

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 14 July 1982****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR EDWARD YOUDE, K.C.M.G., M.B.E.

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

THE HONOURABLE THE FINANCIAL SECRETARY  
MR. JOHN HENRY BREMRIDGE, O.B.E.

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

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS (*Acting*)  
MR. DAVID AKERS-JONES, C.M.G., J.P.

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

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 JAMES NEIL HENDERSON, J.P.  
COMMISSIONER FOR LABOUR

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 COLVYN HUGH HAYE, J.P.  
SECRETARY FOR EDUCATION (*Acting*)  
DIRECTOR OF EDUCATION

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

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

THE HONOURABLE CHAN NAI-KEONG, J.P.  
SECRETARY FOR LANDS AND WORKS (*Acting*)

THE HONOURABLE JAMES JOHN O'GRADY  
LAW DRAFTSMAN (*Acting*)

DR. THE HONOURABLE LAM SIM-FOOK, O.B.E., J.P.  
DIRECTOR OF MEDICAL AND HEALTH SERVICES (*Acting*)

THE HONOURABLE JOHN RULE HEYWOOD, O.B.E., E.D., J.P.  
SECRETARY FOR SECURITY (*Acting*)

THE HONOURABLE LAWRENCE WILLIAM ROBERT MILLS, J.P.  
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS (*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 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.F., J.P.

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

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

THE HONOURABLE HU FA-KUANG, J.P.

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

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, 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.

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

THE HONOURABLE MARIA TAM WAI-CHU, J.P.

#### **ABSENT**

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

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

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

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

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

#### **IN ATTENDANCE**

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

**OATH**

MR. J. R. HEYWOOD took the Oath of Allegiance and assumed his seat as a Member of the Council.

HIS EXCELLENCY THE PRESIDENT:—I should like to welcome Mr. HEYWOOD to this Council.

**PAPERS**

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Public Health and Urban Services Ordinance. Public Health and Urban Services (Designation of Libraries) (No. 3) Order 1982 .....	254
Electoral Provisions Ordinance 1981. Urban Areas District Board Constituencies (Number of Elected Members) Order 1982 .....	255
Electoral Provisions Ordinance 1981. Urban Council Constituencies (Number of Elected Members) Order 1982..	256
Public Health and Urban Services Ordinance. Hawker (Permitted Place) (No. 3) Declaration 1982 .....	257
Import and Export Ordinance. Import and Export (Fees) (Amendment) Regulations 1982 .....	258
Telecommunication Ordinance. Telecommunication (Amendment) Regulations 1982.....	259
Marriage Reform Ordinance. Marriage Reform (Forms) (Amendment) Regulations 1982 .....	260
Evidence Ordinance. Evidence (Authorized Persons) (No. 9) Order 1982 .....	261
Immigration Ordinance. Immigration (Vietnamese Refugee Centres) (Closed Centres) (Designation) Order 1982 .....	262
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<i>Subject</i>	<i>L.N. No.</i>
Marriage Reform Ordinance. Designation of Public Officers (Amendment) Notice 1982.....	264
Interpretation and General Clauses Ordinance. Apprenticeship Ordinance. Delegation of Power .....	265
Marine Fish Culture Ordinance. Fish Culture Zone (Designation) Order 1982 .....	266
Marine Fish Culture Ordinance. Marine Fish Culture Ordinance (Commencement) Notice 1982 .....	267

Sessional Papers 1981-82:

- No. 57—Traffic Accident Victims Assistance Fund Annual Report by the Director of Social Welfare incorporated for the year from 1 April 1980 to 31 March 1981.
- No. 58—Customs and Excise Service Welfare Fund Income and Expenditure Account with Balance Sheet and Certificate of the Director of Audit for the year ended 31 March 1982.

