

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 28 April 1982****The Council met at half past two o'clock****PRESENT**

HIS HONOUR THE DEPUTY TO THE GOVERNOR (*PRESIDENT*)
THE HONOURABLE THE CHIEF SECRETARY
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR. HENRY CHING, C.B.E., J.P.

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

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

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

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

THE HONOURABLE DAVID WYLIE McDONALD, C.M.G., J.P.
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, C.M.G., J.P.
SECRETARY FOR EDUCATION

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

THE HONOURABLE ALAN JAMES SCOTT, C.B.E., J.P.
SECRETARY FOR TRANSPORT

DR. THE HONOURABLE THONG KAH-LEONG, C.B.E., J.P.
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE ERIC PETER HO, C.B.E., J.P.
SECRETARY FOR SOCIAL SERVICES

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

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, O.B.E., 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.
REGIONAL SECRETARY (HONG KONG AND KOWLOON), CITY AND NEW
TERRITORIES ADMINISTRATION

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

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

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, J.P.
REGIONAL SECRETARY (NEW TERRITORIES), CITY AND NEW TERRITORIES
ADMINISTRATION

DR. THE HONOURABLE JAMES WILLIAM HAYES, J.P.
COMMISSIONER FOR LABOUR (*Acting*)

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

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

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

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

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

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

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

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

THE 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, O.B.E., J.P.

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

THE HONOURABLE DAVID KENNEDY NEWBIGGING, O.B.E., J.P.

THE HONOURABLE HU FA-KUANG, J.P.

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

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, J.P.

THE HONOURABLE CHAN KAM-CHUEN, J.P.

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

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

THE HONOURABLE CHEUNG YAN-LUNG, M.B.E., J.P.

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE MARIA TAM WAI-CHU

ABSENT

HIS EXCELLENCY THE GOVERNOR
SIR CRAWFORD MURRAY MacLEHOSE, G.B.E., K.C.M.G., K.C.V.O.

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

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MRS. JENNIE CHOK PANG YUEN-YEE

Papers

The following papers were laid pursuant to Standing Order 14(2):—

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Oral answers to questions

Effectiveness of the Trade Descriptions Ordinance

1. MR. CHAN KAM-CHUEN asked:—*Since the enactment of the Trade Descriptions Ordinance in December 1980:*

- (a) *how many prosecutions and convictions have there been respectively for trade mark offences; and,*
- (b) *is Government satisfied with the effectiveness of the Ordinance?*

THE ATTORNEY GENERAL:—Sir, the Ordinance came into force just over a year ago on 1 April 1981.

Since that time there have been 96 successful and four unsuccessful prosecutions. In four of the cases sentences of imprisonment have been imposed. There are at present 343 cases awaiting trial.

Of the convictions that have occurred, 57 related to offences involving forged trade marks and the remaining 39 were in respect of the application of false trade descriptions to goods. Of those awaiting trial the percentages in the two different grades are slightly different: 192 relate to forged trade marks and 251 to false trade descriptions.

In respect of the successful prosecutions forfeiture orders have been made by the Courts in respect of goods with a market value of just under half a million dollars whilst the goods seized and awaiting the decision of the Courts, in the cases awaiting trial, amount in value to some \$17,750,000 and in due course, in those of the trial cases where it is appropriate to do so, forfeiture orders will be applied for.

As far as the second part of the question is concerned, as my honourable Friend the Secretary for Economic Services explained in this Chamber some time ago, the intention of this Ordinance was to strengthen various areas of the law dealing with consumer protection and in particular in relation to the application of false and misleading descriptions to goods in the course of trade.

The figures I have just quoted, I would respectfully suggest to honourable Members, demonstrate that the Ordinance is going some way to achieving its objects and I can say that the Government is, whilst not complacent, at least satisfied with the effectiveness of the Ordinance at the moment.

The International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978

2. DR. HO asked:—*To what extent will Hong Kong seamen be affected when the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978 comes into force early next year?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, perhaps I could preface my answer by saying a few things about the Convention.

The Convention lays down for the first time internationally recognized mandatory minimum standards with regard to the age, medical fitness, training and sea experience for seamen involved in watchkeeping duties. It requires the Government of the contracting party whose flag a ship is entitled to fly to issue certificates to seamen who have reached the minimum standards laid down in the Convention. As a transitional measure, the Convention provides that a

contracting party may, during the two years after entry into force of the Convention for that contracting party, issue a certificate of service to serving seamen who have spent not less than three years at sea within a period of seven years pre-dating the entry into force of the Convention for that contracting party.

A ship may be detained at the ports of the contracting parties if the port authorities discover any deficiencies in the certification of the seamen on board. And by deficiencies the Convention means not only defects in documentation but also deficiencies in relation to the performance of seamen who have been issued a certificate. This power of detention can be applied to ships flying the flag of a non-contracting party.

The Convention says that it will enter into force twelve months after 25 countries, representing 50% of the world's total merchant fleets of ships of 100 gross registered tons or more, have ratified it. So far 14 countries, representing about half of the tonnage required, have so ratified. Nine other European countries are committed to ratifying the Convention within a few months. And we understand that Japan is also considering ratification during 1982. If, as is likely, the Convention is additionally ratified by these ten countries, the necessary tonnage would be reached. The Convention is thus likely to come into force some time during 1983.

