OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 27 May 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 (*Acting*)
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR. DENIS CAMPBELL BRAY, C.M.G., C.V.O., 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 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 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 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 JAMES NEIL HENDERSON, J.P.
COMMISSIONER FOR LABOUR

THE HONOURABLE GERALD PAUL NAZARETH, O.B.E., Q.C.
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-HUAI, 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 JOHN GEORGE STEAN, O.B.E., J.P.
DIRECTOR OF PUBLIC WORKS (*Acting*)

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

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

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

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

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

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

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

THE 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 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 CHAN KAM-CHUEN, J.P.

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

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, J.P.

ABSENT

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

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

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

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

THE HONOURABLE DAVID KENNEDY NEWBIGGING, J.P.

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, J.P.

IN ATTENDANCE

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

Papers

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

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Public Health and Urban Services Ordinance.	
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Subject *L.N. No.*

Land Registration (Amendment) Ordinance 1980.
Land Registration (Amendment) Ordinance 1981 (Commencement) Notice 1981 159

Oral answers to questions

Safety in railway operation

1. MR. S. L. CHEN asked:—*In view of the two incidents of derailment which have occurred over the past four weeks or so, will Government state:*
(*a*) *what action is being taken to prevent the recurrence of such incidents; and*
(*b*) *whether any special training will be provided to staff of K.C.R. to ensure safe operation of the railway after electrification, which will increase both the speed and frequency of operation?*

SECRETARY FOR THE ENVIRONMENT:—Sir, when incidents such as derailments occur on the Railway detailed enquiries are made to ascertain the causes and to establish whether changes in procedures, rules or techniques are needed in order to reduce the possibility of a recurrence. The two derailments referred to by Mr. CHEN took place on freight only track off the main line which, in accordance with worldwide practice, is not normally maintained to passenger line standards. Since, however, the track in question leads on to the main lines and these derailments held up main line services, action is now being taken to upgrade the track in question to main line standards to minimize the possibility of similar incidents in the future.

As regards the second part of the question, while I should emphasize that standards of training had no effect on the recent derailments, it is well recognized that the efficient and safe operation of the railway after electrification will require all staff to be given special additional training. A detailed and comprehensive training programme has therefore been developed by the K.C.R. management and the Government's consultants, TRANSMARK. The programme, which has been in operation since March of this year, will cover all staff and every aspect of the railway service. It will, among other things, involve the training of certain key staff and instructors on electrified railway operations in the United Kingdom.

MR. S. L. CHEN:—*Sir, when the Secretary for the Environment mentioned that the training had no effect on the recent derailment, does he appreciate the significance of speed of operation in the event of the derailment of a fast moving passenger train?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, but a fast moving passenger train will be operating on the highest quality track. The derailments, as I have

explained, which took place recently were in goods sidings which were off the main track, in fact they were at Hung Hom Station leading into the sidings where they unload.

Adequacy of nursing staff and policy on transfer of patients between hospitals

2. MISS DUNN asked:—*In the light of the deaths of two children recently in hospitals, would the Government state:*

(*a*) *whether the present nursing staff is adequate in Government and subvented hospitals,*

(*b*) *what is the policy regarding the transfer of patients between hospitals, and*

(*c*) whether the duties and responsibilities of doctors and nursing staff looking after transferred patients are clearly defined?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, regarding question (*a*) the staffing in respect of nurses in public hospitals is governed by a general approved nurse: bed ratio as recommended by the Medical Development Advisory Committee (M.D.A.C.), and this ratio is generally adhered to in the provision of resources for staffing the public hospitals. The ratio is also reviewed by M.D.A.C. regularly on an annual basis.

In actual practice, this ratio may also be varied at the discretion of the nursing officer in-charge depending on factors such as the condition of the patients in the wards, types of cases and the turnover rate etc. Thus, for example, for patients who need intensive care, one nurse is usually assigned to look after a patient who is critically ill, while in other wards, there may be one nurse caring for a number of patients needing routine nursing care.

In the case of the child who died at the Princess Margaret Hospital, he was under treatment in a ward where the nurse: bed ratio as recommended by the M.D.A.C. and approved by Government is 1:7. At that time in question, there were 61 children in the ward and the Nursing Officer in-charge quite rightly exercised her discretion and assigned a total of 12 nurses to be on duty. As can be seen, this is well within the recommended staffing ratio and is therefore considered satisfactory.

In regard to the other case in the subvented hospital, the question of adequacy of nursing staff did not arise.

Regarding question (*b*), the policy of transferring patients between hospitals is in accordance with the principle of regionalization of the medical services. This is the practice where patients may be transferred from a regional hospital to a district hospital depending on the condition of the patient and the level of treatment appropriate to his medical needs. Thus, a patient who has been treated in a regional hospital for an acute condition may be transferred to a district hospital when in the opinion of the attending doctor his condition is such that it is safe and appropriate to do so.

This policy, I must say, has worked well in the last four years since the regionalization scheme was first introduced, and has contributed much to the objective of better and more optimum use of the hospital facilities, to the benefit of all concerned.

Regarding question (*c*), the answer is yes. Inherent in the training and ethics of the medical and nursing professions, the responsibilities and duties of the doctor and the nurse are clearly defined. Thus, even after a transfer, the patient continues to be taken care of, under well established arrangements made between the attending physician and the nursing staff.

MISS DUNN:—*Sir, in the light of recent events, would the Government agree that the adequacy of present staffing ratios should be reconsidered?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, as I have said, the staffing ratios for all public hospitals are reviewed annually and MISS DUNN will be glad to hear that the next review is due in a few weeks' time.

MISS DUNN:—*Sir, can the Director of Medical and Health Services give an assurance that the laudible objective of regionalization, namely the optimum use of available facilities, is not being pursued to such an extent as to put patients at risk?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir, I can easily give that assurance to MISS DUNN because the basic objective for all concerned is to see that our patients get the best care and the safest care possible.

REVD. JOYCE M. BENNETT:—*Sir, can we also have an assurance that doctors in the district hospitals in practice do not leave the care of these transferred patients to the doctor from the regional hospital?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, as I say, this is entirely between the doctors themselves, because ethically the doctors have the responsibility to take good care of their patients and so to this end there are different arrangements whereby the attending physicians agree with each other as to who is to take care of the patient in a hospital.

Conditions of service of staff in voluntary agencies and subsidized schools

3. MR. SO asked in Cantonese:—

政府可否考慮撥款，使到志願機構及津貼學校得以改善員工的服務條件，俾能與公務員所 享有者較爲接近？

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

Will Government consider allocating funds to voluntary agencies and subsidized schools to improve the conditions of service of their staff, to bring them more in line with those offered to civil servants?

SECRETARY FOR SOCIAL SERVICES: — Sir, I think this question recognizes that the Government is not a party to the contracts of employment between a voluntary agency and its staff, and my reply is predicated to this fact.

Insofar as the provision of public funds for the use of voluntary agencies is concerned, the Government's policy is to enable such subvented agencies, including aided schools, to maintain services at agreed levels within approved policies. It is a principle of this subvention policy that aided bodies must not use the subventions they receive to give better salaries and conditions of service to those of their staff having similar qualifications, and doing comparable work, as specific classes of civil servants. Any application by a subvented agency for additional funds to improve the conditions of service of its staff will have to be considered in the light of these criteria.

Squatter control

4. MR. WONG LAM asked in Cantonese:—

請問政府有何良策以抑制僭建之風？

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

What plan does Government have to curb illegal squatting?

SECRETARY FOR HOUSING:—Sir, Housing Department squatter control staff, whose strength at present is about 1,200, are responsible for controlling an area of some 30,000 hectares, or about one-third of our total land area. Later this year responsibility for squatter control throughout the New Territories will also pass to the Housing Department.

Squatter control staff patrol daily, including weekends and public holidays, with a view to preventing new squatting, and demolishing any new structures discovered, either under construction or completed. Well over 2,000 huts are demolished each month by these teams.

In certain areas, for example East Kowloon, where squatting pressure is particularly acute, plans are in hand to reinforce the squatter control effort. However, given that resources are limited, priority for control must be given to areas of Crown land scheduled for development.

In addition to regular patrolling and demolition of squatter huts, the Police Force, working together with the Housing Department staff, will continue to arrest and prosecute people found building huts. Their efforts are directed at

racketeers who build and sell huts for profit. In the last financial year, nearly 1,400 people were charged, many substantial fines were imposed, and over seventy were sentenced to terms of imprisonment for such offences.

MR. WONG LAM asked in Cantonese:—

閣下，請問房屋司會否將僭建寮屋管制組擴大，來增加員工？

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

Sir, could I ask the Secretary whether the Squatter Control Division would be expanded to increase staff?

SECRETARY FOR HOUSING:—Sir, apart from the need to cover wider geographical area in the New Territories, if the pressure of squatting increases or at least remains in some of the black spots, we will need to increase the staff strength of the Squatter Control Division.

MR. S. L. CHEN:—*Sir, is the Government aware of the illegal squatters recently established in the Pok Fu Lam Road area close to the Hong Kong University staff quarters?*

SECRETARY FOR HOUSING:—Sir, I will check this point and find out the answer.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

I believe the area you were referring to may be Tai Wan San Tsuen, a particular black-spot for squatting by newcomers joining, and encouraged by, the long-established squatter community there.

In early May Squatter Control staff demolished 23 new structures in the so-called village, but the squatters are persistent and many huts are being rebuilt. A further 17 huts were demolished on 1 June, and yesterday (2 June 1981) three men were arrested for building huts. The area will continue to be kept under regular surveillance so as to restrict further squatter development as much as possible.

Facilities in squatter areas

5. MR. WONG LAM asked in Cantonese:—

請問政府如何改善現有木屋區之基本設施？

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

Sir, What plan does the Government have to improve the basic facilities in the existing squatter areas?

DIRECTOR OF HOME AFFAIRS:—Sir, the Government accepts that basic facilities should be provided in existing long-standing squatter areas, and indeed most of them have facilities of one sort or another.

Squatter areas differ very widely and so do the basic facilities in them. Some are in effect long-established villages with almost all the modern conveniences of life. Others have sprung up only in the past two or three years and may have as yet virtually no facilities of their own, and indeed, if it is the intention to clear them within the following two years thereafter, are unlikely to be greatly improved in their life time.

The most 'basic' of the basic facilities these days are electricity and water supplies. Since 1975 more than 80 areas in the Urban Areas have been provided with a legal supply of electricity and another 20 will be added to these soon. More than 185 areas in the New Territories already have a supply. As regards water, the majority of squatters have a reasonably reliable mains supply but many would like to see their supply systems improved and a very small number are situated in places where improvement is particularly difficult. But a systematic programme of provision of mains water, mostly through standpipes, but in some cases by individual metered supplies, has been carried out, where technical factors permit, over very many years and will continue in the future.