**Oral answers to questions**

**Tax relief for retirement benefits**

1. MR. SO asked in Cantonese:—

政府可否說明，自一九七八年八月二日立法局休會辯論中促請當局寬免退休福利的稅項後；

- (甲) 在一九七八至七九年，一九七九至八〇年，以及一九八〇至八一年三個年度，一共收到多少份要求寬免稅項申請書，又批准了多少份？
- (乙) 至於自行管理的退休計劃，即由僱主將基金投資在屬下業務者，政府是否會檢討有關規例以鼓勵更多僱主實施退休福利計劃，使到工人的服務條件得以改善，特別是那些受僱於小型或中型企業的工人？

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

*Since the adjournment debate in this Council on 2 August 1978, urging tax relief for retirement benefits, will Government say:*

- (a) *how many applications were received and approvals given for such relief in 1978-79, 1979-80 and 1980-81; and*
- (b) *whether it is prepared to review the rules regarding self-administered retirement schemes, i.e. where funds are invested by the employers in their own businesses, so as to encourage the wider adoption of such schemes, for the betterment of the terms of service of workers, particularly those employed in small to medium size businesses?*

THE FINANCIAL SECRETARY:—Sir, the number of applications for tax relief for retirement benefits received in 1978-79, 1979-80 and 1980-81 respectively were 377, 319 and 323. Approval was given in respect of 360 applications in 1978-79, 305 in 1979-80 and 304 in 1980-81.

The stand taken by the Commissioner of Inland Revenue in refusing approval of self-administered retirement schemes, where funds are invested by employers in their own businesses, will remain unchanged for the reasons which my predecessor the Financial Secretary explained in detail to the Council on 2 August 1978. The Commissioner has a statutory responsibility to safeguard the interests of workers within the terms of the Inland Revenue (Retirement Scheme) Rules. This responsibility outweighs employers' wishes to maintain internal cash flows, however reasonable *prima facie*. Self-administered non-funded schemes in which funds are held by employers in their own businesses may not provide adequate protection for workers, who can have no assurance that they will receive full retirement benefits where, for example, the employer's business encounters financial difficulties or is liquidated.

Furthermore, the Inland Revenue (Retirement Scheme) Rules provide *inter alia* that the employer shall have no lien on any sum or other benefit except to the extent that the employer has suffered a loss due to a dishonest act committed by the employee, or to the extent of a debt acknowledged in writing by the employee as owing to the employer. These rules are strictly enforced, and it is noteworthy that they imply that a scheme is not to be used as an instrument of discipline by the employer. It is conceivable that self-administered schemes could be used by an employer to enforce discipline and low wages, and approval of such schemes would thus be contrary to the spirit and letter of the Rules.

The Rules governing the approval of retirement schemes therefore ensure that they are properly constituted in the interests of the employees. Moreover, they encourage the establishment of such schemes by way of granting tax advantages to employees, and incidentally to employers. I am satisfied that the present arrangements are appropriate and do not require revision. I may add that I have had personal experience of them.

I hope that what I say will be taken by prudent employers as encouragement to set up funded retirement schemes. The more, the better. The signs are good. Since the adjournment debate there has been an increase of 87% to a total of 2 629 approved schemes. There are now several off the shelf packages available, and generally I hope to see further movement in this area.

## **Offences under the Objectionable Publications Ordinance**

2. MR. WONG LAM asked in Cantonese:—

- 自一九七五年八月不良刊物條例（香港法例第一五〇章）制定以來，
- （甲） 因違例而被檢控之人數若干；
  - （乙） 遭定罪之人數若干，又被判最高刑罰之人數若干；
  - （丙） 政府認為現有管制不良刊物之權力是否奏效？

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

*Since the enactment of the Objectionable Publications Ordinance (Cap. 150) in August 1975:*

- (a) how many persons have been prosecuted under the Ordinance;*
- (b) how many have been convicted and in how many cases has the maximum penalty been imposed; and*
- (c) is Government satisfied with the effectiveness of the powers at its disposal to control objectionable publications?*

THE ATTORNEY GENERAL:—Sir, (a) details are not available of the number of persons prosecuted, but only of the number of cases. Normally in each case both a publisher and an editor are prosecuted and sometimes the printer also. Each case therefore represents normally a prosecution of two persons and sometimes three.

(b) In 1975 there were six prosecutions, all successful. In 1976 no prosecutions. In 1977, five—all successful. In 1978 four, all successful. In 1979, 57, of which 55 were successful. In 1980 there were 60 of which 58 were successful. In 1981 there were 104 of which 99 were successful and three are still pending. In 1982 there have been 60 charges made to date. The maximum penalty has on no occasion been imposed and I do not find that surprising.

