy is likely to involve a serious mental or physical health risk to the young mother, these are in my opinion adequately covered by the existing legislation. Moreover, under existing provisions a medical practitioner can take into account the reasonably foreseeable environment of the pregnant woman before deciding whether he is willing to perform an abortion.

Based on these observations I submit therefore that not only are there no grounds for singling out women in this age group for easy abortion but it is not right morally. I wish to make it quite clear, Sir, that my views are not biased religiously. I therefore intend moving a committee stage amendment to clause 4 of the Bill to delete the provision which allows women under 16 an abortion.

REVD. P. T. MCGOVERN:—Sir, after months of discussion, and having read the considerable volume of papers directly connected with this Bill, and the more considerable volume of other necessary background material concerning the original abortion legislation in the U.K. and its after effects down to the present, as well as some background of medical knowledge necessary for the understanding of this Bill, perhaps some Members may feel somewhat confused. I think therefore that the best service I can render Members might be to try to throw some light, without heat, on the subject of our debate in the hope that some clarification will result.

I will start by stating the obvious. I do so because in the discussions among the Unofficials and with the Officials it emerged that even the obvious was at times not clear. The Bill we are debating comes under the general heading of the Offences Against the Person Ordinance. As Members have had more than enough reading to do, I thought it might be helpful for me to take a quick glance through some of the other sections of this Ordinance in order to put our present Bill into the proper context.

Naturally, the Offences Against the Person Ordinance starts off with Murder (section 2ff). As life is our most necessary possession, the destruction of life is obviously the most serious offence that could be committed against any person.

The Ordinance then goes on to Manslaughter (section 7). Then comes Attempts to Murder (section 10ff) where it goes into some detail as to such means as poison, gunpowder, destroying or damaging a building with intent to murder, shooting at a person, attempts to drown, suffocate or strangle any person.

Later on, section 34 deals with assaults on various persons, specifying in particular Magistrates in the performance of their duties, and, I would have Members note, clergymen in the performance of their duties (*laughter*). (This speech is not intended to be offensive against any person (*laughter*), but it may get too long, and Members are, in the light of the above, urged to show restraint in the measures they may take to stop the speaker (*laughter*.)

Section 42 deals with forceable detention of any person ... man or boy, woman or female child with intent to sell him or to procure a ransom ... And so on up to sections 46 and 47 which concern us today. Section 46, as you know deals with any woman being with child who attempts to procure her own miscarriage, and anyone who supplies or uses any instrument etc. with like intent. And section 47 deals with anyone who supplies such instruments etc. knowing they are to be used with intent to procure the miscarriage of any person. I will finish my summary and come back to today's Bill. Section 49 deals with abominable offences, about which we have seen more than enough in the English language press in recent months, and the last important one, section 54, deals with keeping or manufacturing explosive substances.

I have painted this broad picture of the whole Ordinance because it is possible that in concentrating on the details of the few sections we are dealing with today, those few sections might get out of perspective and we might fail to see the wood for the trees. The broad picture is clear in that it is totally concerned with protecting persons against offences of various sorts. And it protects every person, man or boy, woman or female child, including in sections 46 and 47 the person of the child as yet unborn. There is a danger in those sections that there has been so much stress on protecting the doctor or protecting the woman, that the original person—the child—has been neglected.

The exception to all this protection is section 47A, which was added in 1972, and which removed the protection of the law from an unborn child in certain limited medical circumstances. The medical grounds for legalizing the destruction of a child were strictly confined to the life or physical or mental health of the mother.

Whatever may be said to the contrary, what is proposed in today's Bill is to extend those grounds further and thus further reduce the protection afforded to the child. It is proposed that this be done by taking into consideration not only the health of the mother as at present, but the new and added medical ground of the possible, and I stress possible, abnormality of the child. Protection of the child is still further reduced by taking account of the age of the mother, and the non-medical grounds of some sections of the Crimes Ordinance. I am opposed to such further reduction of protection from the unborn child, who by its very nature is the most vulnerable member of society and therefore the most in need of the protection of the law.

I mention here the amendment which the Government proposes to introduce today which adds further confusion to the issue by trying to put age, rape and other non-medical grounds under medical judgment thereby claiming that they become medical. I quote the Government press release 'The effect of the amendment is that they (i.e. age 16, rape etc.) are brought within the generality of the existing law which only permits abortion on *medical grounds*'. Might I point out that the *grounds* remain what they are wherever they are placed in the Bill. The *grounds*—rape, incest, threats, false pretences are all non-medical. The amendment does not make them change their nature and become medical grounds. The amendment should not deceive anybody into thinking that they do become medical. It is misleading and therefore should not be passed.

At this point I want to make an appeal that there should be no confusion about words in this debate. I am very well aware that the meaning of words can become twisted by their constant misuse by a pressure group. For example anyone who is in favour of protecting life is immediately labelled 'emotional', and anyone who is anti-life will label himself as 'rational' or 'pragmatic' or 'realistic'. I do not intend to be drawn into futile argument about the meaning of words. So, for example, let no one drag in the word 'foetus' with its anti-life implication that a foetus by some freak of nature is somehow or other not a child, or is a potential child, or is a blob of plasm or something. Such ideas or language or implications do not enter into any discussion of the Bill before us. The issue before us is quite clear in the wording of the Bill. I intend to stick to the words of the Bill. The Bill speaks of a woman and a child throughout, even in the disputed clause 4. Clause 5 in 47B talks of child destruction, that is to destroy the life of a child capable of being born alive. And in 47C Infanticide is to cause the death of a child under the age of twelve months. We are voting therefore about what this Bill talks about—a child. And we are voting about whether a child should live or whether its life should be terminated on new extended grounds.

As this is a debate in a more real sense than usual and on a most serious subject, I consider that it is proper for me to make a suggestion. In the course of our many discussions on this Bill when people were talking freely and honestly, it seemed to me to emerge that there were some Members who in their heart of hearts did not really believe that a child in the womb is really a child. For integrity sake, and in fairness to those who are making points in a debate, could I very respectfully suggest that if there be such Members they should abstain from voting. My reason for this suggestion is that they would not really be voting on the subject of this Bill which is by its wording about a child. That is just a suggestion for your consideration if there be such a Member.

I believe that the broad statement of the issue at stake as outlined above is more important than the details of the extended grounds on which it is proposed to legalize abortion. But these new grounds are worthy of some

mention. And please note I make no mention of religion or morality. I am opposed to the extensions because the grounds for extension are in my judgment legally, medically or socially unsound. I will try to be brief and say only enough to indicate some of the reasons for my judgment.

On the unborn, possibly handicapped child: my Unofficial colleague, DR. FANG, will offer a medical opinion on this point. Many more such opinions are available based on medical fact. The fact is that the diagnosis can be doubtful. On legal grounds too it seems to me most extraordinary that in the case of a doubt as to the existence of a handicap, and/or insufficient knowledge of the extent of the handicap, the law should come down in favour of removing protection from the allegedly handicapped child. As was mentioned in our discussions this is particularly out of line with a legal system which will not convict a 99% almost certain murderer or other criminal while there remains some reasonable doubt. This clause is based on a doubt about, or incomplete evidence of, a physical or medical fact. It is bad medicine and therefore bad law, and should not be passed.