After electricity and water in a rough order of priority should probably come refuse collection, sanitation and the provision of access roads and paths to facilitate cleansing. The extent of provision of these varies enormously. Improvement is made difficult by the very disorganized nature of squatter areas. Whether they are closely packed together or somewhat scattered, the same question arises: where can facilities such as refuse collection points and toilets actually be sited so that not only will they be used by residents, but they will also have reasonable access for refuse and nightsoil collection. For the same reason, squatter areas can be very difficult places to keep clean by sweeping. Nevertheless, as the Secretary for Home Affairs made clear to this Council on 8 April, it is the intention to provide more of these types of facilities wherever we can. But a word of warning. As mentioned earlier, in areas which are due to be cleared in the *next* two or three years we do not normally upgrade facilities to any great extent.

The position is very similar with such facilities such as foot-paths, fire safety measures, street-lighting, postal services and so on. Although much has been done, there is almost limitless scope for further improvement.

But the greatest current problem in many of the long-standing squatter areas is that the facilities, such as they are, have been over-loaded by increases of population. There is also a need to increase and upgrade the standard of facilities, and more money and probably staff will be necessary for this. Moreover a great deal of co-ordination work is involved as several Government departments as well as the two electricity supply companies are involved in the work. The improved co-ordination and local focus of District Management Committees will help. In two urban districts with substantial squatter populations special

sub-committees have already been set up for this purpose and more will follow. At the same time, as the Secretary for Home Affairs announced earlier, a central study is in hand to re-examine Government's policy on squatter areas and to see what more might be done to improve the standard of the environment and services in these areas. This study should, amongst other things, guide District Management Committees on the standards of provision which they should aim to achieve in the future.

Finally, as far as staff resources and the need to meet commitments in other sections of the community allow, efforts are continuing to assist squatters to form Mutual Aid Committees and Fire Watch Teams. The co-operation of these and other community organizations fulfilling similar functions are essential if further substantial improvement is to be made in these areas.

Employment of native English speakers in training teachers of English

6. REVD. JOYCE M. BENNETT asked:—*Will the Government engage a proportion of native English speakers for the training of teachers of English in the Colleges of Education?*

DIRECTOR OF EDUCATION:—No, Sir, not in the Colleges of Education. However, we intend to engage a substantial proportion of native English speakers in the proposed Institute of Language in Education to work closely with English departments in the Colleges.

REVD. JOYCE M. BENNETT:—*Sir, will the teachers in training as well as the staff members have regular opportunities to meet with and talk to these native English speakers?*

DIRECTOR OF EDUCATION:—That is the intention, Sir.

REVD. JOYCE M. BENNETT:—*Sir, when will the Institute of Language in Education engage this substantial proportion of native English speakers?*

DIRECTOR OF EDUCATION:—Subject to the availability of funds and the blessing of Miss BENNETT and her colleagues in the Finance Committee after this meeting, Sir, September 1982 is planned for the opening of the Institute, and progressively thereafter the engagement of this substantial proportion of English native speakers.

Road maintenance

7. MISS DUNN asked:—*Would the Government explain why the state of road surfaces in many parts of Hong Kong and Kowloon are in such a poor state of repair?*

DIRECTOR OF PUBLIC WORKS:—Sir, while obviously there is always room for improvement, I do believe that, on the whole, the highways system throughout the territory is maintained in an adequate state of repair.

The task of maintaining the highways system, which falls on the Highways Office is one of increasing difficulty. In the calendar years 1979 and 1980 the number of vehicles registered from 235,000 to 304,000 and we now have 272 vehicles for every kilometre of road in Hong Kong. Coupled with this very high density of traffic, there is a trend towards heavier vehicles which of course generally means heavier axle loadings and both of these factors obviously increase of rate of deterioration of the roads. Additionally because of the high volume of traffic flow on our roads the difficulties of gaining adequate time and space to properly carry out road repair works have been exacerbated.

The Highways Office is attempting to mitigate these problems by improving the quality of materials used in road works and by introducing new techniques and mechanical plant into highways works. However, there are staff shortages, particularly at the technical level which restrict the Highways Office overall capacity for work including road repair works. The most critical shortage is in the Works Supervisor Grade where the vacancy rate is 35%.

Sir, although as I have said, I believe the overall picture is not really a bad one, I can assure my honourable Friend that the Department is not complacent and will exert its best efforts to improve on the present situation.

MISS DUNN:—*Sir, are all road surfaces regularly inspected and renewed on a routine basis? And if so, with what frequency?*

DIRECTOR OF PUBLIC WORKS:—Sir, all road surfaces are inspected on a routine basis. The frequency will depend on the type of construction of the road itself and the demand for repair.

MISS DUNN:—*Sir, may I have an idea of the frequency?*

DIRECTOR OF PUBLIC WORKS:—Sir, as regards concrete roads they would normally be expected to last about 15 years, ordinary tarmacadam roads about half that period.

MISS DUNN:—*Sir, do the staff shortages to which the D.P.W. referred arise at least partly from the fact that road maintenance works are not accorded a proper priority?*

DIRECTOR OF PUBLIC WORKS:—No, Sir, road repair works are accorded an appropriate priority, and the staff shortages are applied to across the board both to new works and road repair works.

Computerization of Land Office records

8. MR. PETER C. WONG asked:—*Will Government indicate what progress is being made in computerizing Land Office records?*

SECRETARY FOR THE ENVIRONMENT:—Sir, a project definition study was started in March this year to determine whether the computerization of land register cards is a viable proposition. This study will be finished next month but progress made so far appears to indicate that a recommendation to develop a computer system will be made. If this proves to be the case and approval is given to develop a system the time to implementation would probably be about 18 months to two years.

The system, if developed, would create a computerized index of the land register to enable microfilmed copies of any memorials to be quickly located and obtained. To date some 600,000 of the existing two million or so memorials have been microfilmed and the microfilming of the remainder could take about another three years.

MR. PETER C. WONG:—*Sir, will the scheme be eventually extended to the New Territories District Registries?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, progressively as the Land Office takes over these Registries.

Primary school places in Tai Hing Estate

9. DR. HO asked:—*Having regard to the Government's policy that public housing estates should be self-sufficient in primary school facilities, will the Government make a statement on the adequacy of Primary I places in Tai Hing Estate?*

SECRETARY FOR THE NEW TERRITORIES:—Sir, there is an inadequate provision of primary school places in Tai Hing Estate because of the extraordinarily large number of young children living in this Estate. About 36% of the total population of Tai Hing are below the age of nine, and this is directly related to the unusually high number of young families who for one reason or another are attracted to live in Tuen Mun.

Primary school places in all public housing estates are provided on a yardstick of one classroom for every 850 people. This standard of provision makes certain assumptions about the population structure and we have found by experience that this standard is adequate. The situation in Tai Hing is exceptional for the reasons explained. However I am glad to report that we have been able to do something about the immediate problem in Tai Hing by using other school premises in the vicinity. A longer term solution will be the provision of more school premises within the neighbourhood.

The Tai Hing situation has alerted us to something which may crop up elsewhere, and I will be meeting with other departments in the very near future to decide what adjustments may be necessary to maintain an adequate provision of facilities to match the size and structure of the population if this particular phenomenon shows signs of happening elsewhere.

DR. HO:—*Sir, will Government also consider raising the standard of the country schools by way of providing better qualified teachers and facilities in order to counteract the parents' resistance to send their children to these schools?*

SECRETARY FOR THE NEW TERRITORIES:—This is a separate question, Sir, but I can give an answer if you like. We are looking into the possibility of bringing together, amalgamating a number of country schools into one central school, in the Sai Kung District for example, and possibly on Lantau and elsewhere. And if we can implement this system it will have the effect of up-grading our country schools.

REVD. JOYCE M. BENNETT:—*Sir, is it true that in the Tai Hing neighbourhood country village schools are not always provided with modern style toilets so that parents with young children are not happy to send their children to them when they live in the public housing estate of Tai Hing?*

SECRETARY FOR THE NEW TERRITORIES:—Yes, Sir, these country schools were built over the last 30 years when there were no water borne sanitation facilities available.

Statement

Bank Licensing Policy and the Future of Hong Kong as a Financial Centre

Introduction

THE FINANCIAL SECRETARY:—With your permission, Sir, I wish to make a statement on bank licensing policy and the future of Hong Kong as a financial centre.

Sir, on 5 November last year, in reply to a question from Mr. Oswald CHEUNG, I referred to a sequence of four tasks relating to the monetary sector which should precede the completion of the review of the Government's policy on bank licensing then in hand.

Monetary Statistics

The *first* task in the sequence concerned the supply of monetary statistics. The Monetary Statistics Ordinance was enacted in July last year, and brought into operation on 8 December: since the end of the year banks and deposit-taking companies have been supplying detailed monthly returns of their assets and liabilities in Hong Kong dollars and other currencies. In due course, we shall be

publishing several new statistical series relating to the money supply and loans and advances and other balance sheet items which should enable all concerned to acquire a better understanding of the economic significance of the operative monetary aggregates and variables than can be gleaned from the statistical series based on returns submitted on prudential grounds under the Banking Ordinance and the Deposit-taking Companies Ordinance.

Hong Kong Association of Banks

The *second* task in the sequence was the incorporation of the Hong Kong Association of Banks to replace the former Exchange Banks' Association. The new Association came into being in January; after approval of its by-laws, elections were held for membership of its Committee and Consultative Council on 7 May. So the new Association is now in a position to play an increasingly active and important role in the monetary sector and, to this end, the Government looks forward to an increasingly fruitful relationship with the Association, and particularly with its Committee with which we are maintaining close contacts.

Structure of Monetary Sector

The *third* task in the sequence was the redefinition of banking business, and the associated creation of a new category of licensed deposit-taking companies. This new tree-tier structure for our monetary sector will be established if the Banking (Amendment) Bill 1981 and the Deposit-taking Companies (Amendment) (No. 2) Bill 1981 complete their passage through this Council this afternoon.

Prudential Supervision of Banks and D.T.Cs

The *fourth* task in the sequence was the improvement and updating of the quality of prudential supervision exercised over the activities in Hong Kong of banks and deposit-taking companies. This will be achieved if two further bills, namely, the Banking (Amendment) (No. 2) Bill 1981 and the Deposit-taking Companies (Amendment) (No. 3) Bill 1981 also complete their passage through this Council this afternoon. In addition, we have, although this was not included in the present sequence of tasks, taken steps to restrain the growth in the number of deposit-taking companies by imposing a temporary breathing-space on the registration of new companies not connected with banks in Hong Kong or elsewhere.

With the completion of this sequence of four tasks we shall be better placed to understand developments and pressures in the monetary sector; we shall have a more effective weapon for monetary policy purposes in the shape of a strengthened interest rate agreement (which must, for reasons I endeavoured to explain when moving the second reading of the Banking (Amendment) Bill 1981, remain the key-stone of our monetary policy); and, finally, the quality of the prudential supervision which we exercise over banks and deposit-taking companies in Hong Kong will be improved and updated.