(c) Government does not consider there to be any deficiency in the powers at its disposal, and I do, Sir, wish that in all areas of law enforcement there was a 90% success rate.

MR. WONG LAM asked in Cantonese:—

閣下，請問在所有檢控之中，報章是否包括在內呢？

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

*Sir, please tell me of all the prosecutions, are newspapers included in these prosecutions?*

THE ATTORNEY GENERAL:—Sir, I will provide a written answer to the question whether or not newspapers are included in all the prosecutions. I know there are some, but I do not have the detailed figures to hand.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

80%-90% of the prosecutions under the Objectionable Publications Ordinance since 1978 have been newspapers.

MISS DUNN:—*Sir, given that the increase in the number of prosecutions, that is, from six in 1975 to 104 in 1981, even though they were successful prosecutions—given this number—can the Government explain why it still considers that the power at its disposal is not deficient?*

THE ATTORNEY GENERAL:—I think the powers at our disposal are sufficient. So the explanation for the increased numbers is this: at the end of 1978 the Secretary for Home Affairs and I considered together the question of obscenity in published matter that was available to people, particularly available for children to see on the street. Following our consideration, we decided that this was an area where law enforcement ought to be more rigorously applied than previously it had been. The Judiciary, with the co-operation of the Chief Justice, arranged that all prosecutions taken would be in one particular court so that the magistrate, who was a local speaking magistrate, could gain a feel for the whole area of the matter. As a result of that, the prosecutions which gave rise to the increase in figures were taken and the matter proceeded in that way. So, I do not think it reflects in any way on the powers at our disposal. I think those are adequate.

MRS. CHOW:—*May I ask whether any of the cases convicted has ever been imprisoned and what is the average level of fines imposed?*

THE ATTORNEY GENERAL:—Again I will answer that in writing to Mrs. CHOW, if I may.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

Details of fines and other sentences since that date (1978) are as follows:—

				<i>Fine</i>
1978	4 convictions	1	\$ 500-\$1,000	
		3	\$1,000-\$5,000	
1979	55 convictions	34	under \$500	
		3	\$ 500-\$1,000	
		12	\$1,000-\$5,000	
		6	\$5,000-\$10,000	
1980	58 convictions	1	under \$500	
		10	\$ 500-\$1,000	
		30	\$1,000-\$5,000	
		14	\$5,000-\$10,000	
		3	\$10,000 and over (two of them were imposed one month jail sentence suspended for one year)	
		1	under \$500	
1981	94 convictions	10	\$ 500-\$1,000	
		59	\$1,000-\$5,000	
		10	\$5,000-\$10,000	
		14	\$10,000 and over (four of them imposed three months and suspended for 18 months; three of them imposed two months imprisonment and suspended 18 months).	

1982 not yet known

I trust this information has been of assistance to you.

## Noise pollution

3. MR. SO asked in Cantonese:—

請問那幾個政府部門或公共機構是負責接受公眾對噪音的投訴和進行調查？又是否有守則管制地盤及工作場所發出噪音的限度？

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

*Which Government departments or public bodies are responsible for the entertainment and investigation of complaints by the public about noise pollution and is there any code of practice regulating in the minimum levels of noise emission in various work places or situations?*

SECRETARY FOR HOME AFFAIRS:—Sir, for the most part, control over excessive noise is effected under the Summary Offences Ordinance which provides that it is an offence to make, or to cause or permit to be made, any noise between the hours of 11 p.m. and 6 a.m. which is calculated to disturb or annoy, and also prohibits the use between 7 p.m. and 7 a.m., as well as on public holidays, of any powered mechanical equipment save in accordance with a permit which may be issued by the Director of Engineering Development. The Ordinance further specifically prohibits any piling work being undertaken between 7 p.m. and 7 a.m. and on public holidays unless special exemption has been granted by order of the Governor in Council. In addition, there are also special controls on noise from ventilation system such as those arising from air-conditioning plant and equipment. These are contained in the Public Health and Urban Services Ordinance and are administered by the Noise and Vibration Control Unit of the Urban Services Department.

Responsibility for the investigation of complaints of excessive noise rests primarily with the Police although both the Engineering Development Department and the Urban Services Department will also respond to complaints on construction noise and air-conditioning noise.