On the pregnant at sixteen, or more exactly pregnant and seeking an abortion at a physically possible limit of 16 and nine months, or legally at a possible sixteen and 24 weeks: I have rewritten my opinion on this several times lest I give anyone an excuse for bringing out the 'emotional' label, but the mildest I can make it is to call it both social and legal lunacy. The protection of minors against pregnancy has been given as a reason. It is also said to tie in with the Crimes Ordinance which makes it an offence to have intercourse with a girl under 16. Notice, we are not here talking about rape or other crimes, we are talking about being under sixteen years of age and willing to have intercourse, perhaps even inviting it and thereby becoming pregnant. My reading of the proposal is that it is an added invitation for minors to get pregnant because it provides new and separate grounds by which minors just by being minors can in their own right ask for the so-called easy way out of their troubles. Legally it is an invitation to contempt of the law protecting minors.

Socially one would need to be a blind angel not to see the connection between contraceptives with a known failure rate being readily available to teenagers, the increasing breakdown of traditional family values, and an increased rate of unwanted teenage pregnancies with its future increased rate of abortions. This effort to protect minors against pregnancy and uphold the Crimes Ordinance will in my opinion have the opposite effect. The cure is worse than the disease. It may be said I am unduly pessimistic, that in fact there are very few teenage pregnancies or abortions now. Good. Let us keep it that way and not give people ideas and legal invitations to change for the worse.

On rape and offences against the Crimes Ordinance. I must come back to the amendment by which it is proposed to bring this section under medical judgment because my mind still boggles. It means that the legal profession,



with no specialized knowledge of medicine, passes the baby over to the medical profession with the one hand, and with the other puts in a legal presumption of a medical fact which is in doubt. How can the legal profession put such an unprofessional burden on the shoulders of a medical practitioner? It could mean that the law is saying to the medical practitioner who is in doubt: 'We the Law resolve your doubt, We the Law give the medical opinion that in all cases of doubt the woman is in greater danger if she allows the child to come to term'. It could not mean that. If not it must mean that the law is saying: 'You have a doubt, ignore your doubt and your medical knowledge on which your doubt is based and go ahead. The law will protect you from the consequences.' What medical practitioner could accept such a position? Again, this is bad medicine and therefore bad law, and it should not pass.

Also of course the whole proposition ignores the fact that in cases of rape and the other offences against the Crimes Ordinance there are two innocent victims. There is the girl, with whom everyone will have the utmost sympathy and who needs and should get all the psychological, moral and material support that society can give her through her family and such agencies as the Birthright Society. But the second victim is the unwanted child, the other and forgotten equally innocent victim. If this Bill goes through, as was stated before, this victim will be condemned to death. By all means let the law intensify the war against rape, by all means let the law be as severe as humanly possible against the convicted rapist. But that does not require the law to condemn the innocent aftermath of crime because of a doubt of medical fact, or the presumption of the truth of a report which may be false, and indeed may later be proved in Court to be false.

I have given some of the reasons why I am opposed to the main provisions of clause 4 of the Bill. There are other loose ends which I will not go into. There is the obvious untidiness of one part of the Bill taking 24 weeks as the likely time in which a child can become viable, and in another place taking 28 weeks based on a law which was passed when medical science was fifty years behind its present state. As you may have seen from last years debate in the United Kingdom present medical science tends to accept twenty weeks as right, or certainly 22. This is more than untidy, it opens the way for endless legal argument—a sign of bad legislation.

A comment on the package deal: I agree with changing the title after section 45 to 'Abortion, Child Destruction and Infanticide'. That much, but only that much, is as has been stated a tidying up operation. The new title also has the advantage of putting abortion in context by putting the three sorts of child destruction together. I also agree with changing the date from 1980 to 1981 (*laughter*). But apart from that the package deal is a bit too naive to be accepted. Government, for some reason beyond the comprehension of anybody else, is determined to extend the grounds for legalized abortion beyond the medical grounds accepted in the U.K. Those in favour of life, and responsible professional conduct and the preservation of human

values do not want those grounds extended. The unpalatable parts of the Bill have been wrapped up in the palatable parts. It is more a Pill than a Bill (*laughter*). I have no intention of swallowing it (*laughter*), and recommend to those who have any doubt or suspicion of any part of it to do what I will do and oppose the motion that the Bill be read a second time. If the motion is defeated and the Bill is not read a second time what about the sugar or the palatable parts? I have concluded that the good parts are not too badly looked after under existing law. For example the limitation of time to 24 weeks and the introduction of the Child Destruction clause with its 28 weeks, desirable as it is to include them, are in fact already safeguarded by the fact that such late abortions should in practice be considered a greater risk to the health of the woman than the continuance of the pregnancy and thus, if the present law is observed, could not be performed under the present section 47A(1) if common medical opinion is to be believed and acted on. For future reference please note the two 'if's in my sentence. The infanticide part is already in the Criminal Proceedings Ordinance and will suffer nothing but a bit of untidiness by staying there a while longer. So, not much will be lost and a lot will be gained, if before the second reading, in spite of all the labour that has gone into it, this untidy and contentious brain child, with all its handicaps, should be aborted (*laughter*).

Finally a personal note. To safeguard my position in the event of future debates on this subject I want to make it perfectly clear that if this Bill by some misfortune reaches committee stage whether today or in a select committee, it may be that I might vote in favour of some of the amendments proposed by Unofficial Members in the faint hope that they might mean a lessening of the destruction which would be caused by this Bill as it stands. If I do so it will be as the lesser of two evils and should not in any way be construed as my appearing to condone any part of the existing law or the parts of today's Bill which widen the grounds for abortion.

I hope however that the complications of these various amendments and votes will not arise, that reason rather than emotion will prevail, and that the motion that this Bill be read a second time be, in the quaint language of our Standing Orders, negatived. This would be particularly appropriate today, 'Yan Yat' (人日), everybody's birthday, Sir, need I add, I oppose the motion, sugar and all (*laughter*).

MR. PETER C. WONG:—Sir, I value life. I believe we all do.

What clause 4 of the Bill proposes is a radical departure from the concept on the subject as reflected by the existing law.

Foetus is defined by the Webster Dictionary as a developing human from about 12 weeks after conception to birth. To say that a foetus of less than 24 weeks is life which is expendable is to me pure legal fiction. Government has not put forward cogent reasons why the law should be changed to allow

the destruction of developing human life in the manner proposed. Obviously, we are treading on very tenuous grounds.

Medical opinion, from what I understand, seems to indicate that the existing law, based as it is on medical grounds, already substantially covers most of the new proposals. Why then do we need to introduce these controversial amendments? If we must liberalize abortion, perhaps a more sensible solution would be to enlarge the existing medical grounds on which abortion is permissible.

Sir, we must value life and respect its inalienable right to exist.