There are some 87 000 seamen registered with the Marine Department, most of them as far as shipping is concerned, are inactive. The number of seamen that can be said to be actively employed on ocean-going ships is about 17 000. Of the 17 000, 6 000 are officers. The standard of training provided for officers at the Hong Kong Polytechnic meets the requirements laid down in the Convention.

The training of ratings in Hong Kong on the other hand falls far short of the standard required under the Convention. There is no institution in Hong Kong that is adequately equipped and staffed for the full range of pre-sea training for ratings required under the Convention. Of the 11 000 serving ratings, about half have had sufficient experience to qualify for a certificate under the transitional provisions. The remaining half are ratings whose training and experience are insufficient to meet the mandatory minimum requirements laid down in the Convention. So, once the Convention comes into force, these 5 000 ratings would face the threat of immediate unemployment and this would hold true even if Hong Kong were to decide not to accede to the Convention.

The Hong Kong Merchant Navy Training Board, having addressed this problem, recommended at the end of last year that a seaman's training school should be established in Hong Kong. It put forward four options. Three of them appeared to offer the quickest solution. We have pursued them and each has proved abortive. The fourth was for the Government to establish a purpose built Seamen's Training School. Obviously this could never be implemented quickly enough to meet the critical circumstances I have described, but after a

difficult hunt, we have now found what we think will be suitable temporary premises. Accordingly, we have put appropriate proposals seeking to establish a temporary training school to the Vocational Training Council. Once in this way we have solved the immediate problem of keeping our seamen employable, we will consider with the Vocational Training Council what the permanent answer should be.

DR. HO:—*Sir, will Government consider providing some form of financial assistance to those seamen who will have to quit their job in order to undergo training at the proposed temporary school?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, that is an aspect we have not, frankly, yet considered but my view off the cuff as it were would be that if these people qualified for social welfare then obviously they could apply for that, but we have no immediate plans to give any special treatment to these seamen. Our object is to get them trained adequately as quickly as we possibly can.*

REVD. JOYCE M. BENNETT:—*Sir, has the U.K. Government ratified this Convention and when did it do so, if it did so?*

SECRETARY FOR ECONOMIC SERVICES:—*Sorry, I have to confess, Sir, I do not know the answer to that question off the cuff but I will write to Miss BENNETT and inform her.*

(The following written reply was provided subsequently.)

The short answer is that UK ratified the Convention on 28th November 1980.

REVD. JOYCE M. BENNETT:—*Sir, then if the U.K. Government has not yet ratified this Convention—I think we need to find out a little more about that—I would like then to ask when was this Convention drawn up and when did discussions in Hong Kong first start in order to meet the requirements of this Convention?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, the answer to the first question is that really it doesn't matter whether the U.K. accedes to the question or not in the sense that the Convention will be applied by contracting parties to vessels of countries that are not necessarily contracting parties. The answer to the second question is that I must confess that we do here in Hong Kong find dealings in international maritime matters enormously complicated and difficult to get to the bottom of. It's a most highly regulated area on the one hand, and yet the mechanics for the regulation being international are, to put it mildly, elusive. All I can say in answer to the question is that as soon as we knew that it was likely that this Convention would be ratified we immediately got down to trying to find a solution.*

Timing of the announcement of Advanced Level and Higher Level Examinations results

3. DR. FANG asked:—*Would Government request the Examinations Authority to announce the results of the Higher and the Advanced Level Examinations at the same time so that successful candidates in the latter examination, who are unable to enter the Hong Kong University, do not have to wait a whole year before they can apply for admission to the Chinese University, which closes applications before the 'A' Level results are published?*

DIRECTOR OF EDUCATION:—Sir, I can put Dr. FANG's request to the Examinations Authority, but present practice is at the specific request of the Chinese University, which accepts Higher Level examination results for entry and requires them as early as possible for processing. I cannot say whether the Chinese University will accept a fortnight's delay—for this is what it means, with 'H' Level results coming out in early July and 'A' Levels in mid-July—but of course it can be asked.

As to C.U.H.K. closing its entry list before 'A' Level results are published, the University of course is the authority for its own admission policies. Again, we can ask for consideration of 'H' and 'A' Level candidates in the same year, to meet the problem described by Dr. FANG.

DR. FANG:—*Sir, may I request that the Director of Education will kindly take on the actions suggested by him as soon as possible so as to enable the students who are sitting for both examinations this year to be able to enter the University of their choice?*

DIRECTOR OF EDUCATION:—Sir, I have in fact approached the representative of the Chinese University on the Examinations Authority. I have done this informally but after this session, of course, I shall write formally and hope that he will in fact listen to Dr. FANG's plea.

REVD. JOYCE M. BENNETT:—*Sir, one further question if we may. When will the Government actively pursue a policy for rationalizing entry to the Universities in order to help the students in the schools and save the Government money?*

DIRECTOR OF EDUCATION:—Sir, I don't think that this question is strictly relevant and I think it should properly be addressed to the Secretary for Education at perhaps the next session of the Council.

HIS HONOUR THE PRESIDENT:—The Director of Education is quite correct. Miss BENNETT, would you now like to ask your question, Question No. 4?

Dimensions and types of luggage allowed on K.C.R. trains

4. REVD. JOYCE M. BENNETT asked:—*Will Government inform this Council:*

- (a) *whether there are currently any restrictions on the dimensions or types of luggage passengers may carry on K.C.R. trains; and*
- (b) *whether there will be any such restrictions after electrification when the new M.T.R.-type coaches are in use?*

SECRETARY FOR TRANSPORT:—Sir, there are at present no restrictions on the dimensions and types of luggage which may be carried on K.C.R. trains. The new K.C.R. coaches are similar to the M.T.R. coaches to which my honourable and truly learned Friend refers, but with a different seating layout, and luggage racks and compartments.