In granting permits for the use of powered mechanical equipment on construction sites outside the hours permitted by the Summary Offences Ordinance, the Director of Engineering Development makes use of an interdepartmentally agreed code of practice to determine the maximum permissible noise level at the specific location at the specific times for which application has been made.

With regard to noise within industrial undertakings, this is controlled by the Factories and Industrial Undertakings Ordinance administered by the Commissioner for Labour. Under the Protection of Hearing Regulations, which will come into force in December this year, it will be a mandatory requirement for

employers to provide, and for workers to wear, mufflers when noise levels within a workplace exceed levels laid down in published guidelines. A Code of Practice for the reduction of noise in the workplace is currently being prepared by Labour Department.

I should add that a more comprehensive Noise Control Bill is proposed but this will take until about 1984 to prepare.

### **King's Road traffic management scheme**

4. MR. F. K. HU asked:—*Since the introduction of King's Road gyratory scheme earlier this month, will Government say whether any measurable improvement has been brought about in the flow of westbound traffic on King's Road?*

SECRETARY FOR TRANSPORT:—Sir, the first stage of the new King's Road traffic management scheme came into operation on the morning of the 2 July. There has been no measurable improvement to the westbound traffic flow, but of course none was to be expected at this stage. This first stage of the scheme benefits eastbound traffic, in particular buses, and there has been a significant improvement.

Westbound traffic will begin to benefit when the next stage of the scheme is completed, that is the relocation of the tram tracks between Wing Hing Street and Java Road. Work on this will begin next month and should be completed by the end of the year. This will provide much needed extra road space for westbound traffic.

MR. F. K. HU:—*Can the Secretary for Transport advise how much additional westbound road space in terms of percentage will be provided, in comparison with the westbound road space provided before the introduction of the scheme, when the next stage of the scheme is completed?*

SECRETARY FOR TRANSPORT:—No, Sir, I cannot exactly give that. I will supply it in writing in detail to the honourable Member.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

When the complete scheme is implemented, an additional lane will be provided for westbound traffic. This will increase westbound roadspace by an estimated 25% to 40%.

MISS TAM:—*Can I ask the Secretary for Transport whether since the commencement of the M.T.R. construction work on the westbound side street, south of King's Road, close to Shu Kuk Street area, which results I understand in a*

*partial closure of such westbound street, there is any adverse effect on the westbound flow of traffic in the gyratory system?*

SECRETARY FOR TRANSPORT:—Sir, I should say the answer is yes. Again, I cannot quantify it off hand.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

The Shu Kuk Street south of King's Road has been completely closed and the road given over to MTR construction. The gyratory system was introduced before the closure of this road and, at the time, no increased delays were experienced. Shu Kuk Street and Tsat Tsz Mui Road used, however, to act as an "overflow" for westbound traffic in King's Road, so that when congestion occurred on King's Road some traffic would divert through those two roads. The closure of Shu Kuk Street has stopped this "overflow facility", and obliged some users to revert to King's Road, thus increasing traffic volume on King's Road.

The closure of Shu Kuk Street coincided with the start of the school holidays when traffic volumes are to some extent reduced. When the schools return in September, there will be a build-up of traffic on King's Road which will probably result in increased congestion.

When the whole scheme is completed by the end of December, the general position should be much improved.

### **Holidays enjoyed by teachers in Government and Aided Schools**

5. MR. CHARLES YEUNG asked:—*Will Government inform this Council the number of days to which teachers in Government and Aided Schools are legally entitled to take as holidays during the school summer vacation period?*

DIRECTOR OF EDUCATION:—Sir, there is no specific number of holidays to which teachers in Government and Aided Schools are legally entitled during the school summer vacation period.

Teachers in these schools normally enjoy 90 holidays a year, 40-50 of which are in the summer. During holiday periods teachers may be required by their heads of schools to carry out administrative or extra-curricular duties, but these are usually kept to a minimum.

MR. CHARLES YEUNG:—*Does it mean that teachers are entitled to such holidays as others in the civil service and the 90 days' holidays referred to by the Director are actually a matter of grace and not of right?*

DIRECTOR OF EDUCATION:—Sir, in general holidays represent a privilege not a right, and I think almost by definition holidays are for pupils not for teachers (*laughter*).