MR. WONG LAM delivered his speech in Cantonese:—

督憲閣下：本人並無宗教信仰，亦非醫學界人士，所以無意從宗教或醫學觀點討論墮胎問題，不過，作為一名關心社會風氣的市民，本人必須指出：政府准許十七歲以下婦女，毋須提供任何理由，即可合法墮胎的提議，實在是過於放任和弊多於利的，因為此舉不獨間接鼓勵十七歲以下少女在男女關係上變得更隨便，而且也使中國人特別重的人倫親情觀念變得更為散漫，對社會的風氣，相信會有不良的影響。

政府這項提議，最主的原因，相信是認為十七歲或以下的婦女未能盡母親的責任，所以不如容許她們合法和方便地墮胎。此點本人絕不同意。從過往本港所發生的虐待和疏忽照顧子女的例子來看，未盡母親責任者並不限於十七歲以下的婦女，而十七歲以下的母親克盡母職的相信也大不乏人。另外，即使年輕的母親未能照顧子女，政府也應該設法正面幫助她們，鼓勵她們的其他親人，例如祖父母等，協助她們養育子女，而不是反面地以墮胎的捷徑，來解決問題。本人認為這項提議與法案基本上的人道精神相違背，所以反對這方面的動議

*(The following is the interpretation of what Mr. Wong Lam said.)*

Sir, I have no religious beliefs and I am not a member of the medical profession. Therefore I do not intend to discuss the issue of abortion from a religious or medical point of view. However, as a member of the public concerned about social morality, I must point out that the Government's proposals to allow abortion on demand for women under 17 without requiring them to give any reasons is too indulgent and would bring about more disadvantages than advantages. Such a proposal not only indirectly encourages girls under 17 to be more casual in their relationship with the opposite sex, but also disrupts the concept of ethics which is of important concern to the Chinese. It would also have a bad influence on social morality.

The main reason why the Government put up such a proposal is probably the belief that women under 17 are not capable of fulfilling the responsibilities of a mother. Hence it might be better to legalize and facilitate abortion for them. I totally disagree with this view. Judging from cases of child abuse and parental negligence in Hong Kong, those who have failed to fulfil maternal responsibilities are not necessarily women under 17, many of whom, I believe, have shown themselves to be fully capable of such duties. Besides, even if young mothers are unable to take care of their children, the Government should try to help them in a positive way, e.g. by encouraging their relatives,

say their grandparents, to help raise their children, and not go about the issue negatively by way of the shortcut of abortion. Personally, I think this proposal is contradictory to the basic humanitarian spirit of the Bill. I am therefore against this particular aspect of the motion.

DR. HO:—Sir, the Offences Against the Person (Amendment) Bill 1980 revises our existing law by specifying more clearly the particular circumstances under which an abortion can be performed legally. It also extends the protection available to an unborn, but viable foetus, by introducing the offence of child destruction based on the U.K. Infant Life (Preservation) Act of 1929.

Arising from points raised by Unofficials on the Bill, the Secretary for Social Services will be moving a committee stage amendment to allow women under 16 years of age and victims of rape, incest and sexual intercourse procured by threats, drugs or false pretences an abortion, only when two doctors are of the opinion that the continuation of the pregnancy involves greater physical or mental health risks to the mother than if the pregnancy were terminated. I would like to stress that the age of the woman and whether or not she is a victim of criminal sexual intercourse is only a criterion for abortion in those border-line cases where the two doctors are in doubt as to whether an abortion is warranted on medical grounds. In other words, Sir, there is no question of abortion on demand for these women.

In the event that the two doctors do decide that an abortion is necessary, it is still up to the mother to decide whether or not she wishes to have an abortion. Although the law entitles a woman to an abortion in certain prescribed circumstances, it by no means compels her to have one and it is up to the woman herself to make her own decision. It would therefore be totally wrong to assume that in every case where the woman is eligible for an abortion under the law, an abortion is actually performed.

Sir, as legislators, we must be pragmatic and face the realities of life. There are a great number of girls under 16 who are totally unable and ill-equipped to shoulder the responsibilities of motherhood. Their pregnancy is a frightening and traumatic experience. Is it right that we should punish them by making them give birth to an unwanted child, and subject them to all the mental anguish associated with it? In my opinion, Sir, it is not. Where the pregnancy does involve such a tremendous strain on this young woman, I think it is only reasonable that we should allow her to have an abortion, if that is her wish.

Turning to the victims of rape and incest and other sexual intercourse offences, I likewise feel it is absolutely wrong to force these victims into suffering the additional trauma of going through nine months pregnancy and giving birth to an unwanted child. I consider that she has already suffered more than enough and we should do everything possible to ensure she suffers no further.

I would like to point out, Sir, that for those Members who are concerned about the dangers of a viable foetus being aborted, the Bill provides that a pregnancy cannot be terminated, save in exceptional circumstances, where it is of more than 24 weeks duration.

Sir, I support the motion.

MR. ALLEN LEE:—Sir, abortion is a very serious subject because human lives are at stake. I must declare I value life as much as anyone. When the Offences Against the Person (Amendment) Bill 1980 was first introduced into this Council, I warned myself to carefully examine the conditions in the Bill to reach a conclusion on whether it will serve the best interests of our community. I am conscious of the fact that opinions will be divided in this Council. However, it is my belief that the provisions in this Bill are adequate and therefore I support it wholeheartedly.

First of all, we cannot assume that every case stated in this Bill as it occurs will result in automatic abortion. I believe the decision still lies with the pregnant woman and she can either accept or reject the medical practitioner's advice to terminate her pregnancy. If a pregnant woman decided to carry on with her pregnancy under the conditions of this Bill, then it is safe to assume that she has accepted the responsibility of being a mother and she will perform her duties as a mother to the best of her ability. On the other hand, I am absolutely convinced that we cannot ask a sex victim, regardless of whether it is rape or incest, to carry on with her pregnancy and let the unwanted child be born and let her go through more than nine months of mental agony and tell her if she is unwilling that somebody will take care of the baby. I am also absolutely convinced that if a pregnant woman is aware that her child is likely to be seriously handicapped she must be given the opportunity to choose whether she wants an abortion. I know a family that had a seriously mentally handicapped child. The mother had taken care of her son for more than thirty years until he passed away. During his life span, she was hoping for a miracle, she had demonstrated her love for her son even though she has three other perfectly healthy sons. After he passed away, I remember vividly that she told me she wished her son had never been born. It is very difficult to define what is meant by seriously handicapped and I believe we must leave it to the judgment of the medical practitioners.

The question about age 17 is quite controversial as there are those who believe that we are giving a licence for under-aged girls to have fun and there are those who even believe that it is an encouragement. I think otherwise. Our community is well aware of the fact that having sexual relations with a girl who is 16 years old or less is unlawful, but unfortunately it happens and when a young girl becomes pregnant should she be punished and condemned for the rest of her life due to her mistake? And in many instances it may not be her own fault because she might be under the influence of drugs. An

option of legal abortion must be provided, therefore I support it without reservation.

Sir, a number of my colleagues and I are concerned about adequate hospital facilities and we are seeking an assurance from the Medical and Health Department that the department is prepared well in advance to provide the services even though there are no statistics to indicate what might be the increase in demand.

Sir, I support the Bill before Council.

MR. SO delivered his speech in Cantonese:—

督憲閣下：本人反對一九八一年侵害人身罪（修訂）法案第四款，因為它縱容和鼓勵侵害人身—侵害和摧毀無辜的、弱小無告的、尚未能脫離母體而生存的人身。摧毀胎兒就是摧毀生命，因為生命是一個發展過程，自然科學家也不能指出由受孕直至嬰兒誕生的時間內，那一刻不是一個人類的生命。中國人向來都把胎兒視為一個人類的生命，自古即慣於把母胎內的生存期計算在年齡內，出生就是一歲；提到孝道時，自然把「十月懷胎」當作為父母對自己的極大之恩；家傳戶曉的「梁天來案」裡面所說的「七屍八命」，也充份表示出傳統的觀念。

我們制訂法律並不應單考慮是否適應現實情況，更要留意它的教育功能。因為在許多人心目中，法律所容許的就是對的。一個願意墮胎的人，必然是一個好不幸的人，若非走投無路，又有誰想把骨肉去掉？所以我們要關注和具體的給他們援助，而不是提供摧毀生命的辦法去解決問題。尊重生命應該是文明人社會一切努力的基礎。歸根到底，誰可以決定誰適宜於生存，誰不適宜於生存呢？

督憲閣下，本人謹此陳辭，反對本法案的第四款。

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

Your Excellency, I oppose clause 4 of the Offences Against the Person (Amendment) Bill 1980, on the grounds that it connives at and encourages offences against the person by allowing an innocent, helpless child to be harmed and destroyed before it has an existence independent of its mother. To destroy an unborn child is to destroy life, for even scientists cannot say that there is any period between conception and child birth when there is no human life. The Chinese have long regarded a child in its foetal form as a human life and, according to traditional Chinese practice, the foetal stage counts as age, so that a child is reckoned as one year old immediately after birth. On filial piety, the reference to the 'ten-month pregnancy period' is commonly associated with one's great indebtedness to one's parents, while the allusion to 'seven corpses with eight lives' in the legendary 'LEUNG TIN OY Case' is also illustrative of this conventional belief among the Chinese.