Under the new Kowloon-Canton Railway Regulations (1982), which will become effective on 30 April, the General Manager has power to limit the number and size of pieces of luggage to be carried by passengers. He does not however intend to impose any restrictions on passengers travelling on existing diesel trains, and he does not at present foresee the need for restrictions on the electrified service from Hung Hom to Sha Tin, that is, the inner-suburban service, due to commence on the 6 May.

However, for reasons of safety and efficient operation, consideration must be given to the need for restrictions on the dimensions and types of luggage carried by China-bound passengers on the new electric trains which will operate to Lo Wu when the electrification programme has been completed. Excess luggage would be carried separately by consignment. Arrangements for this are now being worked out in conjunction with the Guangzhou Railway Authority.

REVD. JOYCE M. BENNETT:—*Sir, will it be possible to carry roast suckling pigs and orange trees at present prohibited on the M.T.R. at the Lunar New Year periods?*

SECRETARY FOR TRANSPORT:—I shall put this weighty matter to the General Manager, Sir, and endeavour to get a reply. (*laughter*)

REVD. JOYCE M. BENNETT:—Thank you.

(The following written reply was provided subsequently.)

The General Manager has looked again at this question and has decided that it would not be practicable or desirable to allow passengers to carry such baggage, or wet goods such as fish and vegetables. The public will be notified accordingly before the end of this month, by way of publicity at the KCR stations.

Number of places and vacancies in Forms III and IV

5. MR. S. L. CHEN asked:—*Will Government inform this Council of the total number of places and vacancies currently available in Form III (and Middle III) and in Form IV (and Middle IV) respectively, with the figures broken down into Government, aided, non-profit-making private schools, and other independent private schools?*

DIRECTOR OF EDUCATION:—Sir, the total number of places and vacancies currently available in *Form III* and *Middle III* by type of school are:

	<i>Places</i>	<i>Vacancies</i>
Government	5 960	672
Aided	37 377	3 725
Non-profit-making private	21 884	2 258
Private independent	27 115*	(no figures)†

for *Form IV* and *Middle IV*

Government	5 880	140
Aided	33 970	295
Non-profit-making private	15 916	458
Private independent	31 125*	(no figures)†

I should point out that the number of places in private independent schools is not fixed: classes are open or closed according to demand, hence the actual enrolment figures quoted *, and the unavailability of figures for vacancies †.

MR. S. L. CHEN:—*Sir, is the number of Form IV places in private independent schools increasing or decreasing since the publication of the White Paper in 1978?*

DIRECTOR OF EDUCATION:—Sir, the numbers are steadily decreasing, have done and will continue to do so as the public sector expands.

MR. S. L. CHEN:—*Sir, in view of the fairly large number of vacancies currently available, is there any attempt on the part of Government to fill up these vacancies which are quite expensive to provide?*

DIRECTOR OF EDUCATION:—Sir, the vacancies in Form III largely arise because of repetition which is permitted in Form II and Middle II and they account for at least half the number of vacancies. The other vacancies are a natural result of wastage, people deciding to go out to work or to migrate from the Colony and we consider these figures to be acceptable. I should point out that the vacancies in Form IV are very much smaller and, of course, these vacancies can be filled at the discretion of heads of schools in the aided sector or the public sector.

REVD. JOYCE M. BENNETT:—*Sir, is it possible that some of the vacancies in Form III Government and aided schools occur this year because more children from those classes were promoted into Form IV under the J.S.E.A.?*

DIRECTOR OF EDUCATION:—I don't think so, Sir. As I remarked the vacancies are attributable largely to repetition in Form II. I haven't quite got the drift of Miss BENNETT's question but perhaps she would care to repeat it in language that I understand.

REVD. JOYCE M. BENNETT:—*Is it possible that because of promotion by the JSEA in Government and aided schools, children were not kept back in Form III because they are not allowed to repeat the J.S.E.A. and, therefore, they were promoted more easily?*

DIRECTOR OF EDUCATION:—The vacancies that I have described in Form III cannot arise in this way because promotion to Form IV follows. The figures I have quoted are the latest that we have from 1981 so the vacancies in Form III there relate to repetition the year before, and not necessarily to the promotion process which of course will follow later this year.

REVD. JOYCE M. BENNETT:—*Sir, is it possible for the Director of Education to get hold of the figures sent to him by the schools last September 1981 and March 1982?*

DIRECTOR OF EDUCATION:—That, I am happy to say, is possible.

Body scanning diagnostic equipment in Government hospitals

6. MISS DUNN asked:—*Will Government explain why body scanning diagnostic equipment is not available in Government hospitals and say what it is doing to overcome this deficiency?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the subject of acquiring scanners for major Government hospitals was first mooted in my Department in the latter part of 1977 as it has always been my wish and my intention to introduce such diagnostic equipment in the major Government hospitals as soon as it is possible.

At that stage, the earliest opportunity that the Department could acquire funds for this equipment was to include the proposal in the Departmental Draft Estimates for the year 1978-79 and hopefully, if all went well, to have the first scanner installed in the Queen Elizabeth Hospital by late 1979.