Bank Licensing
So I am now in a position to turn to the Government's policy on the granting of bank licences under the Banking Ordinance. A 13-year moratorium was eased in March 1978, when I announced that applications for licences from suitably qualified banks incorporated outside Hong Kong would be favourably considered by the Governor in Council as the licensing authority. On 8 August 1979, I announced that the Government had decided temporarily to suspend the grant of further licences, pending a review of the criteria against which applications were considered.

This review took as its starting point the fact that, despite the substantial increase in the number of licensed banks in 1978 and 1979, a desire continues to be expressed by major international banks to be licensed to carry out the *full* range of banking business in or from Hong Kong. A similar desire is also being expressed by locally incorporated deposit-taking companies. In the light of this *prima facie* evidence that the current suspension of the grant of new licences is restraining competition within the banking industry, the review was extended beyond the reconsideration of the 1978 criteria for foreign banks to cover the possibility of licensing applicants incorporated in Hong Kong, with the aim of developing a consistent and comprehensive licensing policy.

(*a*) *Foreign banks*
To begin with, the Government has concluded that a limited number of additional licences should be granted to foreign banks wishing to establish a branch operation in Hong Kong. The use of the work 'limited' is not meant to imply that Hong Kong can absorb only a finite number of additional banks before becoming, in some sense or another, 'over-banked', because that is a subjective concept which cannot sensibly be quantified. Instead, the word 'limited' is intended to recognize that another fast influx of foreign banks could create pressures in Hong Kong in the short term, which could, in turn, lead to another period of suspension to give time for yet another review. This would not be in the longer term interests of Hong Kong as a financial centre. In other words, we need to establish a policy for bank licensing which is sufficiently flexible to take account of changing circumstances but which, at the same time, affords the industry and would-be entrants a degree of certainty as to our intentions.

Accordingly, the Governor in Council will consider applications for licences under the Banking Ordinance from any bank incorporated outside Hong Kong which satisfies three criteria:

first, it is incorporated in a country the monetary authorities of which exercise effective prudential supervision and have no objection to the establishment of a branch in Hong Kong;
second, it has total assets (less contra items) in excess of US$10,000 million; *third*, some acceptable form of reciprocity is available to Hong Kong banks.

Each licence granted will be subject to the condition that the bank may maintain offices to which customers have access for the purpose of any business,

including banking business, in only one building and to the further condition that the bank becomes, and remains, a member of the Hong Kong Association of Banks.

The minimum assets (less contra items) criterion of US$10,000 million will be subject to annual review, which will in part be based on the annual league table, published in *The Banker* in June each year, of the world's largest banks. The somewhat fortuitous timing of today's statement means that the first review will take place next month; but the figure of US$10,000 million will not be changed this year unless there have been very marked changes from last year's league table.

The Governor in Council will retain the discretion to refuse any application even though the criteria are satisfied. In considering each application the Governor in Council will have regard to the number of banks incorporated in the applicant bank's country of origin which already hold a licence under the Banking Ordinance, and will consider the present, and potential future, levels of bilateral trade and other commercial relations between Hong Kong and the applicant bank's country of origin. The Governor in Council may also take account of other matters such as the regional distribution within that country of origin of licensed and applicant banks. It will be open to applicants to claim that they offer a particular specialized service not already available in Hong Kong from one of their compatriot competitors, or that other special circumstances apply: it will be for the applicant to demonstrate that such is the case.

(*b*) *Locally incorporated institutions*

The decision taken in 1978 to ease the moratorium was explicitly limited to applicant banks incorporated outside Hong Kong. I stated at the time that the criteria by which any application for a banking licence from local interests would be judged would have to be very different from those by which foreign banks should be judged. But I pointed out that, in the longer term, it ought to be possible for a well established and reputable institution to progress to the status of a licensed bank. So the current review has included the future treatment of locally-incorporated institutions.

The principal argument in support of a comprehensive licensing policy is that it is invidious to allow additional foreign banks access to domestic banking business, but to deny that access to locally incorporated institutions which can meet appropriate criteria. By extension, locally incorporated institutions should be given a competitive goal, in the form of being able to aspire to a higher status in due course, not that it would be appropriate to allow a too rapid increase in the number of locally incorporated institutions competing for local business. It is also important to ensure that a foreign bank which has for any reason been unable to obtain a licence in its own name cannot obtain a licence by proxy, as it were, that is to say, by applying through a locally-incorporated subsidiary.

Accordingly, the Governor in Council will consider applications for licences under the Banking Ordinance from any deposit-taking company which is

predominantly beneficially owned by Hong Kong interests and which satisfies three criteria:

first, it is a limited company, incorporated in Hong Kong, which is not a subsidiary of a licensed bank, and which has a paid up share capital of at least HK$100 million;
second, it has been in the business of taking deposits from, and granting credit to, the public in Hong Kong for at least ten years, and has been registered (and/or licensed) under the Deposit-taking Companies Ordinance since 1976, or for at least ten years, whichever is the shorter;
third, it has deposits from the public (other than from banks, other deposit-taking companies or connected depositors) of at least HK$1,500 million, and total assets (less contra items) of at least HK$2,000 million.

Each licence granted will be subject to the condition that the bank becomes, and remains, a member of the Hong Kong Association of Banks.

The two criteria of minimum deposits from the public of HK$1,500 million, and total assets (less contra items) of HK$2,000 million will be reviewed each year. The Governor in Council will retain the discretion to refuse any application even though the criteria are satisfied. In considering each application, the Governor in Council will be concerned to ensure that the deposit-taking company concerned has attained the minimum size required by a genuine and natural growth of its business, rather than by any artificial transactions.

Future Tasks
These two sets of criteria are designed to permit a limited growth in the number of foreign banks and locally-incorporated institutions which are licensed to carry on banking business in Hong Kong. This will, I believe, help further to enhance Hong Kong's status as a financial centre, a status which has grown rapidly in recent years, largely in response to competitive market forces. The Government will continue to be concerned with the framework—institutional and regulatory—within which the monetary sector of our economy operates, for it must now be self-evident to us all that Hong Kong's future prosperity and stability can best be secured by the diversification of our economy within and between different sectors of activity.

The Government's efforts in this evolving situation will continue to be guided by the principle of positive non-interventionism, but will not cease with the completion of the sequence of five tasks which has been our concern over the past couple of years. We are, indeed, already working on two other tasks: *first*, in paragraphs 295 and 296 of this year's budget speech (printed version) I referred to the taxation treatment of interest on foreign currency deposits and by extension on foreign currency certificates of deposit (and by extension also, to the liability to stamp duty of Asian dollar bonds issued in Hong Kong). I stated that an examination was in hand of the implications of the proposition that interest payable on deposits denominated in foreign currencies above a certain minimum size, accepted by institutions of a certain status, should be made

exempt from tax and that the institutions concerned should be made exempt from any withholding obligation.

The preliminary results of this examination suggest that the fiscal and monetary implications of implementing the proposition are *not* easily predictable, and could be adverse, and might well outweigh any beneficial economic implications. However, the examination of this proposition has yet to be completed and we do not wish to be unimaginative but, equally, it must be understood that we cannot afford to take a misguided decision and one which might well be irreversible.

Secondly, it is now widely recognized in the international financial community that the prudential supervision of the activities, outside their countries of origin, of banks and other deposit-taking institutions is the responsibility of the supervisory authorities in those countries of origin. This approach is set out in the Concordat issued by the Committee on Banking Regulation and Supervisory Practices, which meets under the auspices of the Bank for International Settlements in Basle. Although Hong Kong is not a member of this Committee we fully support its work and its objectives.

We accept, therefore, that it is the responsibility of the Commissioner of Banking in Hong Kong to supervise the activities outside Hong Kong of banks and deposit-taking companies incorporated in Hong Kong. Up until now the Commissioner has not possessed sufficient powers to enable him fully to meet this responsibility. So we are now considering how best to amend the Banking Ordinance and the Deposit-taking Companies Ordinance to enable the Commissioner to obtain more information than he now receives on the activities outside Hong Kong of locally-incorporated banks and deposit-taking companies and to develop his ability to play a fuller part in the increasingly important international network of supervisory authorities. This will further reinforce the standing in the international financial community of banks and deposit-taking companies incorporated in Hong Kong.

Government business

Motion

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE

THE SECRETARY FOR HOUSING moved the following motion:—That section 10(1) of the Landlord and Tenant (Consolidation) Ordinance be amended—
(*a*) in paragraph (*a*), by substituting '8' for '6'; and
(*b*) in paragraph (*b*), by substituting '18' for '12'.

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

Under section 10(8) of the Landlord and Tenant (Consolidation) Ordinance this Council may by resolution vary the permitted rents payable for prewar premises subject to rent controls under Part I of the legislation.

This motion seeks to increase the permitted rents of:

(*a*) prewar domestic premises—from the existing level of six times the standard rent (that is, the rent passing in 1941) to eight times the standard rent; and

(*b*) prewar business premises—from the existing level of 12 times the standard rent to 18 times the standard rent

subject, in both cases, to the permitted rent not exceeding the fair market rent as is provided for by section 9A of the Ordinance.

In November 1978, Government agreed to pursue a policy of allowing annual increases in the permitted rents of prewar premises in order to mitigate the restrictive nature of these static rent controls. In particular, it is the declared policy of this Council to decontrol prewar business premises on 1 July 1984. This is already provided under Part I of the Ordinance.

There are about 11,000 units in prewar buildings, 55% (or 6,000 units) of which are effectively subject to the Part I controls. The balance (5,000 units) is either occupied by owners, specifically excluded from controls or let at rents at or approaching market levels. The proposals in this resolution will have little effect on the rents payable by tenants of premises which are not effectively subject to controls.

Despite annual increases since 1976, average permitted rents of business premises, subject to the Part I controls, still stand at about 27% of fair market rents, and those of domestic premises at about 21% of fair market rents. This is due to the very low base on which rent increases are calculated and to increased market rental levels over the past two years. Unless further increases are allowed, the gap between existing rents and market rents is not likely to be reduced.

Domestic Premises
It is recommended that the permitted rent of domestic premises should be eight times the standard rent. For a typical upper tenement floor shared usually by about three families, the proposal will result in an average increase of less than $100 per month, bringing the rent from about 21% to 27% of its market rent. About 4,200 domestic units in prewar buildings are likely to be affected by this proposal.

Business Premises
In order to bring rents of business premises closer to market levels by 1984, it is recommended that the permitted rent should be 18 times the standard rent. For a typical commercial ground tenement floor, the average increase will be about $540 per month, bringing the rent from about 27% to 38% of its fair market rent. About 1,800 business units are likely to be affected by this proposal.

The increases are small in actual cash terms and represent another small step in Government's policy of loosening these rigid and outdated controls which have been in force for over 30 years. In the case of public assistance recipients, any increase in rent will be offset by increases in rent allowances up to the permitted maxima.