When drafting legislation, we should take into account not only its application to actual circumstances but also its educational effect on the public. To many people, whatever is permitted by law is right. Any woman who seeks an abortion must be an unfortunate person. After all, who wants to get rid of her own flesh and blood if an alternative is available? To come to grips with the problem, therefore, we should give our sympathy and concrete

support, instead of devising ways and means to destroy life. Respect for life should be the basis of all efforts of a civilized society. After all, in the final analysis, I must ask who is to determine who is fit to survive and who is not?

Sir, with these remarks, I object to clause 4 of the Bill.

(4.46 p.m.)

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

(5.00 p.m.)

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

MR. BROWN:—Sir, of the many bills presented to this Council in recent years the Offences Against the Person (Amendment) Bill 1980 has surely caused more heartsearching than most. I speak as one who has occupied middle ground throughout the progress of this Bill through our legislative process, and after listening to all the arguments surrounding this emotive subject I have not been able to change my initial reservation as to whether it is really possible to legislate, successfully, on an issue which is primarily a moral one.

In saying this I am conscious that although religions condemn induced abortion the application of criminal sanctions is a relatively recent development and only became common in Europe during the last century. The law there has subsequently become more liberal with many countries now permitting abortion at the request of the mother. In Asia I believe abortion is not generally covered by legislation, other than in China, Japan and Singapore where it is available more or less on demand.

I have debated with myself, therefore, as to the extent which any legislature can, or indeed should, attempt to suggest standards of human behaviour based on what legislators themselves consider to be ethically right or wrong. I suppose it is for this reason that the law involving moral issues tends to lag behind public opinion, and notwithstanding the vocality of those opposed to this Bill it is difficult not to gain the impression that the silent majority— particularly of the female sex—would endorse a more liberal attitude towards abortion in Hong Kong.

Sir, I am also conscious, having just made reference to those most affected by this subject, that is to say members of the opposite sex to myself, that we are predominately a male legislature debating a matter which is primarily the concern of women. Abortion is of course the concern of the whole community when being considered from a theoretical point of view. However, when it comes down to practicalities it is the woman who requires an abortion—for

whatever reason—who has the most immediate concern with this subject, and we must protect her rights to have her wishes respected by proper medical attention rather than a back-street abortionist.

The intention of this Bill to bring justification for abortions into the area of medical judgment, with all considerations being within medical criteria, is a compromise which stops short of abortion on demand. Perhaps it is best to limit any change in our law in this way at this time, and it does provide a practical contribution towards a solution of an extremely difficult social problem.

I have sympathies in my heart for the views expressed by those who oppose this Bill, but I am afraid my head is solidly against their arguments.

As I said at the beginning this Bill is about morals and the need for it, in a way, must be seen as a confession of failure to deal with many of the maladies afflicting our modern society. The Bill does not force doctors to abort, nor women to have abortions, and I believe its provisions are in accordance with attitudes towards abortion held by the majority, albeit the silent majority, of our population. For this reason, Sir, I support the motion.

MR. CHAN KAM-CHUEN:—Sir, the Bill revises the law relating to abortion by specifying more clearly the particular circumstances under which an abortion can be performed.

Although I support the Bill as a whole, and am not opposed to abortion in principle, I am seriously worried by the proposal which allows an abortion to be performed if two registered medical practitioners are of the opinion, formed in good faith, that there is a substantial risk that the child, if born, would suffer from such physical or mental abnormality as to be seriously handicapped. My concern is that no mention is made of what constitutes a serious handicap. Would it, for example, include a child born with a club foot or a dislocated hip? I am of the opinion, Sir, that a pregnant woman who has just been told there is a substantial risk that her child, if born, would be seriously handicapped, would be under such severe strain and suffering from such mental anguish that she would be likely to decide in favour of an abortion, no matter how minor the handicap might be. Indeed, and without doubt, many individuals who have made a valuable contribution to society would not have been born had provision existed earlier for abortions on demand for those suspected of being pregnant with a malformed foetus.

Because of this, I consider the clause should specify more clearly what is meant by serious handicap. I therefore intend moving a committee stage amendment to clause 4 of the Bill to qualify the provision relating to foetus abnormality so that an abortion may only be performed where there is a substantial risk that the child, if born, would be so seriously handicapped as to be unable to exist without substantial care or assistance for life.



I understand Your Excellency has agreed to allow Official Members to vote in accordance with their conscience and I appeal to them to consider carefully this provision before casting their vote.

Let us not forget, Sir, that 1981 has been declared The International Year for the Disabled.

MR. SWAINE:—Sir, I wish to confine my remarks to the amendments which the Government proposes to introduce in committee stage as circulated to Members and notified in a press release on 13 January 1981.

These proposed amendments are to the provisions concerning the age of the pregnant girl and victims of incest, rape and related sexual offences.

As originally drafted, the clause provided that a person should not be guilty of an offence under the anti-abortion sections if the woman was, on the date of termination of her pregnancy, under the age of 17 years; or if she had made a report to any Police officer alleging that she was the victim of incest, rape or related sexual offence within a period of three months from the date of the alleged offence.

These provisions were open to objection for a number of reasons.

First, they undermined the avowed intention of the Government that the abortion in those circumstances should remain available only on medical grounds. Under the clause as it stood, the abortion could lawfully be carried out once it was shown that the girl was under the prescribed age, or that she had made the prescribed report to the Police, without further reference to medical opinion.

Second, as to the age of the pregnant woman, a conflict would have arisen with section 14 of the Marriage Ordinance, under which a lawful marriage may be contracted by a girl who is of or over the age of 16 if she has parental consent. It could not be right for such a girl to automatically qualify for an abortion.

Third, as to the reporting provision, the fundamental objection there was that the event which triggered the operation of the section was *not* the fact that the woman had been the victim of a sexual offence, but that she had made a report of it to the Police, thereby substituting form for substance. Provided she made a report, irrespective of whether or not she was a genuine victim, she would qualify.

The committee stage amendments proposed by the Government meet the objections to which I have referred.

First, the case for abortion is now to be re-vested in the doctors for them to decide whether termination of pregnancy is justified where the woman is under-age or is the victim of a sexual offence. The revised clause provides that, *where the doctor is in doubt*, he may presume that the continuance of

the pregnancy in those circumstances would involve risk of injury to her physical and mental health greater than if the pregnancy were terminated.