In the event, however, it has taken more time than at first envisaged because of three main factors:

Firstly, the usual and necessary financial control, and tender and Public Works procedures had to be strictly adhered to;

Secondly, development in this new type of diagnostic equipment has been extremely rapid so that by late 1978 the original order for a head and neck scanner had to be substituted by a new one for a whole body scanner as by then development and designs of scanners had reached a stage where the acquisition of a more advanced model was considered more appropriate and desirable. This new request, however, meant retracing all the steps and procedures necessary for justification of funds for the purchase. The Finance Committee of this Council finally agreed to make available the necessary funds in July 1979 and tender procedures were instituted. The tender was then awarded to EMI Co. for a whole body scanner in February 1980.

Thirdly, at this crucial stage, the EMI Co. in April 1980 expressed their intention to give up their interests in the manufacture of scanners.

This unfortunate and unexpected development at the end of an extended and somewhat strenuous procedural exercise was to cause the Central Tender Board to cancel the order to EMI in October 1980.

In an attempt to expedite matters, I made a special application for restricted tenders to be issued to companies that were still producing scanners but this was not supported by the Central Tender Board which decided that open tenders should be called again from the beginning.

Thus, good intentions and strenuous efforts notwithstanding, a firm order could only be placed in November 1981 for a scanner for the Queen Elizabeth Hospital which is now expected to be delivered in October this year, i.e., in a few months' time.

I may add that in addition to this scanner in the Queen Elizabeth Hospital, a similar scanner has also been ordered for the new Prince of Wales Hospital and is scheduled to be delivered by the end of this year.

Again, subject to Finance Committee approval, a third scanner should be installed in the Queen Mary Hospital by mid-1983 and another one in the Princess Margaret Hospital shortly after.

MISS DUNN:—*Sir, doesn't this unhappy sequence of events indicate that existing procedures for the procurement of equipment need to be reviewed?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, it might point to that direction and I am quite happy in fact to consider referring Miss DUNN's recommendations to the proper authorities.*

MR. LO:—*Sir, following on from that I wonder whether there are any other important items of medical aid suffering a similar fate.*

HIS HONOUR THE PRESIDENT:—That is not a question, Mr. Lo—I don't think.

MR. LO:—*No, it was a question, Sir, with respect. It was: are there any other important medical aids suffering a similar fate?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I am not aware of any at this moment.

Government business

Motions

HOUSING ORDINANCE

THE SECRETARY FOR HOUSING moved the following motion:—That the Housing (Traffic) (Amendment) By-laws 1982 made by the Housing Authority on 22 March 1982 be approved.

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

The Housing (Traffic) (Amendment) By-Laws 1982, which were made by the Housing Authority on 22 March 1982, under section 30 of the Housing Ordinance, provide for the ascertaining of the names and addresses of registered owners and drivers of vehicles using restricted roads, car parks and parking places in public housing estates.

Difficulties have been experienced by the Authority's staff in taking effective action against illegal parking and other traffic offences in housing estates. At present, prosecution action against drivers cannot be brought if they refuse to give their names and addresses. These By-Laws make it obligatory for the driver of a vehicle on a restricted road or in a parking place to give his name and address when so requested, and also enable staff to obtain from registered owners the particulars of drivers of vehicles at the time of alleged offences.

Sir, I beg to move.

Question put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE COMMISSIONER FOR LABOUR moved the following motion:—That the Factories and Industrial Undertakings (Amendment) Regulations 1982, made by the Commissioner for Labour on 17 March 1982, be approved.

He said:—Sir, I move the resolution standing in my name on the Order Paper for the approval of the Factories and Industrial Undertakings (Amendment) Regulations 1982, made by the Commissioner for Labour on 17 March 1982. In accordance with section 7(3) of the Factories and Industrial Undertakings Ordinance, these regulations have been submitted to Your Honour and are now referred to this Council for approval.

In 1979, an Industrial Noise Consultant was invited to Hong Kong to assess the industrial noise problem and to advise Government on appropriate means to protect the hearing of those workers who are exposed to excessive industrial noise. In his report, the Consultant advised that in order to carry out a proper hearing conservation programme for workers in industry it would be necessary for Hong Kong to have a set of hearing protection legislation which, when required, could be used to protect workers from excessive noise exposure. He further recommended that protection of hearing is necessary in every industrial undertaking where, on any day, any person is exposed continuously for eight hours to a sound level exceeding 90 dB(A) or is subject to an equivalent or greater exposure to sound. The Consultant emphasized that the legislation should have a simple framework which would be operable in the present industrial conditions and would still be viable in the future as improvements in standard become necessary to further ameliorate working conditions.

Based on the Consultant's recommendations and with the endorsement of the Labour Advisory Board these regulations are proposed, as a first step, to require the proper maintenance of machinery and plant to minimize noise and the provision and wearing of hearing protectors by workers who are exposed to a sound level of 90 dB(A) or higher for a continuous period of eight hours on any one day. The drafting instructions for the new regulations were also sent to the Environment Protection Advisory Committee's Special Committee on Noise for information.

In the meantime, a code of practice for reducing the exposure of industrial workers to noise is being prepared. It will incorporate the recommendations of the Working Group on Protection of Workers' Hearing which is composed of Official and Unofficial Members and chaired by the Occupational Health Consultant. The code will provide a basis and direction for the possible introduction of further legislation for reducing and controlling industrial noise at source to achieve safe levels. Care will be taken at that time to establish the practicability of any new proposals, and to allow sufficient time for industry to make the required changes and improvements.