### **Opening of the second tube of the Aberdeen Tunnel**

6. MRS. CHOW asked:—*Will Government state when the second tube of the Aberdeen Tunnel will be opened?*

SECRETARY FOR LANDS AND WORKS:—Sir, the second tube of the Aberdeen Tunnel is scheduled to be opened in September this year. It will be opened to two-way traffic concurrent with the closure of the first tube to permit further work related to the electronic control and surveillance system to be carried out in the latter. Once those further works are completed in December this year as presently scheduled, both tubes will be opened to traffic with one-way operation in each tube.

MRS. CHOW:—*When will the tunnel be open 24 hours in the day?*

SECRETARY FOR LANDS AND WORKS:—Sir, when further works have been completed in the first tunnel—that is expected in December when we open two tubes for full operation—24-hour operation will be implemented.

### **Incidents involving reporters covering the investigation of commercial crimes**

7. MISS DUNN asked:—*Would the Government make a statement on the three recent incidents involving reporters covering the investigation of commercial crimes?*

SECRETARY FOR SECURITY:—Sir, the incidents to which Miss DUNN is referring are believed to be those which occurred in Lockhart Road, Wan Chai on 2, 3 and 4 July 1982 and arose following a raid by the Police Commercial Crime Bureau.

The raid attracted a large number of media representatives. In the course of Police enquiries some 50-60 persons, who were found not to be connected with the investigation, were allowed to leave the premises. As they were leaving the building an altercation took place between them and a number of reporters. Order was restored but ten persons later received injuries and were treated at hospital.

The second incident occurred on the evening of 3 July when another altercation took place at the same location. As a result, five persons later received treatment for minor injuries at hospital. This incident had a sequel later the same evening; whilst enquiries were being conducted at the Wan Chai Police Station a number of persons had to be asked to leave the station.

What may be described as a third incident occurred in the afternoon of 4 July when a large group of reporters went to the Wan Chai Police Station and asked for Police protection to be provided when they returned to the scene of the previous incidents. After discussions with the Police the reporters went to the scene in small groups and took photographs. A Police presence was provided and it was made clear that this was to ensure that there would be no further breaches of the peace.

The Police are now conducting enquiries into these incidents. Because of the large number of people involved and the allegations and counter-allegations that have been made, a thorough investigation will take time. In addition, the Complaints and Internal Investigations Wing of the Police Force is carrying out an independent investigation into the Police handling of this incident.

Until these investigations and enquiries are concluded, and it has been decided whether or not any criminal charges are appropriate, it would not be proper to give any further information at this stage.

MISS DUNN:—*Sir, will the results of the investigation of the Police handling of this incident be reported to the U.M.E.L.C.O. Police Group in the usual way?*

SECRETARY FOR SECURITY:—Most certainly, Sir.

MR. CHARLES YEUNG:—*Was there any truth in the report that there was a Police presence in the first incident and that Police was not doing any work?*

HIS EXCELLENCY THE PRESIDENT:—With respect, Mr. YEUNG, under Standing Orders a question may not be asked whether a statement in the press or otherwise is accurate. Would you like to rephrase your question?

MR. CHARLES YEUNG:—I think I leave it at that.

MR. LO:—*Meanwhile, does the Government know whether any of the suspected criminals is a member of the Police Force?*

THE ATTORNEY GENERAL:—On a point of order, I rise and submit that the question, whether or not strictly within the terms of 'g' (Standing Order 18(g)), is one that it is not appropriate to answer until such time as the enquiries are completed and a decision is taken. It would be a pity if enquiries were inhibited in any way by answers to such a question.

HIS EXCELLENCY THE PRESIDENT:—I will accept the Attorney General's view.

MR. CHAN KAM-CHUEN:—*Sir, unless the outcome of this case ends up in court, would the Government announce the findings in due course so that the public is assured that none is above the law?*

SECRETARY FOR SECURITY:—Sir, provided all enquires that have been taken before the courts are completed, and provided the U.M.E.L.C.O. Police Group has seen and dealt with the enquiries by the Investigation Wing, I am sure the Commissioner would then, and only then, be prepared to make a statement.

HIS EXCELLENCY THE PRESIDENT:—I think, given that the case is still under investigation, honourable Members might consider it better not to pursue the question further at this stage.