The new provision may be analysed thus: if the doctor is in no doubt the termination is medically justified, he may lawfully proceed and has no need for the statutory presumption; if he is in no doubt the termination is medically unjustified, he may not lawfully proceed and the statutory presumption does not avail him; it is only if he is in doubt that he may have recourse to the statutory presumption.

Second, the age requirement has now been revised to qualify the woman if she is with child before attaining the age of 16, thereby avoiding conflict with the Marriage Ordinance.

Third, the reporting provision had been replaced by the creation of the double requirement that, in order to qualify, the woman has been the victim of a sexual offence and has reported to the Police within three months of it. She cannot bring herself within the protection of the clause simply by making a report to the Police. However, the doctor may properly rely on the report. It is his belief which counts, and the revised clause presumes in his favour, until the contrary is proved, that he did believe the woman to have been such a victim if she had made the requisite report to the Police. The doctor has still of course to decide on medical grounds whether the termination is justified, on the basis of the analysis I have earlier described.

Sir, with these remarks I support the motion.

DR. FANG:—Sir, firstly I would like to express my appreciation for the forbearance, patience and understanding my Official colleagues have exercised in the various discussions they have held with Unofficial Members about the Bill. The Unofficials' own *Ad Hoc* Group which was set up to study the Bill, and of which I am Convener, met on a number of occasions and also received representations from various individuals and organizations about the Bill. It also met with representatives of these organizations to hear their views. Our extended deliberations are a reflection of the widespread concern this Bill has aroused throughout the community and Members will appreciate that there are a large number of people who genuinely hold very strong and deep-rooted feelings about the provisions of the Bill and its impact on our society.

I support the majority of the Bill's provisions which are concerned with the protection of the unborn child and I congratulate the Government for having taken the initiative to introduce the offence of child destruction, based on the U.K. Infant Life (Preservation) Act 1929, in recognition of the rights of the unborn, but viable foetus. Notwithstanding this however I, like a number of my Unofficial colleagues, am opposed to clause 4 of the Bill which relaxes to an alarming degree the circumstances under which an abortion may legally be performed. This specifies that women diagnosed as being pregnant with an

abnormal foetus; women under 17 years of age and alleged victims of rape, incest and sexual intercourse procured by drugs, false pretences or threat are entitled to abortions. But throughout our discussions no one has been able to offer a convincing explanation as to why such additional measures are necessary. Moreover, there is no evidence so far as we are aware to indicate that such victims are being denied abortions under the law as it stands.

As my Unofficial colleagues have already spoken on the provisions dealing with the under 17-year-olds, I shall confine my comments to the provisions dealing with the abnormal foetus and the so-called rape related offences.

Regarding the provision which allows abortion for women diagnosed as being pregnant with an abnormal foetus; there are a number of points I wish to raise. Medical science is not precise and it is extremely difficult, and in some cases impossible, to diagnose accurately the degree of deformity. In addition, there is also a high factor of error and risk associated with prenatal testing for foetal abnormalities and it is estimated that for every 100 babies aborted on the grounds of foetal abnormality, ten healthy babies are killed. Indeed it was on these grounds, based on evidence presented by the Royal College of Obstetricians and Gynaecologists of the United Kingdom, their Government, less than three years ago, halted its plans to make amniocentesis (a form of pre-natal testing) available nation-wide.

Bearing this in mind, in Hong Kong we are still proposing to allow any two registered medical practitioners to form an opinion as to whether there is a 'substantial risk' that the child if born would be 'seriously handicapped'. Sir, as the Bill stands and with the wording as vague as it is I do not see how we can expect two doctors, who are not experts in this field, to decide what constitutes a 'substantial risk' and what is 'seriously handicapped', particularly given the unreliabilities and the imprecision associated with prenatal testing. I therefore suggest that either this decision is left in the hands of perinatologists who are specialists in this field or the provision is amended, as proposed by my Unofficial colleague, to give the medical profession some guide-lines within which to operate, by defining more clearly what is meant by a serious handicap.

Hong Kong has in practice abolished capital punishment. One consideration in support of this measure was the possibility that one might execute an innocent person. Yet here we are, today, proposing to sentence to death the unborn child on grounds of suspicion alone.

Medical advances have made it possible for us to administer drugs, injections, as well as carrying out intrauterine transfusions or even surgeries, on a foetus. Given the pace at which medical science is advancing it is possible that sometime in the future, and perhaps even within our life time, we shall be able to correct some deformities whilst the foetus is still in the womb. In the light of such developments, the proposal now before us to allow

abortion on the grounds of suspected foetal abnormality is both untimely and retrograde.

Let us not forget, Sir, that 1981 has been declared the International Year of the Disabled Persons. We had fought long and hard to overcome the stigma and guilt feelings associated with being handicapped and are finally having some success. It cannot but be demoralizing to all in the rehabilitation field to be confronted with a bill which says you should not have been born.

Turning to the provision that allows abortion to alleged victims of rape, incest and sexual intercourse procured by threats, drugs or false pretences: under our existing law the penalties for these offences ranges differently from life imprisonment for rape to five years imprisonment for intercourse procured by false pretences. In other words, Sir, although the Crimes Ordinance recognizes the varying degrees of severity of these offences, the Bill before us does not since it entitles a woman who has been the victim of any of these offences to an abortion, which means the termination of the life of an innocent person.

I am particularly concerned about the dangers of abuse in the provision relating to false pretences and I would welcome clarification from the Government as to exactly what constitutes a false pretence?

Because of my reservations and having regard to the distinction made in the Crimes Ordinance between these various offences, I intend moving a committee stage amendment to delete the provision which allows alleged victims of sexual intercourse procured by drugs, threats or false pretences to have an abortion.

I understand Your Excellency has agreed to allow the Official Members of this Council to vote in accordance with the dictates of their conscience and I urge all Members who have a *reasonable doubt* regarding the necessity for these amendments to vote against this Bill.

A number of committee stage amendments have been tabled this afternoon to modify this amendment Bill. The amendments proposed by the Secretary for Social Services in no way ease my reservations regarding this item of legislation. A number of my Unofficial colleagues have also tabled amendments. I must reiterate that I am totally opposed to clause 4 of this Bill in so far as it seeks to extend the grounds for abortion. But should we reach the committee stage I shall support the amendments of my Unofficial colleagues as being the lesser of two evils.

To conclude, Sir, it seems somewhat ironic that at a time when many countries are concerned that their abortion legislation has gone too far, Hong Kong is proposing to relax its abortion laws. I would ask all Members assembled here this afternoon to weigh carefully the arguments for allowing this Bill to proceed beyond the second reading.

SECRETARY FOR SOCIAL SERVICES:—Sir, I am most grateful to Dr. Ho, Mr. Allen LEE, Mr. SWAINE and Mr. BROWN for their support of this Bill after taking into account my tabled amendment to clause 4(b), and to Mr. S. L. CHEN, Mr. WONG Lam and Mr. K. C. CHAN for their conditional support, and I hope that my further explanations will allay their residual fears. My thanks are also due to Dr. FANG'S *Ad Hoc* Group for the time and care they have taken over this Bill even though for a number of the Members concerned we can only agree to differ. Knowing the strong personal convictions of these Members I realize how distasteful it must be for them to see laws enacted permitting abortions under any circumstances: and, as Father MCGOVERN has stated, this applies equally to the limited measure we introduced in 1967 and which now stands in the Statute Book as section 47A of the principal Ordinance. Indeed, Father MCGOVERN'S rhetoric notwithstanding, he is no less opposed to the use of contraceptives. However, as a Government, we have to respond and attempt to cope with Hong Kong'S problems as they are, giving due and proper regard to the reasonable expectations and welfare of the majority.