If the proposals are approved by this Council, landlords will be required to serve at least one month's notice of the increased rents to their tenants.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

AERIAL ROPEWAYS (SAFETY) (AMENDMENT) BILL 1981

SUMMARY OFFENCES (AMENDMENT) (NO. 2) 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

AERIAL ROPEWAYS (SAFETY) (AMENDMENT) BILL 1981

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—'A bill to amend the Aerial Ropeways (Safety) Ordinance'.

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

This Bill seeks to improve the provisions for the safe operation of aerial ropeways in five main ways. The first would place the principal responsibility for the safe operation of a ropeway on its owner. To this end a clear definition of 'owner' is introduced in terms which would include the lessee, hirer or manager of a ropeway. Under clauses 11 and 13(*b*), criminal liability is imposed on an owner who operates a ropeway in an unsafe condition or in a dangerous manner, and clause 18 provides for an owner to be liable for breaches of regulations by persons employed by him to control, operate or maintain the ropeway.

The second object is to subject directors and officers of companies which commit offences under the Ordinance to a higher degree of liability than the general liability imposed under section 84 of the Interpretation and General Clauses Ordinance (Chapter 1). Clause 17 of the Bill seeks to introduce a new section 27B into the principal Ordinance which would shift the onus of proof onto a director or officer of a body corporate by requiring him to prove that an offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the offence as was required, having regard to the nature of his functions and in all the circumstances.

The third aim of the Bill is to expand existing provisions with regard to safety, so that safety requirements may take into account persons who are in the vicinity of a ropeway as well as persons using or operating it.

The fourth concerns the prohibition of conduct which might endanger persons using, operating, or being near a ropeway. To this end a new Part IIIA of the principal Ordinance is introduced by clause 16. This seeks to make any act or omission which is likely to render a ropeway unsafe, or any trespassing onto clearly defined areas, an offence. It would also make it an offence for any person to fail to obey an order or direction given for safety purposes by designated employees. Designated employees will, in addition, be empowered to require alleged offenders under the new Part to give their name and address and to arrest persons refusing to do so. These powers will ensure that operators of a ropeway can respond quickly to any action which may endanger its safe operation.

Finally, the Bill seeks to increase penalties under the Ordinance and any regulations made thereunder to a level which will be a proper deterrent. The principal change is to increase the penalties for offences by an owner which directly endanger safety to a fine of $50,000, imprisonment for two years, and a daily penalty of $1,000. The maximum penalties which may be prescribed by regulations are also increased to the same level, from the present level of a fine of $2,000 and six months imprisonment.

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

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

Question put and agreed to.

SUMMARY OFFENCES (AMENDMENT) (NO. 2) BILL 1981

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—'A bill to amend the Summary Offences Ordinance'.

He said:—Sir, I move the second reading of the Summary Offences (Amendment) (No. 2) Bill 1981.

There are at present three pieces of legislation under which persons littering Hong Kong waters can be prosecuted. The Dumping at Sea Act 1974 is, by international convention, intended to deal with major occurrences affecting the environment and marine ecology and it is therefore not suitable for the control of less serious littering offences.

There are also general provisions for controlling littering in public places, which could include Hong Kong waters, in regulations made under the Public Health and Urban Services Ordinance and the Summary Offences Ordinance. But it is not considered to be either appropriate or convenient to use these two sets of regulations as they stand to deal with marine littering offences. The purpose of this Bill, therefore, is to refine these existing measures and bring them into the Summary Offences Ordinance itself and to further strengthen the law by making specific provision for a marine littering offence.

Clause 4 of the Bill seeks to introduce a new section 4D to the principal Ordinance containing three main provisions.

First it would make it an offence to deposit litter into Hong Kong waters, or to leave litter in any place where it would be likely to be swept by the tide into the sea. This latter provision is intended to deal with the problem of such material as scrap timber from boat or timber yards which is frequently left on the tide line and allowed to drift into the water.

Secondly, it is proposed that, apart from the actual offender, liability for this offence will be extended to include the owner or master of the vessel or the proprietor or occupier of the establishment from which such waste emanates so as to encourage him to provide proper disposal arrangements.

The proposed new section 4D(3), however, provides that it shall be a defence if a person charged under these extended liabilities can prove that the offence occurred due to an accident, or circumstances beyond his control, and that all reasonable precautions to prevent its occurrence had been taken.

Finally, the Bill provides for the penalty for the offence of marine littering to be increased to $5,000 and six months imprisonment. While this may seem high, it is considered that the penalty should be set at a level not only to demonstrate the seriousness with which this offence is viewed, but also to act as a sufficient deterrent.

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

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

Question put and agreed to.

BANKING (AMENDMENT) BILL 1981

Resumption of debate on second reading (29 April 1981)

Question proposed.

MR. SWAINE:—Sir, we have before this Council for second reading the Banking (Amendment) Bill 1981 and the Deposit-taking Companies (Amendment) (No. 2) Bill 1981. These two Bills are complementary and it is appropriate therefore that I should speak on them together.

The *ad hoc* group appointed by the Unofficial Members to study these Bills received written representations from the Hong Kong Association of Banks and also from the deposit-taking industry. The *ad hoc* group met with representatives of both groups and additionally with the Financial Secretary and the Secretary for Monetary Affairs.

At the end of their deliberations, Unofficial Members have agreed to support both Bills with one reservation as to the paid-up capital of the proposed licensed deposit-taking companies, to which I shall turn later.

Unofficial Members are aware of the underlying reasons for the reforms which these Bills seek to implement by way of a three-tier structure for the taking of deposits. Future deposit-taking companies will be subject to the double limitation that the size of deposit which they can take must be at least $50,000, as at present, and that they should not be allowed to take deposits of less than three months, which is new. If, however, the deposit-taking company achieves the new licensed status, it will be allowed to take deposits of any maturity, but it will not be permitted to take deposits of less than $500,000.

The deposit-taking companies have felt, not unnaturally, that these changes will injure their business. Concern has also been expressed that the small depositors will lose out, although no representations have been received from this sector of the public. In the end, however, it was felt that Government's policy reasons for these reforms must be supported. They are, as the Financial Secretary said in his speech moving the second reading of these Bills, to ensure that an effective interest rate agreement is available as an instrument of Government's monetary policy, and to avert an interest rate war which would undermine the stability of the monetary system. The Financial Secretary has stressed that the interest rate agreement is the only tool available to the Government to influence the growth rate of the money supply. As long as this remains Government's policy, and notwithstanding the doubts which have been felt as to whether such tool is effective, public policy, to be consistent, requires that the interest rate agreement should be observed and not circumvented.

It is right that this Council should be reminded that the interest rate agreement had its origins in the undisciplined scramble for deposits and loans by banks in the early 1960s with all the consequences which that entailed. The reform in 1964 of the Banking Ordinance was designed to reserve to banks the exclusive right to take short-term deposits of less than three months, but the 1964 definition of banking business was not sufficiently tight to exclude finance companies from accepting such short-term deposits. The result has been the growth of this secondary money market which Government has in turn sought to regulate. Deposit-taking companies can now lawfully quote for deposits of any maturity provided the deposits are at least $50,000. As they are not covered by the interest rate agreement, they have had a competitive advantage over the banks who have reacted, and I quote the Financial Secretary, by using subsidiary or associated deposit-taking companies to bid for deposits outside the interest rate agreement. We are told that, at the end of February 1981, the 94 companies concerned held 77% of all deposits with deposit-taking companies, and 30 of these companies were primarily concerned with on-lending the deposits to their parent banks, with 70% of all deposits garnered by deposit-taking companies connected with banks being so on-lent. Devices such as these must stop but equally well the conditions which give rise to them must be put right.

These are the reforms which the present Bills seek to achieve. Deposit-taking companies will in future need to develop a new market for $50,000 deposits of three months duration, and there is no reason why they should not succeed in so

doing. The small depositor, if he wants to earn a free market interest, will have to learn to place his funds on deposit for at least three months. I do not think this is a serious imposition. Deposit-taking companies which want to expand and have the ability to do so can acquire licensed status, when they will be able to take deposits of any maturity provided the amount is not less than $500,000.

The criteria for licensed status have been spelt out by the Financial Secretary. I observe with interest that where the company is a subsidiary or associate of a licensed bank, it will have to satisfy the requirement that it is widely recognized as an entity in its own right, and has a separate management structure at executive levels. This additional criterion is welcome because it serves to underscore the determination that the interest rate agreement should be upheld and should not be circumvented by a bank, through a corporate alter ego, competing for funds outside the interest rate agreement.

Unofficial Members have however a reservation as to the proposed requirement that, to qualify for licensed status, a deposit-taking company should have a paid-up share capital of at least $100,000,000. This is seen as imposing too onerous a cash requirement on prospective applicants, and Unofficial Members therefore recommend that this requirement be modified by applicants being allowed to make part of the payment by yearly instalments, with the deferred portion being covered by a bank or other suitable guarantee.

Sir, with these observations, I support the Bills.

MR. STEPHEN CHEONG:—Sir, in speaking on this Bill, I shall also be speaking on the Deposit-taking Companies (Amendment) (No. 2) Bill 1981. After carefully studying the Bills together with my colleagues on the *ad hoc* group of Legislative Council Unofficials, I support in principle both the Banking (Amendment) Bill 1981 and the Deposit-taking Companies (Amendment) (No. 2) Bill 1981. Having said that, however, I would like to enter a few observations.

When the Financial Secretary moved the second reading of the Bills he gave two reasons for creating a new three-tier structure for deposit-taking institutions. First, there was the need for an effective interest rate agreement 'as an instrument of monetary policy' which he claimed was 'the *only* means at our disposal to influence the growth rate of the money supply' through 'variations in the levels of interest rates'. I would like to point out, Sir, that by the Financial Secretary's own admission certain borrowers are interest rate insensitive and secondly, in an open economy like ours, which is free from exchange controls, borrowers are likely to seek overseas sources of funds if interest rates in Hong Kong are kept at artificially high levels. For these reasons, I believe that interest rate variations alone will not, in our circumstances, have the desired effect on curtailing the growth rate of money supply. As to whether variations in interest rates is the *only* means at our disposal to influence money supply, I would respectfully submit, Sir, that it is not. Another feasible regulator of money supply is changes in the minimum liquidity ratios of all deposit-taking institutions. The power to effect such changes definitely lies with the Government.

As a second reason for devising a three-tier structure, the Financial Secretary sought to avoid de-stabilizing influences that would 'undermine the general stability of our monetary system'. Whilst I doubt that anyone can take issue with the objective itself, I am somewhat concerned that the very elements of this three-tier structure, if not monitored carefully, may in themselves, lead to destabilizing influences.