The introduction of the regulations now before Members should thus be seen as a necessary first step to safeguard employees in noisy workplaces. The regulations will come into operation on 1 December 1982. This will give proprietors sufficient time to acquire ear protectors and to persuade their employees to use them. In the meantime, the Factory Inspectorate will launch a

publicity campaign for the general education of workers and employers on the contents of these regulations.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1982

DANGEROUS DRUGS (AMENDMENT) BILL 1982

FIRE SERVICES (AMENDMENT) BILL 1982

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1982

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

Second reading of bills

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1982

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

He said:—Sir, I move the second reading of the Offences Against the Person (Amendment) Bill 1982.

This Bill, if enacted, will amend section 42 of the Offences against the Person Ordinance by replacing the present maximum penalty for kidnapping for sale or ransom, which is at present 14 years imprisonment, with a new maximum penalty of life imprisonment.

Sir, prosecutions for kidnapping have been brought under this section ever since 1865 when this Council passed the section and enacted the penalty then at 14 years, which it has remained since that date. Towards the end of last year, in two cases before the High Court, Judges when passing sentence on the kidnappers of two juveniles, called for the maximum penalty under the section to be increased. Earlier this year, when one of those matters came before the Court of Appeal, the members of the Court repeated that call. There have also been suggestions in the media that the Government’s attention ought to go towards increasing the penalty. Today’s Bill is a response in part to that call and also is in part intended to deter if possible, the commission of this wicked offence by bringing the penalty into alignment with other comparably serious criminal offences.

There is, Sir, in Hong Kong as in other jurisdictions, a coherent grade of maximum penalty imposed according to the seriousness of the offences involved.

1st Gravity: crime of the utmost seriousness	Death
2nd Gravity: very serious major crime	Life imprisonment as a maximum penalty
3rd Gravity: serious major crime	Maximum of 14 years imprisonment
4th Gravity: serious crime	Maximum set between seven and 14 years
5th Gravity: less serious crime	Maximum under seven years

In each of these categories, I should point out that Judges of Courts do not inevitably pass the maximum sentence but reserve that sentence for the most serious case of the particular category that could possibly come before them. It follows that maximum penalties of “life” or of “14 years imprisonment” are clear indications from the Legislature, this Council, to the Judiciary of the relative seriousness with which Legislature and hence society regard various major crimes. Thus, as is happening in this Bill, for the Legislature to move an offence from one category into a higher one should in turn, one hopes, lead the Judiciary in all the cases coming before them to impose a somewhat higher sentence than they would have been when the Legislature categorized the offence at one of the less grave levels.

This Bill will alter the existing situation thus by raising the offence of kidnapping from a third gravity to a second gravity offence. It will now be classed with such offences as manslaughter, attempted murder, or rape, rather than with the slightly less grave offences of burglary or blackmail. I, along I am sure with honourable Members and with the public, hope that those evil men who are tempted to indulge in this wicked offence will be deterred by the realization of the new and more severe punishment which is in store for them at once they are caught and after this Bill is enacted and if it passes through all its stages.

Sir, there is one last matter that I ought perhaps to raise. Concern has perhaps been expressed in some quarters as to whether or not it might be that this raising of the penalty might lead to increased danger to victims of kidnapping. It is the considered opinion of those who have studied this problem that that is not so, that there is not in the minds of those who commit these offences and are tempted perhaps to commit even greater offences against their victims, a subtle distinction between the gravities of penalty, that their concern is whether they will be caught at all, or not. And for that reason it is certainly my view and that of others that increasing this penalty in this way will not carry any more danger than there is at present to those who are kidnapped and it may, we hope, go some way to showing the horror which society feels for this offence and encourage the Judiciary in cases to come before them to be more severe in the application of punishment to it.

Sir, I move that the second reading of this Bill be now adjourned.

Motion made. That the debate on the second reading of the Bill be adjourned—THE ATTORNEY GENERAL.

Question put and agreed to.

DANGEROUS DRUGS (AMENDMENT) BILL 1982

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

He said:—Sir, I move that the Dangerous Drugs (Amendment) Bill 1982 be read a second time.

In spite of the progress made in recent years in dealing with drug trafficking and abuse problems, they still represent a great threat to the social health of the community, and especially to young people. Illicit drugs continue to reach Hong Kong, and the competence and expertise of our law enforcement agencies is constantly being challenged by new trafficking methods and routes of entry devised by the well-financed criminals engaged in this evil trade. The amendments in this Bill are part of our continuing efforts to protect the community from such criminal activities and to bring traffickers, chemists, couriers, etc to justice.

The main purpose of the Bill is to amend the principal Ordinance by, *first*, allowing the prosecutions of persons engaged in ‘diluting’ or ‘cutting’ dangerous drugs, by redefining ‘manufacture’; *second*, ensuring that any quantities of dangerous drugs, however small, are regarded as dangerous drugs for the purposes of the Ordinance; and *third*, dealing with suspected drug couriers, carrying drugs in body cavities.

Faced with increasing pressures from law enforcement agencies, drug traffickers constantly seek new ways and routes of getting dangerous drugs into Hong Kong undetected. One of the methods used is to replace imports of opium or morphine with heroin base (diacetylmorphine) which is of lower bulk and higher value. This also facilitates the preparation of the most commonly used heroin salt, i.e. diacetylmorphine *hydrochloride*, by the simple addition of hydrochloride acid to heroin base; this obviates the long, smelly and often dangerous process of manufacturing heroin from morphine using acetic anhydride, which was used in local clandestine laboratories in the past.