Apart from clause 4, and the technical amendment to clause 1 which I shall be moving, I think it is fair to say that all the remaining clauses are generally acceptable—except to Father MCGOVERN who, in particular, considers the permitted time limit of 24 weeks for a therapeutic abortion imposed by the new section 47A(2B) in the Bill (which will become section) 47(2C) under my proposed amendment) and the provision in the new section 47B(3) for a foetus of 28 weeks or more to be presumed to be viable, to be a piece of, I quote, 'obvious untidiness'. In this connexion I need only repeat what I said when introducing the Bill on 19 November 1980, that the professional medical associations as well as the Professor of Obstetrics and Gynaecology at the University of Hong Kong had all endorsed these two time limits.

When introducing the Bill last November, I did not think that the marginal change in clause 4(b) in not requiring the exercise of medical opinion in abortions involving very young girls and pregnancies arising from incest and rape would be objectionable to the public, particularly as the Bill had first been published for information last April and no such objections were raised by the bulk of our citizens holding middle ground. I am therefore grateful to Dr. FANG'S *Ad Hoc* Group in general, and Mr. SWAINE in particular, in pin-pointing the desirability of maintaining medical grounds as the only basis for permitting a legal abortion. I shall accordingly be moving an amendment to clause 4(b) in the committee stage as set out in the paper circulated to Members on 13 January, which in effect enlarges the existing medical grounds on which abortion is permissible. I trust this meets Mr. Peter C. WONG'S suggestion. As Mr. SWAINE has already succinctly explained the legal significance of this amendment I need not repeat it in detail. I will add, however, that the new subsection (2A) to section 47A:

firstly, will be limited to pregnancies arising from criminal acts—a man having unlawful sexual intercourse with a girl under 13 or under 16 commits an offence under section 123 or 124 respectively of the Crimes Ordinance, while the offences for incest and rape are already spelt out in the subclause itself;

secondly, as Mr. SWAINE has explained, only applies where the doctor is in doubt—he may then presume that the continuance of the pregnancy would involve risk of injury to the pregnant woman greater than if the pregnancy were terminated, but if the doctor is in *no doubt* that the termination is *not* medically justified he may not proceed with the abortion;

thirdly, does not require any pregnant woman, whatever the circumstances of her condition, to have an abortion;

fourthly, provides that where all the medical indications are met the woman concerned may then decide for herself whether she wishes to terminate her pregnancy; and

finally, in answer to Miss BENNETT'S reference to our discussions with the *Ad Hoc* Group, that this amendment has the full agreement and support of the Director of Medical and Health Services.

Mr. K. C. CHAN has given notice that he will move an amendment to clause 4(a) which will limit abortions in medically advised cases to those where the child if born 'would not be able to exist without substantial care or assistance for life'. He asked us not to forget that 1981 has been declared the International Year of Disabled Persons.

Sir, I have carefully studied the Charter for the 80s which Dr. FANG and his colleagues from Rehabilitation International presented to you at the City Hall on 16 January 1981, as well as the United Nations statements proclaiming 1981 as the International Year of Disabled Persons. I can find no suggestion therein against abortion: much less abortion of abnormal foetus. The primary aims are rehabilitation and integration of the disabled in the society. One of the aims of rehabilitation work is, of course, the prevention of disability.

This objective is recognized in our Rehabilitation Programme Plan which devotes a chapter to Prevention of Disability. Genetic counselling is a recognized measure for the reduction of congenital disability. And one of the necessary aids to this sophisticated development is the legal provision for a pregnant woman who has need for, and has received this advice, which indicates a substantial risk that her child, if born, would suffer from physical or mental abnormality as to be seriously handicapped, to be permitted to have a safe abortion.

Dr. FANG states that there is a high error factor associated with pre-natal testing for foetal abnormalities and goes on to assert that on evidence presented by the Royal College of Obstetricians and Gynaecologists of the United Kingdom, Government halted its plans to make amniocentesis available

nation-wide. Dr. FANG does not quote the sources of his information, but I do have a copy of the British Journal of Obstetrics and Gynaecology, Supplement No. 2, An Assessment of the Hazards of Amniocentesis, with me. I am advised—and this is consistent with the conclusions in this Assessment— that the balance of advantage of amniocentesis depends critically upon the medical indication for the procedure; and in Hong Kong the indications are such that the procedures will be beneficial when all factors are considered and that the error factor should be minimal. The establishment and operation of an amniocentesis facility is of course expensive, but I might add that Hong Kong's first Amniocentesis Centre is about to be commissioned at Tsan Yuk Hospital and will be under the direct supervision of the Professor of Obstetrics and Gynaecology of the University of Hong Kong.

Miss BENNETT attacks me for seeking to follow the wording of the relevant clause in the United Kingdom legislation in this regard, and suggests that this plays havoc with all our work in this Council. With the greatest respect to her I do not follow her logic. I would have thought that where such suitable transplants were available from an Act of the Mother Parliament and we did not take advantage of it we would need to have our heads examined — unless of course the aim is to give our legal fraternity more scope for arguing about the meaning of differently arranged words, to take up valuable time of our courts, and to incur additional outlay from the public purse!

In my opinion Mr. K. C. CHAN's amendment would make this subsection unworkable. In the light of these explanations, he may wish to reconsider moving his proposed amendment in the committee stage, particularly as no pregnant woman, however prone she may be to giving birth to a seriously handicapped baby, is required to abort her child if she wishes to take the risks with her eyes open. And as I said when introducing the Bill last November, such is the caring nature of our Government that we fully accept that baby's and that family's entitlements to screening and special education services as well as disability allowance, where appropriate. May I also add a quotation from the British Medical Journal of 16 December 1978 commenting on Hazards of Amniocentesis. I quote: 'The cost of serious spina bifida is much more than any financial expense: it is the cost of the anguish and disruption of an entire family and the cost of a cheerless existence for the child itself. Who is to say that those "costs" are more or less than the cost of losing a correctable dislocation of the hips? Only the individual parents can make that decision, and with the information now available from this report, their obstetrician is now in a better position to guide them.' Mr. CHAN's amendment, if adopted, will circumscribe and nullify that choice of decision and I, for one, would be obliged to oppose him.

Mr. WONG Lam's remarks are directed solely at section 47A(2A)(a) in the original Bill and I hope that my proposed amendment and the associated explanations both by Mr. SWAINE and in my earlier remarks has mollified him. However, Mr. CHEN seeks the deletion of paragraph (a) of the proposed

new subsection (2A) in my amendment. As a father of teenage children as well as Secretary for Social Services I do not believe that this provision will *cause* immorality, but rather that given certain unfortunate circumstances this will minimize the risk of further misery. However, if the young woman desires to have her baby, and clearly understands her actions then I am assured that, at law, even an over-anxious parent cannot *require* her to have an abortion.

Dr. FANG has asked for clarification as to exactly what constitutes a false pretence. I am advised that where a statute does not prescribe a special legal meaning to a word or phrase, the words concerned have their ordinary everyday meaning. I apologize for quoting from my dictionary at Dr. FANG, but my copy of the Concise Oxford Dictionary describes 'false pretences' as 'misrepresentations made with intent to deceive'.