For example, no attempt appears to have been made by the Government to analyse the effect of the proposed legislation on deposit-taking companies. Under the Bills, deposit-taking companies will be prohibited from accepting deposits with an original term to maturity of under three months and under $500,000, but no statistics have been collected by the Government to assess what percentage of total deposits with deposit-taking companies falls into this category. Whilst I appreciate that these statistics would fluctuate according to interest rate expectations and that it is impossible to judge to what extent a 90-day market for deposits of between $50,000 and $500,000 would develop, I do not consider this to be sufficient justification for not having even attempted to undertake this statistical analysis. Certainly, given the tendency for deposit-taking companies to borrow short and lend long, it is likely that some, at least, will face severe problems as the choking process takes effect on their sources of short-term funds. Indeed, the situation may be further aggravated if, as recently suggested by a major bank, a significant portion of D.T.C. deposits have an original term to maturity of less than three months and the ratio of such short-term deposits to total deposits with D.T.C.'s is on the increase. It is true that a transitional period of 24 months has been proposed. But my fear is that even given this transitional period, this choking effect could generate undesirable de-stabilizing influences in part of the monetary sector.

Therefore, I would urge the Government to monitor the situation carefully and not shut the door to possible extensions of the transitional period if required. I would also urge our leading banks to be ready to mount recycling arrangements if and when events prove necessary.

To give another example of possible de-stabilizing influences. Under existing arrangements, a number of small local licensed banks have access—through their D.T.C. subsidiaries and outside the context of the Interest Rate Agreement—to compete fairly for deposits including those of over HK$500,000 and with an original term to maturity of under three months. These D.T.C. subsidiaries exist largely for the purpose of garnering funds for on-lending to their parent banks. When these two Bills come into effect, these D.T.C.'s will not be eligible for licensed status and the parent banks involved will be placed at a substantial disadvantage to compete for large deposits outside the Interest Rate Agreement *vis a vis* those banks which can establish their own licensed D.T.C.'s in accordance with the various criteria laid down. The current significance of this type of deposit as a source of funding to the small licensed banks needs careful examination. So far, I believe, the Government has not analysed this in detail and I would therefore urge that this point be examined urgently, as an added

dimension, in the context of the study mentioned in paragraphs 32 and 33 of the Financial Secretary's speech when he introduced these Bills into the Council. Depending on the outcome of this assessment and for the sake of maintaining a desirable balance within, as well as perpetuating the stability of, our monetary system there may well be a strong case for abandoning the Interest Rate Agreement for deposits exceeding HK$500,000.

Sir, with these observations, I support the motion.

MR. LO:—Sir, I have not intended to take part in this particular debate but I note that Mr. SWAINE did say in his speech, Your Excellency, that Unofficial Members have a reservation as to the proposed requirement that to qualify for licensed status a deposit-taking company should have a paid-up share capital of at least $100 million. I for one do not share that reservation and I do know that a number of Unofficials do not share that reservation and do support the proposed requirement.

THE FINANCIAL SECRETARY:—Sir, I think it would be more appropriate, with your permission, for me to reply to those three speeches by Mr. SWAINE and Mr. CHEONG and now Mr. Lo when winding-up the debate on the second reading of the Deposit-taking Companies (Amendment) (No. 2) Bill 1981, in a few moments time.

Miss DUNN declared an interest.

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).

DEPOSIT-TAKING COMPANIES (AMENDMENT) (NO. 2) BILL 1981

Resumption of debate on second reading (29 April 1981)

Question proposed.

MR. SWAINE:—Sir, I have covered the Deposit-taking Companies (Amendment) (No. 2) Bill 1981 in my speech earlier this afternoon on the Banking (Amendment) Bill. With the observations then expressed I support the motion.

MR. Stephen CHEONG:—Sir, Members will be aware that I presented my views on this Bill when I spoke earlier this afternoon on the Banking (Amendment) Bill 1981.

Subject to those observations, Sir, I support the motion.

THE FINANCIAL SECRETARY:—Sir, I have listened carefully to all that Mr. Stephen CHEONG said in his speech and I think all I need say in reply is that, of course, the situation as it develops during the transitional period will be monitored carefully.

I am confident that the transitional arrangements proposed are adequate. But, should any company encounter difficulties *ad interim* of a sort likely to endanger its depositors, despite having a sound asset base, I am equally confident that arrangements would be negotiable with serveral of our main banks for lost deposits to be replaced until such time as sufficient of the company's loans had matured.

When I moved the second reading of this Bill on 29 April I referred to the various criteria designed to maintain the quality of those institutions attaining the status of a licensed deposit-taking company; and I said that a pre-condition for applying for that status would be a minimum paid-up share capital of $100 million. It has subsequently been argued by some, and by Mr. SWAINE this afternoon, that this figure is too high both in absolute terms and in relation to the minimum paid-up capital required for a licensed bank incorporated in Hong Kong, which is (under the provisions of the Banking (Amendment) (No. 2) Bill 1981) to be raised to $100 million.

On reflection, and without the unsettling influence of Mr. Lo's doubts, I accept that it may appear strange to require an identical minimum of paid-up capital from a licensed bank and a licensed deposit-taking company, since the latter cannot, by definition, undertake the full range of banking business. It is, however, most desirable that any company seeking the status of a licensed deposit-taking company should be able on its own behalf and, more important, on behalf of its shareholders, to demonstrate a sufficient degree of permanent commitment to its business here in Hong Kong. At the committee stage, therefore, I shall move amendments to clause 11 of the Bill which will relax the minimum paid-up share capital requirement of $100 million to $75 million but, at the same time, provide that each applicant should also have a minimum *issued* share capital of $100 million. The unpaid share capital of up to $25 million will represent a firm commitment by the shareholders, a commitment which can be called upon in case of need and which is permanently in place, unlike sub-ordinated loan stock or similar exotic varieties of capital. Both these minima can, under the proposed section 16A(5) of the Ordinance, be amended by the Governor in Council at any time.

Question put and agreed to.

Bill read the second time.

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

BANKING (AMENDMENT) (NO. 2) BILL 1981

Resumption of debate on second reading (13 May 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).

DEPOSIT-TAKING COMPANIES (AMENDMENT) (NO. 3) BILL 1981

Resumption of debate on second reading (13 May 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).

ESTATE DUTY (AMENDMENT) BILL 1981

Resumption of debate on second reading (13 May 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 (NO. 2) BILL 1981

Resumption of debate on second reading (13 May 1981)

Question proposed.

THE FINANCIAL SECRETARY:—Sir, in response to various points made by those Unofficial Members who spoke in this debate a fortnight ago which reflected discussions within the UMELCO *ad hoc* group, I shall be moving, at the committee stage, amendments to two clauses of the Bill.

To begin with, I shall be moving that clause 3 as published should be replaced with a redrafted version to achieve two purposes: the *first* is to meet a minor and distinctly technical objection which was raised in regard to the proposed new section 15(1)(*k*) of the principal Ordinance. Thus it will be made clear that gains or profits arising from transactions in certificates of deposit or bills of exchange will be chargeable to profits tax only where there are gains or profits in respect of the *funds* of the trade, profession or business concerned.

The *second* purpose is to meet an objection that the Bill is retrospective in effect. Thus, I shall be moving a new section 15(1A) to give to the Commissioner of Inland Revenue statutory authority to determine a market value for certificates of deposit or bills of exchange at the close of business on a specified date, namely, 31 March 1981. The effect will be to exclude from charge gains or profits arising on a sale or other disposal after that date, to the extent that such gains or profits can be said to have accrued before 1 April 1981. To enable him to give effect to this provision, the Commissioner, in conjunction with the Hong Kong Association of Banks, is preparing a list of values for all certificates of deposit issued in Hong Kong before, and still in existence on, 1 April 1981.

I shall also be moving an amendment to clause 5(*a*)(ii) of the Bill in order to achieve three purposes: the *first* is to deem surpluses arising on the redemption on maturity or earlier presentment of certificates of deposit or bills of exchange to be *interest* for the purposes of interest tax. The effect will be to place beyond doubt that the exemptions from interest tax set out in the proviso to section 28(1) of the principal Ordinance will apply to such surpluses when they accrue to licensed banks, corporations carrying on trade or business in the Colony and other persons who are already liable to profits tax on their profits. This amendment will thus ensure that there is no question of double taxation (once under interest tax and once under profits tax). It goes without saying that there was never any intention to tax these surpluses twice, but tax lawyers are inherently suspicious people (*laughter*). It must be something to do with their professional training for they have little reason to be suspicious of the Hong Kong Government's tax laws and tax administration which are straightforward and beneficent (the Oxford dictionary definition of the word beneficent is 'being actively kind') (*laughter*). Incidentally, the deeming of these surpluses to be interest will also ensure that the withholding provisions contained in section 29 of the principal Ordinance will apply.

The *second* purpose is to cater for the situation where, exceptionally, the *acceptor* rather than the drawer of a bill of exchange receives the monies on the first sale or other disposal of the instrument.

The *third* purpose is to give statutory authority to the Commissioner to enable him to establish market values for certificates of deposit or bills of exchange at 31 March 1981 so as to remove from the Bill the alleged element of retrospectivity for surpluses subject to interest tax, in the same way as it has been removed in respect of gains or profits subject to profits tax.

Sir, that deals with the amendments to the Bill I propose to move at the committee stage and I am confident they meet the points made by Mr. Peter WONG and Mr. SWAINE. But, before I sit down, I really must take issue with Mr. NEWBIGGING in regard to the question of the profits tax liability of trustees of unit trust funds which trade in shares. As he and, indeed, Mr. SWAINE, have correctly pointed out, this Bill does not affect the existing position one way or another; there is no substantive change in the law and none is intended. The fact of the matter is that persons who trade in shares have always been, are, and will continue to be, liable to profits tax. Yet Mr. NEWBIGGING asked that I clarify the Government's policy on this. I am not entirely sure what he means, for it is not a question of policy, but a question of existing law; and the tests for determining what is trade or business are well known (and enshrined in the so-called badges of trade tests). The fact of the matter is, of course, that it is the taxpayer himself who knows very well whether he is trading or simply turning over an investment portfolio to achieve capital growth to protect his investments. If, however, he chooses to argue that what in reality is trading is not—and in doing so fails to make proper provision for his tax liability—it is, I am afraid, his problem and not the Inland Revenue Department's if, at the end of the day, the true facts emerge and trading is established.

Mr. NEWBIGGING asked that I provide the unit trust industry with what he called some reassurance. I am sorry, but the only assurance I can give is that unit trusts which trade in shares incur a tax liability. Perhaps, however, he and the industry may glean some comfort from the thought that, in the Commissioner's considered view, unit trusts generally do not trade, although some sometimes do. In this connection, Mr. NEWBIGGING mentioned that a number of assessments have been raised recently. As it happens the Commissioner advises me that in fact only four unit trusts have been assessed: each is a protective assessment for years of assessment which would have become time-barred, each is the subject of objections and it is still open to each to show that it has not been trading in shares.

Finally, I must say to Mr. NEWBIGGING that I *do* consider it inappropriate to match the United Kingdom legislation on this point. The 1980 Finance Act exempted unit trusts from tax previously imposed on their capital gains but, as a consequence, unit-holders lost the capital gains tax credit previously available on account of the tax already paid by the trust. In Hong Kong, if a gain is of a capital nature it is not subject to tax as I have just, indeed, pointed out and, therefore, there is no need for a similar exemption. Q.E.D. (*laughter*).