No. 3 heroin is the most commonly used drug of abuse in Hong Kong. To make it from the hydrochloride salt, you need to mix it with additive substances such as caffeine, strychnine or barbiturates. This process is called ‘diluting’ or

‘cutting’. However, the manufacture of dangerous drugs, as defined, under the Ordinance, does not apply to cases of diluting or cutting. As a result, a charge of manufacturing dangerous drugs could not be laid in four cases in which drugs found on equipment and paraphernalia in the clandestine laboratories concerned were, in the opinion of the Government Chemist, referable to the dilution or cutting of dangerous drugs rather than their manufacture. To close this loophole, clause 2(a) of the Bill proposes that the definition of ‘manufacture’ under the Ordinance should be widened to include making, adulterating, purifying, mixing, separating or otherwise treating a dangerous drug.

The second amendment proposes that, under section 2 of the principal Ordinance, prosecutions may be instituted in cases involving minute quantities of dangerous drugs whether they are measurable or usable or not. This is necessary as, following a Court of Appeal ruling in 1979, a charge of possessing drugs must be supported by evidence that the drugs found are usable, which can be difficult if the quantity involved is very small. This situation is considered unacceptable and the amendment in clause 2(b) seeks to ensure that a prosecution will not be debarred because only traces of dangerous drugs (e.g. on a syringe, tinfoil or cotton wool used to cap a syringe) have been found.

The third proposed amendment is to section 52 of the principal Ordinance, and is designed to extend to officers of the Royal Hong Kong Police Force the powers already available to officers of the Customs and Excise Service so that they can call in medical practitioners to search the body cavities of suspected drug couriers with or without their consent. Provision is also made for the detention of suspected persons for the completion of such searches and for the extension of the legal protection under the Customs and Excise Ordinance to the Police and public officers assisting them to conduct such searches under the Dangerous Drugs Ordinance. Although so far in practice persons suspected of concealing drugs in body cavities usually remove them voluntarily or agree to be searched by a medical practitioner this is not, and may not, always be the case. There is a growing trend of concealing illicit imports in this way. There were no such cases in 1978, but since 1 January 1980 there have been 45 such searches (nine in 1980, 25 in 1981 and 11 so far this year) in which drugs were found in 30 cases. In a further eight cases couriers produced drugs themselves from body cavities. This development requires us to devise appropriate counter measure.

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

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

Question put and agreed to.

FIRE SERVICES (AMENDMENT) BILL 1982

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

He said:—Sir, I move that the Fire Services (Amendment) Bill 1982 be read a second time.

Part of the present Fire Services Ordinance provides for the inspection of premises by Fire Services staff in order to identify fire hazards. Where a fire hazard is found to exist, or continue, the Director may serve upon any person responsible a fire hazard abatement notice requiring him to act within a specified period to rectify the situation. Failure to comply with such a notice constitutes an offence. The offender may be fined, and may be further ordered to abate the hazard by a magistrate’s court. So, and I emphasize, a fire hazard order may only be made by a magistrate’s court after hearing a complaint by the Director of Fire Services that the requirements of a fire hazard abatement notice have not been met within the specified time, or that the fire hazard, although abated since the service of the notice, is likely to recur in or on the same premises.

Fire Services staff make considerable efforts to enforce the present legislation. For example in 1981 the Department prosecuted 1 080 factory owners, and 765 persons in non-industrial premises, for such offences. However notwithstanding these efforts and many thousands of visits to premises, a survey in August 1981 of three major industrial areas indicated that the practice of indiscriminate storage of goods and materials in the common areas of industrial buildings remains widespread.

The survey suggested that factory operators are more prone than persons in non-industrial premises to put on one side, in general, if not actually deliberately ignore, fire hazard abatement notices. The present level of fines, which has remained unchanged since 1964 or even earlier, has clearly failed to provide adequate support for the actions of Fire Services staff in the interests of public safety. Some irresponsible factory operators have come to regard the payment of such relatively modest fines as a routine factory overhead. This disregard of the law and of their reasonable responsibilities has aroused much understandable public concern. It may have contributed to the fire-related deaths of 44 persons and the loss of \$150 million worth of property in 1981. It has also increased, quite unnecessarily, the hazards under which our valiant fire services day after day tackle fires.

These opening remarks explain the background to the Bill. Its aim is to increase the penalties that may be imposed upon those who ignore fire hazard abatement notices and orders. To have the desired effect, against the back-ground I have described, the increased fines must be of sufficient severity. Additionally, to ensure that prompt action is then taken by offenders, the level

of daily fines must also be increased. The increases proposed, and they are, of course, maximum permissible fines, are substantial: they are about twelve fold and are in line with those for continuing offences of a comparable degree of seriousness under the Buildings Ordinance. Fines in individual cases will continue to be determined by the courts, having regard to the seriousness of each offence.

The Bill also empowers a Magistrate, after hearing a complaint by the Director of Fire Services, to make a closing order on premises where a fire hazard has arisen. At present, such an order can only be made if the cause of the fire hazard is the structural nature or location of the premises concerned.

This Bill underlines the Government's prime concern to provide an appropriate level of protection to life and property. If the proposed increases in the level of fines are supported by Council as I recommend they should be, then we should have taken a further step to achieve this.

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 SECURITY.

Question put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1982

THE SECRETARY FOR SOCIAL SERVICES moved the second reading of:—‘A bill to amend the Public Health and Urban Services Ordinance’.

He said:—Sir, I move that the Public Health and Urban Services (Amendment) Bill 1982 be read the second time.