While Dr. FANG apparently does not object to abortions being available in cases of pregnancies arising from incest or violent rape, he seeks to prevent a victim of sexual intercourse procured by drugs, threats or false pretences any recourse to abortion. This is illogical because under the Common Law all these cases constitute rape and he does not seem to be concerned that these victims of rape who are unfortunate enough to be impregnated as well should be required to suffer this further penalty of having to bear to full time in her womb this cruel seed. But I am certain that the overwhelming majority of our population do not share this view.

As regards his fear of false claims to the Police in cases of voluntary intercourse resulting in an unexpected pregnancy, the Police do investigate such reports and the Commissioner of Police is not worried that this new provision will result in a rash of false reports. Of course, under section 64 of the Police Force Ordinance the making of a false report to the Police is a criminal offence liable, on summary conviction, to a fine of \$1,000 *and* imprisonment for six months. In addition, a woman who secures an abortion through making a false claim is guilty of procuring her own miscarriage and is also chargeable under section 46 of the Offences Against the Person Ordinance.

A final amendment is being proposed by Miss BENNETT seeking to delete the reference to the three months time limit for making of a report to the Police where a woman alleges she has been the victim of incest or rape. Her reasoning is that this detracts from the Fight Crime Committee's attempt to encourage people to report as soon as possible. I have difficulty in following her logic because in our society today shame still attaches to a woman who is the victim of a sexual assault and our duty must surely be to protect her. A three-month reporting period is considered appropriate because that would provide a reasonable interval for the victim to recover from the initial shock. Furthermore, it is generally believed that some victims may not wish to report to the Police, or to publicize in court their traumatic experience until and unless they are convinced they are pregnant after missing their menstrual



cycle, or period, for the second time. I repeat: this is a measure to help these unfortunate women. The Secretary for Home Affairs who is Chairman of the Fight Crime Committee agrees that our primary concern in these circumstances is the welfare of the victim, and he assures me that he does not consider that this provision would detract from his Committee's efforts to mobilize the community in helping the Police bring criminals to justice.

Of course, an ironic effect of Miss BENNETT'S amendment would be to liberalize this provision further, but I still do not support it!

Miss BENNETT has also asked for an assurance that if this Bill is passed the Government will keep very careful statistics. I can assure her to the extent that statistics of abortions performed under each class of circumstances permitted by the law are and will continue to be kept. As regards the other categories we can only agree to look into the possibilities having due regard to the implications these will have on the operational agencies of the Government involved, particularly the request for the number of life births of girls who conceived under the age of 16.

I must confess that I cannot hope to match Mr. SO'S scholarship of the Chinese classics, but I am glad to note that he has not suggested that termination of an unlawful pregnancy was a punishable offence in traditional Chinese law—let there be no mistake herbal preparations believed to be capable of inducing abortion have been used by Chinese women over the ages. Furthermore, as Miss BENNETT and Mr. BROWN have implied, predominantly ethnic Chinese communities elsewhere appear to have much more liberal abortion laws than those under discussion in this Council today (but in making this observation I am not saying that we must necessarily follow them to permit abortion on demand).

As regards filial piety I have always been taught that the most unfilial act is not to produce a son to continue worship of one's ancestors. But today we do not condemn those who have adopted a religion, say Christianity, which does not permit ancestral worship. This is because we recognize everyone's right to freedom of religion and worship. How then can we deny our pregnant women a greater choice in deciding whether to continue their pregnancies in defined medical circumstances? May I repeat Mr. BROWN'S remark that this Bill does not force doctors to abort nor women to have abortions?

As Official Members are specifically allowed to vote on this Bill as their conscience dictate, I would like, with Your Excellency's forbearance, to indulge in some personal speculation. It is this. Despite the campaign mounted by the opponents of this Bill they have been unable to generate any public support. I personally feel that notwithstanding the commendable conviction and religious zeal of these pressure groups they comprise a small, though vocal, fraction of our community, so much so that there are probably more in our midst who may feel that this Bill does not go far enough. These could

well feel that there should be abortion on demand. For instance, take the case of Italy, a Catholic country. There, voluntary abortions are permitted within the first 90 days of pregnancy virtually on demand: economic, social and family conditions, circumstances in which conception occurred, and foreseen deformities or abnormalities in the unborn child, as well as the health considerations of the pregnant woman can be taken into account. Why then not a similar clause to cover economic and social conditions in the Hong Kong law?

Speaking now for the Government, may I end by repeating that we have to respond to and attempt to cope with Hong Kong's problems as they are. The balanced package in the Bill before Council together with my proposed amendment has given due and proper regard to the reasonable expectations and welfare of the majority, and does not represent anything remotely like extreme measures. We only aim to give pregnant women a greater right of choice in defined medical circumstances.

Sir, I beg to move.

*Question that the Bill be read a second time put and the President stated that the 'ayes' had it.*

Dr. FANG claimed a division. The President then ordered the Council to divide under Standing Order 36(4).

The Chief Secretary, the Attorney General, the Financial Secretary, the Secretary for the New Territories, the Director of Public Works, Mr. WU, the Secretary for Security, Mr. LO, the Secretary for Home Affairs, Mr. F. W. LI, Mr. CHEUNG, the Chairman, Committee to Review Post-Secondary and Technical Education, Mr. S. L. CHEN, the Secretary for Information, Dr. Henry HU, the Director of Medical and Health Services, the Secretary for the Civil Service, Dr. HUANG, the Law Draftsman, Dr. HO, the Director of Trade, Industry and Customs, Mr. WONG Lam, the Commissioner for Labour, the Secretary for Social Services, the Secretary for the Environment, the Secretary for Economic Services, the Director of Agriculture and Fisheries, Mr. F. K. HU, the Director of Home Affairs, Mr. BROWN, the Director of Education, Mr. SWAINE, Mr. CHAN Kam-chuen, Mr. WONG Po-yan, the Director of Social Welfare, the Secretary for Housing, Mr. Allen LEE and the President voted for the motion.

Dr. FANG, Mr. TIEN, Mr. LOBO, Mr. Peter C. WONG, Mr. YEUNG, Revd. MCGOVERN, Revd. Joyce M. BENNETT, Mr. Stephen CHEONG and Mr. SO voted against the motion.

The President stated that there were 38 votes for the Bill to be read a second time and nine against it, and declared that the motion was carried.

DR. FANG:—Sir, I move under Standing Order 43(1)(a) that the Offences Against the Person (Amendment) Bill 1980 be committed to a Select Committee.

*Question put and negatived.*

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

### **Committee stage of bills**

Council went into committee.

### **URBAN COUNCIL (AMENDMENT) BILL 1981**

Clauses 1 and 2 were agreed to.

### **INLAND REVENUE (AMENDMENT) BILL 1981**

Clauses 1 and 2 were agreed to.

### **SUMMARY OFFENCES (AMENDMENT) BILL 1981**

Clause 1 and 2 were agreed to.

### **MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS) (AMENDMENT) BILL 1981**

Clauses 1 to 4 were agreed to.

### **OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1980**

Clause 1

SECRETARY FOR SOCIAL SERVICES:—Sir, I move that clause 1 be amended as set out in the paper circulated to Members. This is a technical amendment to change the date of the Bill.

*Proposed amendment***Clause 1**

That clause 1 be amended by deleting '1980' and substituting the following—  
'1981'.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 and 3 were agreed to.

Clause 4

MR. CHAN KAM-CHUEN:—I move that clause 4 be amended in subclause 4(a) as set out in the paper circulated to Members.