Question put and agreed to

Bill read the second time.

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

STAMP DUTY BILL 1981

Resumption of debate on second reading (13 May 1981)

Question proposed.

THE FINANCIAL SECRETARY:—Sir, at the committee stage I shall be moving amendments agreed with the U.M.E.L.C.O. *ad hoc* group which examined this Bill to clauses 2(1), 5, 9(1), 15, 17, 27, 30(3) and 61 and the First and Second Schedules.

I do not need to remind Members, Sir, that the Stamp Duty Bill is the result of a considerable law revision exercise which has extended over a period of some two years and for which I must express my grateful thanks to Mr. RITCHIE of the Inland Revenue Department and to the Deputy Law Draftsman. The result is a comprehensive piece of legislation which consolidates and updates the existing Ordinances and Regulations.

Mr. Peter WONG has already acknowledged that the amendments to the clauses and schedules which I shall be moving at the committee stage are of a technical nature or are for the avoidance of doubt or, in the case of the First Schedule, they are to reflect the concessions in respect of low value properties announced in this year's budget speech. Some have arisen from recommendations received from the Law Society of Hong Kong, who were invited to study the draft bill. Others have arisen from submissions made to the Government and, of course, to the U.M.E.L.C.O. *ad hoc* group by other interested parties. I am grateful to all concerned for their helpful interest in the Bill.

But I must pick up a point made by Mr. SWAINE and another by Mr. NEWBIGGING. Mr. SWAINE indicated that I was disposed to offer relief for fund managers in unit trusts who buy and sell units within a specified period. This is true and, subject to further research, an amending bill will be introduced later this year and before implementation of Part IV of the new principal Ordinance. The precise form of the relief will need to be worked out carefully, having regard to the procedures and practices of the unit trust industry in Hong Kong. To this end, the Commissioner will shortly be arranging to meet with representatives of the industry. And lest it be suggested that this is an afterthought prompted by the somewhat robust reaction of the unit trust industry when this Bill first saw the light of day, let me remind Members that the Acting Financial Secretary announced our intention to consult with the industry before Part IV is implemented when he moved the second reading on 11 March last.

Finally, Sir, I must defend myself against Mr. NEWBIGGING'S charge that, in the handling of this Bill, I have failed to respect the consultative system which is, I agree, such an integral part of the decision-making process here in Hong Kong. There *was* consultation with the Law Society on the technical aspects of the Bill; and there will shortly be consultation with the unit trust industry on procedural matters. *However*, I could not possibly agree that there should be consultation

with interested parties prior to the publication of proposals for tax reform. Whilst the Bill is largely a consolidation exercise, the provisions relating to unit trusts involve reform, namely, the introduction of a new impost, albeit one that does no more than to place unit trust holders in a similar position to that of all other persons who buy and sell shares. To concede that fiscal proposals should be the subject of advance notice and prior consultation with interested parties would be to proceed along a very slippery path indeed and to render the decision-making process quite interminable.

Question put and agreed to.

Bill read the second time.

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

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1981

Resumption of debate on second reading (13 May 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).

RATING (AMENDMENT) BILL 1981

Resumption of debate on second reading (13 May 1981)

Question proposed.

MR. PETER C. WONG:—Sir, the Rating (Amendment) Bill 1981 proposes a number of amendments to the existing Ordinance. Some of these represent important changes to rating law and practice while others are of a relatively minor nature to clarify the law and to ensure that it accords with modern practices. In moving the second reading of the Bill, the Financial Secretary succinctly explained the changes proposed. I shall not repeat them.

The legislation scrutiny group of the Unofficial Members of this Council have carefully studied the Bill which contains no less than 30 clauses and also held

discussions with the Commissioner and Assistant Commissioner of Rating and Valuation and a Senior Crown Counsel from the Law Drafting Section of the Legal Department.

As a result of this twofold exercise, a number of agreed amendments will be moved by the Financial Secretary at the committee stage. Briefiy, these are—

1. *Clause 9*. The existing section 12 will be further amended to make it clear that a valuation list shall contain the rateable value of every tenement in the list.

2. *Clause 10(b)*. The word 'valuation' will be inserted before the word 'list' where it occurs for the fourth time in the proposed subsection (1A). The purpose is to ensure consistency in the use of the terms 'list' and 'valuation list' which carry different meanings.

3. *Clause 11*. The words 'be made' will be inserted after the word 'may'. This is to rectify a typing error.

4. *Clause 28*. This clause adds a new section 44A to provide expressly that the Lands Tribunal may make a consent order on an appeal. The wordings of this new section will be amended to make it clear that the Lands Tribunal is not bound to make a consent order in any event but only if it thinks fit.

Apart from the agreed amendments, three other points deserve mention—

1. Clause 19 extends the current 12-month period of back-dating interim valuations to 24 months. This is subject to a transitional provision, the effect of which is to prevent any demands for more than 12 months back rates being issued until after December 1981. Thereafter the maximum back-dating period will be gradually increased until December 1982 after which the full 24 months back-dating will be possible. A table illustrating the effect of the transitional provision is annexed (Appendix). It is not Government's intention to rely upon the additional period for backdating as a matter of routine. Under normal circumstances properties will be assessed so that interim demands are issued for not more than 12 months rates. The proposed additional period is for the protection of revenue during occasional periods of pressure when the Rating and Valuation Department is hard pressed for some reason e.g. due to a general revaluation.

2. The Commissioner undertook to consider, after the next revaluation exercise, whether the exemption from rates in respect of tenements with a rateable value not exceeding $200 should be extended to include those with a higher rateable value. It appears that the proposed exemption ceiling of $200 may be raised by a substantial amount without any practical significance on the revenue.

3. The question of whether squatters should pay rates was raised during discussions with the Administration. It transpires that squatters are not charged rates because —
   (*a*) there are doubts as to whether illegal buildings on Crown Land are 'tenements' as defined in the Rating Ordinance, for it could be argued that they are not held or occupied as distinct or separate tenancies or holdings or under any licences (section 2);
   (*b*) there would be a number of difficulties in trying to assess squatters such as—
      (i) identifying each separate holding,
      (ii) identifying the ratepayers,
      (iii) keeping track of changes in the names of ratepayers, and
      (iv) because such flimsy structures can be erected and altered over a few days the assessments would require constant monitoring;
   (*c*) rates payable for many small squatter structures might be such as to make collection uneconomic; and
   (*d*) there are more remunerative tasks to which scarce staff resources in the Rating and Valuation Department can be put.

Sir, I support the motion.

APPENDIX

ILLUSTRATION OF EFFECT OF TRANSITIONAL PROVISION IN SECTION 29(1A)

Interim effective date	*Date demand issued*	*Rates payable from*	
1. 9.80	*30.11.81*	*1.12.80*	
1. 9.80	*31.12.81*	*1. 1.80*	*more than 1 year's back-dating starts with demands issued after 31.12.81.*
1. 9.80	*311.82*	*1. 1.81*	
1. 9.80	*30.6.82*	*1. 1.81*	
1. 9.80	*31.12.82*	*1. 1.81*	*full 2 years' back-dating possible only on or after 31.12.82.*
1. 9.80	*31. 1.82*	*1. 1.81*	

THE FINANCIAL SECRETARY:—Sir, as Mr. Peter WONG has correctly pointed out, the various amendments to this Bill which I shall be moving at the committee stage are relatively minor and of a technical nature. But in winding up this debate I think I should respond to two of the three points Mr. WONG made in the latter part of his speech.

First, Mr. WONG referred to the back-dating of interim valuations. While his interpretation of the policy change proposed in clause 19 is correct in substance, I

would go no further than to say that the Commissioner of Rating and Valuation will endeavour to assess new premises to rates as soon as possible following completion.

Secondly, I confirm that the Government would be prepared to review the minimum rateable value figure in the course of the next general revaluation, whenever that may be, but the purpose of having the minimum figure is administrative convenience. It is not intended, in itself, to provide a measure of exemption for small tenements on social or other grounds.

Question put and agreed to.

Bill read the second time.

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

STAMP (AMENDMENT) BILL 1981

Resumption of debate on second reading (13 May 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).

IMMIGRATION (AMENDMENT) BILL 1981

Resumption of debate on second reading (13 May 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).

THE PRINCE PHILIP DENTAL HOSPITAL BILL 1981

Resumption of debate on second reading (13 May 1981)

Question proposed.

MISS DUNN:—Sir, as chairman of the Provisional Board of Governors of The Prince Philip Dental Hospital, I have much pleasure in supporting this Bill.

The Hospital is an extremely complex building built on a most difficult site. It has a floor area of over 355,000 square feet and its design incorporates many unique features. So, for instance, the number of people having to travel in a vertical direction in the course of their duties or when undergoing treatment has been minimized. Again, in the design of the Hospital every effort has been made to serve the maximum degree of privacy for patients while facilitating close supervision by staff at all times.

The Hospital is composed of a series of surgeries, laboratories and offices of a standard, but flexible, design incorporating readily accessible services. The equipment which has been installed is also of a standard design thus minimizing maintenance costs and facilitating servicing. There are altogether 241 dental chairs with supporting clinical and academic facilities which include a large library, research accommodation and a post graduate centre for use by both medical and dental practitioners.

It is not surprising that the imaginative and innovative layout of the Hospital and its modern facilities and equipment have already drawn much praise and admiration from international leaders in dentistry who have so far visited us. All have agreed that, when it is fully commissioned and operational in September this year, Hong Kong will have in The Prince Philip Dental Hospital one of the most modern and best equipped dental hospitals in the world.

To complete such a major and complex institution in less than five years from the initiation of the planning process was a remarkable achievement on the part of all concerned and I would like to record a special vote of thanks to Professor Geoffrey HOWE, Dean of Dental Studies who, with a team of three others, provided the academic professional expertise; the Public Works Department; the consulting engineers, Medical and Health Department and the various other Government departments and branches in the Secretariat.

Sir, the high cost of providing dental education and the relatively low priority accorded to it in most countries have meant that even in the most advanced Western countries existing dental schools are refurbished and rehoused only infrequently. In developing countries, facilities for dental education usually have to be provided on an incremental basis and it takes some years for the quality of their dental graduates to meet accepted international standards. But with The Prince Philip Dental Hospital we will not only be instituting a dental degree course *de novo*, but will be producing 60 graduates a year holding a qualification

of an internationally accepted standard. Furthermore, to quote from a paper by Professor HOWE and Professor RENSON, 'few dental teachers are afforded the opportunity to start completely afresh. The dental studies team of the University of Hong Kong are fortunate enough to be in that position. They relish the chance to re-examine traditional practices and evaluate new concepts.'

My Board share this enthusiasm and look forward to running an efficient hospital in close co-operation with all concerned, particularly, of course, the academic staff of the University. The Prince Philip Dental Hospital is a teaching hospital. The views of the academic staff, obviously, will be particularly important to us. I have no doubt that the University's representatives on the Board will put forward the academic viewpoint forcefully. I think that presently envisaged arrangements for advice and consultation will prove to be perfectly adequate, but they can always be reviewed and reconsidered in the light of experience.