## Government business

### Motions

#### MASS TRANSIT RAILWAY CORPORATION ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—Under section 12(1) of the Mass Transit Railway Corporation Ordinance that the Schedule to the Resolution of the Legislative Council published as Legal Notice No. 242 of 1975 in the *Gazette* on 31 October 1975 as amended from time to time be further amended by adding as items 46 and 47 the following—

- |   |  |
|---|--|
| ‘46. Suppliers’ Credit Facilities to finance contracts placed in Japan                        | Hong Kong Dollars Four Hundred and Eighty Eight Million (HK \$488,000,000) and such amount as may become payable in respect of interest and  |
| 47. Export Credit arranged by Lazard Brothers & Co. Ltd. to finance a contract placed in U.K. | Hong Kong Dollars Eighty Eight Million (HK\$88,000,000) and such amounts as may become payable in respect of interest and other charges including deferred interest provided that the liability of the Government in respect of deferred interest shall be limited to Hong Kong Dollars Twenty Four Million (HK\$24,000,000).’ |

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

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

Authority is now sought for a Government guarantee to cover repayment of a loan of HK\$576 million and such amount as may become payable in respect of interest and other charges.

The sum borrowed under this guarantee will be used to finance the Island Line contracts for the construction of the Sheung Wan Station, its east and centre concourses and its overrun tunnel including the crossover.

If Members approve this motion, the Government's total guarantee commitment in respect of outstanding loans available to the Mass Transit Railway Corporation will be HK\$8.613 million. This contingent liability is provided for within our reserves.

Sir, I beg to move.

*Question put and agreed to.*

### **ROAD TRAFFIC ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:—That the period for which there remains in force the limit on the number of motor vehicles which may be registered as Hong Kong and Kowloon taxis, specified in the Taxis (Hong Kong and Kowloon Taxis) (Limitation on Number) Notice 1981 published as Legal Notice No. 229 of 1981, be extended to 31 January 1983.

He said:—Sir, I rise to move the motion standing in my name on the Order Paper. It provides, under section 7E(3) of the Road Traffic Ordinance (Chapter 220), that the period for which there remains in force a limit on the number of motor vehicles which may be registered as Hong Kong and Kowloon taxis, (specified as 12 000 in the notice published in the *Gazette* as Legal Notice No. 229 of 1981), be extended to 31 January 1983.

This extension will permit urban taxi licences to continue to be issued at the rate of 100 per month as ordered by the Governor in Council, up to the maximum prescribed.

*Question put and agreed to.*

### **ROAD TRAFFIC ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:—That the period for which there remains in force the limit on the number of motor vehicles which may be registered as New Territories taxis, specified in the Taxis (New Territories Taxis) (Limitation on Number) Notice 1981 published as Legal Notice No. 230 of 1981, be extended to 31 January 1983.

He said:—Sir, I rise to move the second motion standing in my name on the Order Paper. It provides, under section 7E(3) of the Road Traffic Ordinance (Chapter 220), that the period for which there remains in force a limit on the number of motor vehicles which may be registered as New Territories taxis,

(specified as 3 000 in the notice published in the *Gazette* as Legal Notice No. 230 of 1981), be extended to 31 January 1983.

This extension will permit New Territories taxi licences to continue to be issued at the rate of 50 per month as ordered by the Governor in Council, up to the maximum prescribed.

*Question put and agreed to.*

**First reading of bills**

**LANDS TRIBUNAL (AMENDMENT) BILL 1982**

**ROADS (WORKS, USE AND COMPENSATION) (AMENDMENT) BILL 1982**

**URBAN COUNCIL (EXTRAORDINARY ELECTION) BILL 1982**

**MERCHANT SHIPPING (ALIENS EMPLOYMENT) (AMENDMENT) BILL 1982**

**MERCHANT SHIPPING (AMENDMENT) BILL 1982**

**PILOTAGE (AMENDMENT) BILL 1982**

**PORT CONTROL (CARGO WORKING AREAS) (AMENDMENT) BILL 1982**

**TELECOMMUNICATION (AMENDMENT) BILL 1982**

**SMOKING (PUBLIC HEALTH) BILL 1982**

**WIDOWS' AND CHILDREN'S PENSIONS (AMENDMENT) BILL 1982**

**INDUSTRIAL TRAINING (CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1982**

**EDUCATION (AMENDMENT) BILL 1982**

**CHILD CARE CENTRES (AMENDMENT) BILL 1982**

**LEGAL PRACTITIONERS (AMENDMENT) BILL 1982**

**SUPREME COURT (AMENDMENT) (NO. 3) BILL 1982**

**MEDICAL REGISTRATION (AMENDMENT) BILL 1982****SUMMARY OFFENCES (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****LANDS TRIBUNAL (AMENDMENT) BILL 1982**