Under current legislation the licensing procedure for food business premises is for the Urban Services Department to refer applications to other relevant Government departments for them to indicate whether or not they have any objection in principle to the application. If there is no objection in principle to the use of the premises, subject to compliance with various detailed requirements, each agency processes its essential needs under its relevant statutory powers direct with the applicant.

It has been noted that in the quarter April to June 1981, out of 114 food business licences issued, 16 applicants commenced operation before having complied with fire safety requirements. This exposed the public to risk while attempts were made to secure compliance through the more cumbersome procedure of serving fire hazard abatement notices under the Fire Services Ordinance (Cap. 95).

The Bill before council seeks to empower the relevant authority to make regulations or by-laws requiring applicants to comply with fire safety measures imposed by the Director of Fire Services before the grant of a food business licence.

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 SOCIAL SERVICES.

Question put and agreed to.

Committee stage of bill

Council went into Committee.

APPROPRIATION BILL 1982

HIS HONOUR THE PRESIDENT:—We shall consider the Schedule first in accordance with Standing Order 55. The question is that the sums for the following Heads of Expenditure stand part of the Schedule.

Heads 21 to 194 were agreed to.

Question that the Schedule stands part of the Bill was put and agreed to.

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bill

THE ATTORNEY GENERAL reported that the

APPROPRIATION BILL 1982

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

Question put on the Bill and agreed to.

Bill read the third time and passed.

UNOFFICIAL MEMBER'S BILL

First reading of bill

PORTUGUESE COMMUNITY SCHOOLS INCORPORATION
(AMENDMENT) BILL 1982

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

Second reading of bill

**PORTUGUESE COMMUNITY SCHOOLS INCORPORATION (AMENDMENT)
BILL 1982**

MR. ALEX WU moved the second reading of:—‘A bill to amend the Portuguese Community Schools Incorporation Ordinance’.

He said:—Sir, I move the second reading of the Portuguese Community Schools Incorporation (Amendment) Bill 1982.

The main object of this Bill is to change the name of the Corporation and to expand its purposes as provided in clause 5.

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

Motion made. That the debate on the second reading of the Bill be adjourned—MR. ALEX WU.

Question put and agreed to.

Farewell address by His Excellency the Governor

HIS HONOUR THE PRESIDENT:—Honourable Members, The Governor, thank-fully, has made an excellent recovery from his recent illness, but his doctors insist that he should continue to rest quietly for the time being. That is why, to his very great regret he has not been here this afternoon to preside over your proceedings. But he has asked me to read the following farewell speech which he prepared for this occasion before his illness:

‘Before the Council adjourns this afternoon, I would like to record my admiration for the way Official and Unofficial Members make this Council the efficient and effective organ of Government that it is.

Over the last ten years there have been many changes. Since 1971 the size of the Council has doubled and in consequence the spread of personalities, knowledge and age is much wider, and more able to speak with direct or indirect experience of the problems and wishes of the diverse elements of our community, and of the factors that govern their prosperity.

At the same time, the work of U.M.E.L.C.O. has enormously increased and has been supported by an expanded professional staff. The net result has been that the scrutiny of Government bills has become more intense, and the work of liaison with the public and the role of ombudsman has matured, and the influence exerted by Members through advisory committees also greatly increased. I am certain that the work of Government has greatly benefited.

During the years that we have worked together Hong Kong has had an average growth rate of 10% per year in real terms. Full marks to our workforce, entrepreneurs and bankers and those responsible for managing our economy for making this possible during worldwide economic conditions which were for the most part sluggish or recessional. But a government which could not make something out of such prolonged growth would be contemptible. The question is, did we do the right things, at the right speed, with the assets we were so fortunate to have. With the knowledge of hindsight, I think that generally speaking we did do the right things, though the emphasis and speed and details in some fields might have been varied.

However that may be the Government, of which you are such a vital part, is judged a success by the world. In spite of deficiencies largely thrust upon it, Hong Kong is judged a success. What is it that has enabled this tiny and desperately overcrowded part of the land mass of China to become one of the greatest concentrations of industrial production, finance and communications in the world? There are other crowded communities with a harbour and little else, which have not achieved comparable growth prosperity and international respect. Obviously, in the first place the character of its people, and those who direct and man the many units of our economic, social and political life. But also, I think, Hong Kong's prosperity depends on a whole series of interrelated elements, all of which we have succeeded in guarding. We have a fine harbour, but we have kept it a *free port*; we have a *system of law* whose practice is understood domestically and internationally, administered by a judiciary that is independent; we have a *currency* that is backed as to over 100% and is convertible and acceptable; we maintain a *fiscal environment* which is exception-ally predictable in the extraordinarily low burdens it imposes, and is free from ideological bias. We have maintained *access to markets* overseas through our membership, via the United Kingdom, of the General Agreement on Tariffs and Trade with all the safeguards that this contains; we have financial services on a scale and of an expertise that rank third in the world; we maintain *freedom* to invest, to work, to employ and to earn, and to do what one will with the proceeds, with the minimum of restriction necessary to prevent abuse. Our *administration* is efficient by world standards and its policies have been kept free from the sudden shifts and changes that affect most other governments; we have a *net of social security* which, though incomplete, removes from the unfortunate denial of medical treatment, education, subsistence or shelter if need is proved; and we have a vast scheme of cheap *public housing*. We have social and political *stability* and by international standards a high level of *law and order*. We have a

free press. Of course, we have excellent relations with China and excellent *Sino/British relations* over Hong Kong; and a high degree and steady increase in two-way economic co-operation between Hong Kong and other parts of China have been vital links in this chain of characteristics which have produced our prosperity, links whose importance will steadily increase.