DR. HUANG:—Sir, the first intake of 76 students into Hong Kong University's dental studies course was admitted last September, Student numbers will thereafter build up to 380 in 1984-85. The Prince Philip Dental Hospital will play a vital part in the clinical teaching of these students and in the production of the auxiliary dental staff which will be needed both in the Hospital and elsewhere in Hong Kong. Although there have been delays during the construction period and the Hospital is as yet not fully completed, the University is already using it to teach dental undergraduates and auxiliaries, and its Dental Studies staff will continue to strive to keep close to the planned target date for the graduation of the first intake of dental students, whilst maintaining the standards of training expected by the General Dental Council in the United Kingdom.

I therefore welcome the introduction of the Bill now before the Council as an important step in producing the trained manpower so badly needed in this area.

In doing so, however, I would remind the Council that, as Miss DUNN has just pointed out, the training of dentists is a completely new enterprise to Hong Kong, and it will therefore require the closest of partnerships between the University and the Hospital Board to ensure that the objectives of the project are effectively and economically met. The academic and The layman must understand each other's legitimate interests if we are to have a successful system.

In this, Miss DUNN has rightly said, the University representation on the Board of Governors, proposed in the Bill, is very important, as is of course the presence on the Board of the Director of the Hospital. The training of dentists is a complex matter and involves a considerable range of important specialisms. These specialisms are organized in separate clinical departments and units, and it is essential to recognize that it is on the teachers in these departments that, in the final analysis, the responsibility rests for maintaining those internationally recognized standards to which reference has already been made. There will therefore be a need, as Miss DUNN has foreseen, for the Board to receive regularly the views and advice of the academic department heads on those

matters relevant to Hospital management which have fundamental implications for the teaching of dentistry.

Clearly it will take a little time to evolve the most suitable University/Hospital arrangements to meet our special circumstances in Hong Kong but I have no doubt that, if found necessary, the appropriate amendment will be made in the legislation now before us. With these observations, Sir, I support the Bill.

SECRETARY FOR SOCIAL SERVICES:—Sir, I am grateful to Miss DUNN and Dr. HUANG for their support of this Bill.

In spite of the delays in the construction of the Hospital, as Miss DUNN has observed, we have been able to complete this major and complex institution in less than five years from the commencement of the planning process. I believe it is not unknown for comparable institutions elsewhere to have taken up to ten, or even twenty years before completion. Our amazing progress has been possible only because of the adaptability of our procedures as well as the goodwill and hard work of all concerned.

I am, therefore, a little perplexed by Dr. HUANG'S closing remark about the possible need for amending legislation even before ink is committed to paper. Of course, this Council can amend legislation, but in the consultations leading to the management structure set out in this Bill, and in this debate, no suggestion has been made that its provisions are unsound. And obviously there is room within this management structure for working procedures, such as consultative arrangements, to evolve over time. We have achieved the next to impossible because of goodwill and good sense, and I am sure it is these same ingredients which will assure The Prince Philip Dental Hospital of its future success.

Question put and agreed to.

Bill read the second time.

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

Committee Stage

Council went into Committee.

BANKING (AMENDMENT) BILL 1981

Clauses 1 to 3 were agreed to.

DEPOSIT-TAKING COMPANIES (AMENDMENT) (NO. 2) BILL 1981

Clauses 1 to 3 were agreed to.

Clause 4

THE FINANCIAL SECRETARY:—Sir, I move that clause 4(*a*) be amended as set out in the paper circulated to Members. There are two amendments here to clause 4(*a*) and they are intended to correct an accidental omission in the drafting of the Bill. The original wording of clause 4(*a*), taken together with section 3(2) of the principal Ordinance, would prevent a registered deposit-taking company from taking any short-term deposits from a bank outside Hong Kong, which was not licensed under the Banking Ordinance. In other words, it would have interfered with normal transactions on the international money markets. That was, of course, not our intention. So these amendments make it clear that registered deposit-taking companies *may* continue to take short-term deposit from banks in Hong Kong and overseas, and also, for the avoidance of a minor residual doubt as to the precise impact of the wording of the amending Bill as drafted, from other deposit-taking companies as well.

Proposed amendment

Clause 4

That clause 4 (*a*) be amended—

(*a*) in the proposed new subsection (1A) by inserting after 'deposit' the following—'from any person other than a bank or deposit-taking company';

(*b*) in the proposed new subsection (1D) by deleting paragraphs (*a*) and (*b*) of the proviso and substituting the following—

'(*a*) deposits taken from banks and deposit-taking companies;

(*b*) deposits taken prior to the commencement of the Deposit-taking Companies (Amendment) (No. 2) Ordinance 1981; and

(*c*) deposits taken under subsection (1B).'

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 10 were agreed to.

Clause 11

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

Proposed amendment

Clause 11

That clause 11 be amended—

(*a*) in the proposed new section 16A—

(i) by deleting subsection (3) and substituting the following—

'(3) An application for a licence may be made only by a registered deposit-taking company which has—

(*a*) an issued share capital of not less than $100,000,000 or an equivalent amount in any other currency; and

(*b*) a paid-up share capital of not less than $75,000,000 or an equivalent amount in any other currency.'.

(ii) in subsection (4) by inserting after 'not' the following—

'the issued share capital or';

(iii) in subsection (5) by inserting after 'of' the following—

'issued share capital or';

(*b*) in the proposed new section 16F(10 by deleting paragraph (*b*) and substituting the following—

'(*b*) the issued share capital or paid-up share capital of the company is, subject to section 16A(4), less than that specified in section 16A(3);'.

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clauses 12 to 19 were agreed to.

The Schedule was agreed to.

BANKING (AMENDMENT) (NO. 2) BILL 1981

Clauses 1 to 29 were agreed to.

DEPOSIT-TAKING COMPANIES (AMENDMENT) (NO. 3) BILL 1981

Clauses 1 to 33 were agreed to.

ESTATE DUTY (AMENDMENT) BILL 1981

Clauses 1 to 8 were agreed to.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1981

Clauses 1 and 2 were agreed to.

Clause 3

THE FINANCIAL SECRETARY:—I move that clause 3 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 3

That clause 3 be deleted and the following substituted—

'Amendment of section 15.

3. Section 15 of the principal Ordinance is amended—

(*a*) in subsection (1)—

(i) by deleting the full stop at the end and substituting a semicolon; and

(ii) by inserting after paragraph (i) the following paragraphs—

"(*j*) sums received by or accrued to a corporation carrying on a trade, profession or business in the Colony by way of gains or profits arising in or derived from the Colony from the sale or other disposal or on the redemption on maturity or presentment of a certificate of deposit or bill of exchange; and

(*k*) sums received by or accrued to a person, other than a corporation, carrying on a trade, profession or business in the Colony by way of gains or profits arising in or derived from the Colony from the sale or other disposal or on the redemption on maturity or presentment of a certificate of deposit or bill of exchange where such gains or profits are in respect of the funds of the trade, profession or business and are exempt from interest tax under Part V.";

(*b*) by inserting after subsection (1) the following new subsection—

'(1A) Subsection (1)(*j*) or (*k*) shall not apply to gains or profits arising in or derived from the Colony, other than gains or profits received by or accrued to a person whose trade, profession or business comprises or includes trading in certificates of deposit or bills of exchange, to the extent to which such gains or profits

relate to a period prior to 1 April 1981; and gains or profits received by or accrued to any person from the sale or other disposal or on the redemption on maturity or presentment, on or after 1 April 1981, of a certificate of deposit or bill of exchange purchased or otherwise acquired by that person before that date, shall be determined by reference to such amount as the Commissioner may consider such certificate or deposit or bill of exchange Would have realized if it had been sold in the open market at the close of business on 31 March 1981 and not by reference to the amount, if any, paid by that person in so purchasing or otherwise acquiring such certificate of deposit or bill of exchange.'.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4 was agreed to.

Clause 5

THE FINANCIAL SECRETARY:—I move that clause 5 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 5

That clause 5(*a*)(ii) be amended in the proposed new paragraph (*c*)—

(*a*) by inserting after 'amount' the following—
'(which shall for the purposes of this Part be deemed to be interest)';

(*b*) by deleting 'exceeds the sum' and substituting the following—
'exceeds the total sum';

(*c*) by inserting after 'drew' where it first occurs the following—
'or accepted'; and

(*d*) by deleting the proviso and substituting the following—
'Provided that—

(i) where the first sale or other disposal of the certificate or bill is to an associated corporation, the sum to be taken into account for the purposes of this paragraph as so received or credited shall be the sum received by or credited to that or any other associated corporation on the first sale or other disposal thereof to a person not associated within

the meaning of subsection (3) with the person who issued the certificate or drew or accepted the bill;

(ii) in the case of a certificate of deposit or bill of exchange issued or drawn on or before 31 March 1981, this paragraph shall apply as if for any reference to a sum received or credited or the first sale or other disposal thereof there were substituted a reference to such amount as the Commissioner may consider such certificate of deposit or bill of exchange would have realized if it had been sold in the open market at the close of business on 31 March 1981;'.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 9 were agreed to.

STAMP DUTY BILL 1981

Clause 1 was agreed to.

Clause 2

THE FINANCIAL SECRETARY:—I move that clause 2 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 2

That clause 2(1) be amended—

(*a*) in the definition of 'bearer instrument' by deleting 'by means' and substituting 'by delivery';

(*b*) in the definition of 'conveyance' by inserting after 'instrument' the following—
'(including a surrender)';

(*c*) in the definition of 'conveyance on sale' by deleting 'instrument (including a surrender) and every decree or order of any court' and substituting 'conveyance';

(*d*) in the definition of 'Hong Kong bearer instrument' by deleting paragraph (*b*) and substituting the following—
'(*b*) elsewhere by or on behalf of a body corporate formed, or an unincorporated body of persons established, in Hong Kong;';

(*e*) in the definition of 'instrument of transfer' by deleting 'and any release or other renunciation thereof';

(*f*) in paragraph (*c*) of the definition of 'stamp' by deleting 'which is used for any purpose specified in that paragraph';

(*g*) in the definition of 'stock' by deleting—

'(*d*) any interest in, and any right to subscribe for or to be allotted, any stock referred to in paragraph (*a*), (*b*) or (*c*),

but does not include any loan capital which is not of such a description as to be capable of being listed on a recognized stock exchange;'

and substituting the following—

'(*d*) any right to subscribe for or to be allotted any stock referred to in paragraph (*a*), (*b*) or (c), other than any such right under an employees' share purchase or share option scheme,

but, except for the purposes of section 22, does not include any loan capital which is not funded debt or of such a description as to be capable of being listed on a recognized stock exchange or any certificate of deposit within the meaning of section 2 of the Inland Revenue Ordinance;'.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 and 4 were agreed to

Clause 5

THE FINANCIAL SECRETARY:—I move that clause 5 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 5

That clause 5 be amended by deleting subclause (5) and substituting the following—

'(5) In respect of any Hong Kong bearer instrument, the following shall apply—

(*a*) such instrument shall, before being issued, be produced to the Collector together with such particulars in writing in respect of the instrument as the Collector may require, and such instrument shall be duly stamped if it is stamped with a particular stamp approved by the Collector denoting that it has been so produced; and

(*b*) within 2 months of the date on which such instrument is issued, or such longer time as the Collector may allow, a statement in writing containing the date of issue and such further particulars as the Collector may require in respect of such instrument shall be delivered to the Collector, and the stamp duty chargeable on such instrument

shall be paid to the Collector on delivery of that statement or within such longer time as the Collector may allow,

and if default is made in complying with paragraph (*a*) or (*b*) in respect of such instrument, or if any particulars so produced or delivered in respect of such instrument are false in any material respect, the person or persons respectively specified in head 3 in the First Schedule as being liable for stamping such instrument shall incur a penalty of 10 times the amount of the stamp duty chargeable on such instrument which shall be recoverable by the Collector as a civil debt due to the Crown.