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Lands Tribunal Ordinance and for connected purposes’.

He said:—Sir, I rise to move the second reading of the Lands Tribunal (Amendment) Bill 1982.

As honourable Members are aware, the Landlord and Tenant (Consolidation) (Amendment) (No. 2) Ordinance 1981 passed through this Council last December, and transferred cases on Part II of the Landlord and Tenant Ordinance, that is, disputes involving the right to remain as a tenant, from the District Court where they are currently heard, into the Lands Tribunal. Later, earlier this year, the Roads (Works, Use and Compensation) Ordinance was enacted which provided that disputes under that Ordinance should also be enacted in the Lands Tribunal.

The decision to make the transfer arose out of recommendations of the Committee of Review of the Landlord and Tenant Ordinance upon which I think five Members of this Council served, and which reported, Sir, to your predecessor in February 1981. The Committee of Review advised in their report at page 117 that:

‘While the District Court provides an authoritative venue for adjudication and appeals under Part II, we think that its proceedings tend to be too formal, too costly and too slow for dealing with day-to-day tenancy matters.’

and on page 179 said:

‘While recognizing the complexity of landlord and tenant matters, we believe that a less formal venue for proceedings is desirable. The most suitable body which would seem to meet the necessary criteria is the Lands Tribunal.’

As my honourable Friend, the Secretary for Housing, explained when he introduced the Bill last December in this Council, the Administration, and indeed Members of this Council who considered that Bill internally, have accepted that advice without reservation.

It surely must be right, must it not, that matters which are so important and emotionally significant to the individual as his tenancy rights should be dealt with as sympathetically, and sympathetically may mean informally, as is possible, without, of course, diluting the quality of the judication which the Tribunal has to seek to attain in deciding what to do. This much-to-be desired informality can—and has been—achieved in other areas of law and in other countries and it has been achieved by judges of ability. We have judges of ability in Hong Kong. I am sure that with imagination and goodwill on all sides, we can achieve the same in Hong Kong as has been achieved elsewhere and do so in this particular field.

This Bill seeks to achieve these objectives by making certain changes in the constitution and powers of the Lands Tribunal. The Tribunal, as I mentioned, will have jurisdiction not only over sensitive landlord and tenant matters but also over other difficult and important matters under the Roads (Works, Use and Compensation) Ordinance—for instance the new provision which will allow that Tribunal to order the Government to resume part-lots of land where the applicant claims it is ‘fair and equitable’ so to do—a difficult decision to take in the individual case.

Where matters of this sort are concerned, and particularly where, as in the case of Part II applications, the result of the judicial decisions are of such importance to the applicant, to the family, for the landlord and are of such emotional significance to the individual because they deal with the sensitive area of housing, it does seem to me vitally important that we should seek to achieve two things: first, that in the early cases appropriate guidelines should be laid down, by the Tribunal, and secondly that guidelines having been laid down consistency is achieved in the application of the law to individual cases. It is sometimes said that justice requires justice to be done between plaintiff and defendant. Honourable Members may feel in this area it is as important that justice is done between plaintiff and plaintiff, and defendant and defendant in different cases, and therein lies the need for consistency. Perhaps it may be that the need will become greater if and when further decontrol would take place so that larger numbers of the population—some of whom may be comparatively unused to legal procedures—become involved in the cases. It is therefore important that this Tribunal starts as it means to go on.