*Proposed amendment***Clause 4**

That clause 4 be amended in paragraph (a) by deleting paragraph (b) of the proposed new section 47A(1) and substituting the following—

'(b) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be so seriously handicapped that the child would not be able to exist without substantial care or assistance for life.'

*Question put on Mr. Chan Kam-chuen's proposed amendment and the Chairman stated that the 'noes' had it.*

Dr. FANG claimed a division. The Chairman then ordered the Committee to divide under Standing Order 36(4).

Dr. FANG, Mr. TIEN, Mr. LOBO, Mr. S. L. CHEN, Mr. Peter C. WONG, Dr. HUANG, Mr. YEUNG, Mr. WONG Lam, Revd. MCGOVERN, Revd. Joyce M. BENNETT, Mr. Stephen CHEONG, Mr. CHAN Kam-chuen and Mr. So voted for the amendment.

The Chief Secretary, the Financial Secretary, the Secretary for the New Territories, the Director of Public Works, Mr. WU, the Secretary for Security, Mr. LO, the Secretary for Home Affairs, Mr. F. W. LI, Mr. CHEUNG, the Chairman, Committee to Review Post-Secondary and Technical Education, the Secretary for Information, Dr. Henry HU, the Director of Medical and Health Services, the Secretary for the Civil Service, the Law Draftsman,

Dr. HO, the Director of Trade, Industry and Customs, the Commissioner for Labour, the Secretary for Social Services, the Secretary for the Environment, the Secretary for Economic Services, the Director of Agriculture and Fisheries, Mr. F. K. HU, the Director of Home Affairs, Mr. BROWN, the Director of Education, Mr. SWAINE, Mr. WONG Po-yan, the Director of Social Welfare, the Secretary for Housing, Mr. Allen LEE and the Chairman voted against the amendment.

The Attorney General abstained.

The Chairman stated that there were 13 votes for Mr. CHAN Kam-chuen's amendment to subclause 4(a) and 33 against it and declared that the amendment was negatived.

SECRETARY FOR SOCIAL SERVICES:—I move that clause 4 be amended in subclause 4(b) as set out in the paper circulated to Members. These amendments have been fully explained by Mr. SWAINE and myself in the second reading debate. Briefly these amendments bring two new circumstances where abortion may be permitted within the medical area.

*Proposed amendment*

**Clause 4**

That clause 4 be amended by deleting paragraph (b) and substituting the following—  
'(b) by inserting after subsection (2) the following—

“(2A) Without prejudice to the generality of subsection (2)—

(a) in the case of a woman who is with child before attaining the age of 16;  
or

(b) in the case of a woman who has been the victim of sexual intercourse  
which

(Cap. 200.) constitutes an offence under section 47, 118, 119, 120 or 121 of the Crimes Ordinance and who has made a report to any police officer within a period not exceeding 3 months after the date upon which she alleges any such offence was committed,

a registered medical practitioner who is in doubt as to whether, in fact, the continuance of her pregnancy would or would not, involve risk of injury to her physical or mental health greater than if her pregnancy were terminated may, in forming an opinion for the purpose of subsection 1(a), presume that the continuance of her pregnancy would involve risk of injury to her physical and mental health greater than if the pregnancy were terminated.

(2B) Subject to this section, a registered medical practitioner who terminates the pregnancy of a woman who he believes has been the victim of sexual intercourse which constitutes an offence under

(Cap. 200.) section 47, 118, 119, 120 or 121 of the Crimes Ordinance, shall not be liable to prosecution under sections 46 and 47; and it shall be presumed until the contrary is proved that he believed the woman to have been the victim of such sexual intercourse if the woman made a report to a police officer within a period not exceeding 3 months after the date upon which she alleges any such offence was committed.

(2C) For the purposes of sections 46 and 47, nothing in subsection (1), (2A) or (2B) shall be taken to authorize the termination of a pregnancy which is of more than 24 weeks duration, unless such termination is in the opinion of 2 registered medical practitioners formed in good faith, necessary to save the life of the pregnant woman.” and’.

*Question put.*

MR. S. L. CHEN:—I move that the proposed amendment be amended by deleting paragraph (a) of the proposed new subsection 2(A).

*Proposed amendment*

#### **Clause 4**

That the amendment to clause 4 moved by the Secretary for Social Services be amended by deleting paragraph (a) of the proposed new subsection (2A).

*Question put and the Chairman stated that the ‘noes’ had it.*

Dr. FANG claimed a division.

The Chairman was of the opinion that a division was unnecessary and proceeded under Standing Order 36(5). There was a clear majority in support of the Chairman’s decision. The Chairman then declared that Mr. S. L. CHEN’S amendment to the proposed amendment was negatived.

DR. FANG:—I move that the proposed amendment be amended in paragraph (b) of the proposed new subsection (2A) and in the proposed new subsection (2B) by deleting ‘section 47, 118, 119, 120 or 121’ and substituting the following—

‘section 47 or 118’

as set out in the paper before Members.

*Proposed amendment*

#### **Clause 4**

That the amendment to clause 4 moved by the Secretary for Social Services be amended—

- (a) in paragraph (b) of the proposed new subsection (2A) by deleting 'section 47, 118, 119, 120 or 121' and substituting the following—  
    'section 47 or 118'
- (b) in the proposed new subsection (2B) by deleting 'section 47, 118, 119, 120 or 121' and substituting the following—  
    'section 47 or 118'

*Question put and the Chairman stated that the 'noes' had it.*

Dr. FANG claimed a division.

The Chairman was of the opinion that a division was unnecessary and proceeded under Standing Order 36(5). There was a clear majority in support of the Chairman's decision. The Chairman then declared that Dr. FANG'S amendment to the proposed amendment was negatived.

REVD. JOYCE M. BENNETT:—I move that the proposed amendment be amended in paragraph (b) of the proposed new subsection (2A) and in the proposed new subsection (2B) by deleting 'within a period not exceeding 3 months after the date upon which she alleges any such offence was committed' in accordance with the papers distributed to the Members.

*Proposed amendment*

#### **Clause 4**

That the amendment to clause 4 moved by the Secretary for Social Services be amended—

- (a) in paragraph (b) of the proposed new subsection (2A) by deleting 'within a period not exceeding 3 months after the date upon which she alleges any such offence was committed';
- (b) in the proposed new subsection (2B) by deleting 'within a period not exceeding 3 months after the date upon which she alleges any such offence was committed'.

Revd. Joyce M. BENNETT'S amendment to the proposed amendment was negatived.

The proposed amendment by the Secretary for Social Services as it stood was agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 7 were agreed to.

Council then resumed.

**Third reading of bills**

THE ATTORNEY GENERAL reported that the

URBAN COUNCIL (AMENDMENT) BILL

INLAND REVENUE (AMENDMENT) BILL

SUMMARY OFFENCES (AMENDMENT) BILL

MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS)  
(AMENDMENT) BILL and the

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1980  
(Subsequently enacted as Offences Against the Person (Amendment) Ordinance 1981)

had passed through Committee and moved the third reading of each of the five Bills.

*Question put on each of the five Bills.*

The first four Bills were agreed to.

As regards the Offences Against the Person (Amendment) Bill, Dr. FANG claimed a division after the President stated that the 'ayes' had it.

The President was of the opinion that a division was unnecessary and proceeded under Standing Order 36(5). There was a clear majority in support of the President's decision. The President then declared that the motion for the Bill to be read a third time was agreed to.

Bills read the third time and passed.

**Adjournment and next sitting**

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

*Adjourned accordingly at ten minutes past six o'clock.*