(6) Where the stamp duty chargeable on an instrument depends in any manner upon the stamp duty paid in respect of another instrument, the payment of the last-mentioned stamp duty shall, upon application to the Collector and production of both the instruments, be denoted upon the first-mentioned instrument in such manner as the Collector thinks fit.'.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 8 were agreed to.

Clause 9

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

Proposed amendment

Clause 9

That clause 9(1) be amended by inserting after 'section' the following—
'5(5) or'.

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clauses 10 to 14 were agreed to.

Clause 15

THE FINANCIAL SECRETARY:—I move that clause 15 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 15

That clause 15 be amended—

(*a*) in subclause (1)—

(i) by deleting the full stop and substituting a colon;

(ii) by inserting the following proviso—

'Provided that an instrument which is not duly stamped may be received in evidence in civil proceedings before a court if the court so orders upon the personal undertaking of a solicitor to cause—

(i) such instrument to be stamped in respect of the stamp duty chargeable thereon; and

(ii) any penalty payable under section 9 in respect thereof to be paid.';

(*b*) in subclause (2) by deleting 'person who' and substituting the following—

'such public officer who or body corporate which'.

The amendment was agreed to.

Clause 15, as amended, was agreed to.

Clause 16 was agreed to.

Clause 17

THE FINANCIAL SECRETARY:—I move that clause 17 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 17

That clause 17 be amended by inserting after 'payable' the following—

', but this section shall not apply to an instrument made solely for the purpose of giving notice of any such increase in compliance with any Ordinance'.

The amendment was agreed to.

Clause 17, as amended, was agreed to.

Clauses 18 to 26 were agreed to.

Clause 27

THE FINANCIAL SECRETARY:—I move that clause 27 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 27

That clause 27 be amended—

(*a*) in subclause (5) by inserting after 'conveyance' wherever it occurs the following —

'or transfer';

(*b*) in subclause (6) by deleting 'surrender or'.

The amendment was agreed to.

Clause 27, as amended, was agreed to.

Clauses 28 and 29 were agreed to.

Clause 30

THE FINANCIAL SECRETARY:—I move that clause 30 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 30

That clause 30(3) be amended by deleting 'conveyance or'.

The amendment was agreed to.

Clause 30, as amended, was agreed to.

Clauses 31 to 60 were agreed to.

Clause 61

THE FINANCIAL SECRETARY—:I move that clause 61 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 61

That clause 61 be amended by deleting "Notwithstanding section 26 of the Magistrates Ordinance, no' and substituting the following—

'No'

The amendment was agreed to.

Clause 61, as amended, was agreed to.

Clauses 62 to 66 were agreed to.

First Schedule

THE FINANCIAL SECRETARY:—I move that the First Schedule be amended as set out in the paper circulated to Members.

Proposed amendment

First Schedule

That the First Schedule be amended—

(*a*) in head 1(1)—

(i) by deleting '$100,000' wherever it occurs and substituting '$250,000';

(ii) by deleting '$100,990' wherever it occurs and substituting '$252,505';

(iii) by deleting '$250,000' wherever it occurs and substituting '$500,000';

(iv) by deleting '$254,499' wherever it occurs and substituting '$508,997';

(v) by deleting '$990' and substituting '$2,505';

(vi) by deleting '$2,500' and substituting '$5,000';

(vii) by deleting '$4,499' and substituting '$8,997';

(*b*) in head 2(3), in column 2, by deleting items (B) and (C) and substituting the following—

'(B) 7 days after execution or, if executed elsewhere than in Hong Kong, 30 days after execution; but see Note 1 to this sub-head

(C) The transferor and the transferee; but see Note 1 to this sub-head';

(*c*) in head 3(1)—

(i) in column 1 by deleting—

'(*b*) in any other case

And see section 2'

and substituting the following—

'(*b*) in respect of any other stock

And see sections 2 and 5(5)';

(ii) in column 2 in item (A) by inserting after 'value' wherever it occurs the following—

'on issue';

(iii) in column 2 in item (C) by inserting after 'issued' the following—

'and any person who acts as the agent of that person for the purposes of the issue';

(*d*) in head 3(2)—

(i) in column 1 by deleting ‘section 2’ and substituting the following—
‘sections 2 and 5(5)’;

(ii) in column 2 in item (C) by inserting after ‘issued’ the following—
‘and any person who acts as the agent of that person for the purposes of the issue’;

(*c*) in head 4 by deleting the Note and substituting the following—

Note

if in the case of a lease or agreement for a lease the stamp duty payable in respect thereof is limited in accordance with section 42(2) or 43(2) to50% of the stamp duty chargeable thereon, the stamp duty chargeable on a duplicate or counterpart thereof shall be limited to 50% of the stamp duty otherwise chargeable under this head’.

The amendment was agreed to.

First Schedule, as amended, was agreed to.

Second Schedule

THE FINANCIAL SECRETARY:—I move that the Second Schedule be amended as set out in the paper circulated to Members.

Proposed amendment

Second Schedule

That the Second Schedule be amended in Part 1 under the heading ‘CONDITIONS’ by deleting ‘Stamp Duty Office’ in paragraph 3 and substituting the following—
‘Stamp Office’.

The amendment was agreed to.

Second Schedule, as amended, was agreed to.

Third and Fourth Schedules were agreed to.

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1981

Clauses 1 to 10 were agreed to.

RATING (AMENDMENT) BILL 1981

Clauses 1 to 8 were agreed to.

Clause 9

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

Proposed amendment

Clause 9

That clause 9 be amended by deleting paragraph (*a*) and substituting the following—

‘(*a*) by deleting subsection (1) and substituting the following—

"(1) The Commissioner shall, when directed to prepare a list under section 11, prepare, in respect of each of the specified areas designated in the direction, a list containing—

(*a*) the address and, where necessary, a description of every tenement valued; and

(*b*) the rateable value of every such tenement.";'.

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clause 10

THE FINANCIAL SECRETARY:—I move that clause 10 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 10

That clause 10(*b*) be amended in proposed new subsection (1A) by inserting before 'list' where it occurs for the fourth time, the following—

'valuation'.

The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clause 11

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

Proposed amendment

Clause 11

That clause 11 be amended in proposed new section 14A(1)(*a*) by inserting after 'may' the following—
'be made'.

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clauses 12 to 27 were agreed to.

Clause 28

THE FINANCIAL SECRETARY:—I move that clause 28 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 28

That clause 28 be amended in proposed new section 44A(1) by deleting 'an order may be made by the Lands Tribunal in accordance with such terms' and substituting the following—
'the Lands Tribunal may, if it thinks fit, make an order in accordance with such terms and'

The amendment was agreed to.

Clause 28, as amended, was agreed to.

Clauses 29 to 30 were agreed to.

STAMP (AMENDMENT) BILL 1981

Clauses 1 and 2 were agreed to.

IMMIGRATION (AMENDMENT) BILL 1981

Clauses 1 to 8 were agreed to.

New clause 3A. 'Amendment of section 17B'.

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

SECRETARY FOR SECURITY:—In accordance with Standing Order 46(6) I move that new clause 3A as set out in the paper circulated to Members be read a second time.

Sir, the amendment proposed to the Bill is to add an additional clause which seeks to amend section 17B of the principal Ordinance. This section defines the documents which can be produced as 'proof of identity'. The need to carry one such document was made a statutory requirement in October last year when the reached base immigration policy was ended. Section 17B already provides for the Governor by order to *add* any other document to the six documents already included in the definition.

Shortly before the Immigration (Amendment) Bill 1981 was given its first and second reading it was recognized that it might at some future date be necessary not only to *add* to the list of documents which could be used as proof of identity but also to *delete* documents from this list. To enable this to be done it is necessary to amend section 17B.

The amendment proposed by this new clause therefore seeks to insert an additional provision by which in future the Legislative Council may by resolution amend the list of documents used as proof of identity by deleting or adding to the list.

Question put and agreed to.

Clause read the second time.

SECRETARY FOR SECURITY:—I move that new clause 3A be added to the Bill.

Proposed addition

Clause 3A

That there be added after clause 3 the following clause—

'Amendment of Section 17B. **3A**. Section 17B of the principal Ordinance is amended—

(*a*) by being renumbered as subsection (1);

(*b*) by deleting "In this part" and substituting the following—

'Subject to subsection (2), in this Part';

(*c*) in the definition of "proof of identity"—
(i) by inserting at the end of paragraph (*e*) the following —
"or";
(ii) in paragraph (*f*)by deleting "; or" and substituting a full stop; and
(iii)by deleting paragraph (*g*); and
(*d*) by inserting after subsection (1) the following—
"(2) The Legislative Council may by resolution amend subsection (1) by deleting from or adding to the list of documents which may be used as proof of identity under this Part.".'.

The addition of the new clause was agreed to.

THE PRINCE PHILIP DENTAL HOSPITAL BILL 1981

Clauses 1 to 21 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

BANKING (AMENDMENT) BILL

BANKING (AMENDMENT) (NO. 2) BILL

DEPOSIT-TAKING COMPANIES (AMENDMENT) (NO. 3) BILL

ESTATE DUTY (AMENDMENT) BILL

INLAND REVENUE (AMENDMENT) (NO. 3) BILL

STAMP (AMENDMENT) BILL

THE PRINCE PHILIP DENTAL HOSPITAL BILL

had passed through Committee without amendment and that the

DEPOSIT-TAKING COMPANIES (AMENDMENT) (NO. 2) BILL

INLAND REVENUE (AMENDMENT) (NO. 2) BILL

STAMP DUTY BILL

RATING (AMENDMENT) BILL

IMMIGRATION (AMENDMENT) BILL

had passed through Committee with amendment and moved the third reading of each of the twelve Bills.

Question put on each Bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 10 June 1981.

Adjourned accordingly at thirty-one minutes past four o'clock.