These things, and our British connection, are interrelated, and in combination they have produced a vital flame that has fired men and women to risk and work for Hong Kong's growth, and to build up and maintain investment, employment and services in this tiny area; that vital flame is *confidence*, and is our most precious asset.

Honourable Members, much of our time in this Council is spent in the day-to-day business of legislation, but I have thought it right on this occasion to speak of fundamentals. They have been guarded well over the past 30 years and their effect on the lives of people in Hong Kong and on what Hong Kong can offer are there for all to see. I have every confidence that your wisdom and dedication will continue to preserve them, and with them the continued growth of the prosperity of the people of Hong Kong.

I thank Members for their advice and help over these years. I am sure that Sir Edward Youde is encouraged by the knowledge that he too will be able to count on you, and that he will be supported by one of the finest public services in the world. He is a man of massive qualifications, known to most of you, and who knows Hong Kong as well as China, London and America. Though I am sad to leave, I am glad to hand over to a successor with such admirable qualifications, probably the most senior official ever to be appointed Governor'.

MR. LOBO:—Sir, my Unofficial Colleagues and I would like to thank Sir Murray—through you, for his very kind remarks which you have just expressed on his behalf.

It is very sad indeed that Sir Murray is unable to be present here this afternoon and that he should be in any sense indisposed at this final stage of his stay.

On the other hand, it is a great relief that Sir Murray is making such excellent progress toward recovery and on behalf of the whole community, I would like to convey to Sir Murray, through you, Sir, our sincere good wishes for his speedy return to a full and active life.

Sir, at this time, no doubt Sir Murray will nevertheless be receiving many eloquent expressions of appreciation. But I hope the sentiments which I am privileged to convey on behalf of my Unofficial Colleagues in this Chamber, may have a special meaning, at this time.

Although we are conscious of his high office as Governor and know Sir Murray well, as President of this Council, we have also seen him as a helpful and concerned leader, inside and outside the Chamber.

His confidence in this Council is amply demonstrated by the dramatic increase in our membership under his Presidency and, my Unofficial Colleagues and I are pleased to hear that we have responded well through the greatly increased attention which this enlarged Council has been able to give to the examination of proposed legislation; to the consideration of public policy; the scrutiny of the public finances and the implementation of Government programmes.

It is the vogue to disparage legislative bodies which are less than fully democratic but in the real world the fully elective principle is the exception rather than the rule and with far less reason than prevails here.

The more than ten years of Sir Murray's service to Hong Kong have seen the extension of principles of consultation and representation as well as the passage through this Council of a body of legislation which reflects to a marked degree his obvious concern for the welfare of the people of Hong Kong and for the development of a fair and just society.

Sir Murray's term of office has also seen, as the Financial Secretary so ably said in concluding his Budget address, an outstanding improvement in the living standards of the average man and woman in terms of housing, health, education, social welfare, recreation, law and order, transport and many other fields.

Sir Murray's own mark is stamped clearly upon many of these programmes and they will indeed stand as his contribution to the history of this territory.

It is particularly gratifying that in his new role Sir Murray will still have the opportunity to exercise his concern for us.

We know that Sir Murray will continue to think of us as we, most surely, will not forget him and his dedication to Hong Kong.

I will therefore repeat, Sir, that all of us in this community offer our heartfelt gratitude to Sir Murray for his leadership during these memorable 'MACLEHOSE Years'.

We would also like to express our thanks to Lady MACLEHOSE for all that she has done in so many fields.

All of us here and indeed the people of Hong Kong regret that Sir Murray's tenure of office has come to an end and I would like to express our good wishes to Lady MACLEHOSE and Sir Murray for a well-earned, long and happy retirement—the people of Hong Kong will always keep them in their hearts.

HIS HONOUR THE PRESIDENT:—Mr. LOBO, it is my privilege to associate Official Members with your eloquent testimony to His Excellency's governship these past ten years and more. This privilege is mine *ex-officio*, so to speak, as Chief Secretary. But I also happen to be personally qualified to exercise this privilege

for I, alone, among Official (and Unofficial) Members have served on this Council continuously throughout His Excellency's presidency. I would not wish to suggest that I, alone, have not fallen by the wayside, but simply that others have left earlier, or have started later, or have had broken service.

By now, in various places and on various occasions all that *can* be said about His Excellency's governship has *been* said. But I feel bound to make this one last observation: His Excellency's perception of the task of administering Hong Kong in the past decade has had a truly strategic quality about it which has been an inspiration to the Civil Service. That perception seems to have been based on John Galsworthy's maxim that 'if you do not think about the future you cannot have one'. Certainly, that perception has wrought profound changes in the economic and social circumstances of this city which must provide for all who live here a sure foundation for the future.

The warm gratitude and admiration of the Civil Service, no less than of people of all walks of life in Hong Kong, go with Sir Murray on his retirement from his post here, together with our affectionate best wishes for his future life as Lord MASLEHOSE in Ayrshire and Westminster. Likewise, we extend our felicitations to Lady MACLEHOSE who has graced Government House with such distinction and energy throughout these eventful years.

Adjournment and next sitting

HIS HONOUR THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday, 5 May 1982.

Adjourned accordingly at twenty-four minutes to four o'clock.