The Bill therefore provides that there shall be a President of the Lands Tribunal who should be a Judge of the Supreme Court. He will be able to give leadership, though of course not legally binding precedent, in these difficult and sensitive areas. New section 9(1A) of the principal Ordinance lays upon the President the duty wherever practical of exercising the jurisdiction of the Tribunal in any case which in his opinion is likely to involve any new or difficult point of law, or which, in view of the nature or size of the claim is of special importance. It is anticipated, once the Tribunal has been in operation for a period and the wheels are running smoothly, that the President, when his presence is not required for Tribunal work, will be able in the interval to occupy

his time with trying some cases in the High Court. The Presiding Officers, who will with him undertake the difficult and important work in the Tribunal, will be District Court Judges; and there is provision for other members to be appointed to the Tribunal who will be qualified either with the legal qualification to be a District Court Judge or will be persons who have some other relevant experience for use in the Tribunal, such as land surveyors or valuers.

I should also mention, Sir, that the Committee of Review, and also the Unofficial Members of this Council, when they considered the previous Bill, attached great importance to a realistic and appropriate attempt being made to achieve informality particularly in the conduct of landlord and tenant proceedings. If this Bill is enacted, the will of the Legislature will be crystal clear, and I am sure the Judiciary will recognize and will implement the desire of this Council. Again, with good will, I have no doubt whatsoever that this can be done. To this end new section 10(5A) of the principal Ordinance provides that ‘the proceedings of the Tribunal shall be conducted with as much informality as is consistent with attaining justice and, for this purpose, the President may give directions as to the manner and form in which proceedings shall be conducted’. For the same reason, the Tribunal under new section 10(6) is given the discretion to admit in evidence any statement, document, information or matter even though otherwise it might not be admissible, provided always that they may attach to it only such weight as in their discretion they feel to be appropriate in all the circumstances. I am confident that the President in consultation with his Presiding Officers, will be able to identify and adopt suitably informal procedures and rules for his Court, whilst still at the same time achieving the very highest standards of justice.

New section 9(4) provides for the appointment of assessors and makes an important new provision—new, I think, to the laws relating to assessors in the courts—requiring that the advice of an assessor to the Tribunal should be made known to the parties before judgment is given so that the parties may have the opportunity to comment and, indeed, refute that advice if they feel right to do so.

Sir, other important provisions are contained in the Bill, but these are amply described in the explanatory memorandum and I could, to adopt a phrase of my honourable Friend, the Chief Secretary, advise serious students of the art to turn to the explanatory memorandum to read them.

There is one last matter, Sir, which I should mention so that people’s minds may be set at rest. Legal aid is at present available subject to the usual tests in the District Court but is not in the Lands Tribunal. The intention is that, so far as Part II cases are concerned, it should also be made available in the Tribunal, and I shall, Sir, at a future meeting of this Council move a motion which if passed, will be designed to achieve the applicability of legal aid in those cases in the Tribunal.

Sir, I move that the debate on 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.*

### **ROADS (WORKS, USE AND COMPENSATION) (AMENDMENT) BILL 1982**

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Roads (Works, Use and Compensation) Ordinance 1982’.

He said:—Sir, this particular Bill seems to be donned with trouble. I rise to move the second reading of it. The reason I have to rise to do so is because on the last occasion when this particular measure was called, I unwisely did not recognize that the amendment was required and so did not move the amendment—so it would have been a disaster if a moment or two ago I had failed again. Honourable Members are aware of the reasons for the alteration—deletion of clause 42(5) of the Roads (Works, Use and Compensation) (Amendment) Bill—for I explained it on the last occasion and my honourable Friend, Mr. CHEN, also made mention of it. Sir, I therefore move that the debate on this motion which is to enact what had been intended to enact a fortnight ago 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.*

### **URBAN COUNCIL (EXTRAORDINARY ELECTION) BILL 1982**

THE SECRETARY FOR HOME AFFAIRS moved the second reading of:—‘A bill to provide that no extraordinary elections to the Urban Council shall be held in 1982’.

He said:—Sir, I move that the Urban Council (Extraordinary Elections) Bill 1982 be read the second time.

This Bill is intended to avoid the need to hold an extraordinary by-election for the Urban Council following the recent death of Mr. Ambrose CHOI, an elected Urban Councillor. It provides that no by-elections need be held to fill a vacancy for an elected member from now until 1 January 1983. The Electoral Provisions Ordinance 1981 will supersede the electoral provisions of the Urban Council Ordinance on 1 January 1983 until the Urban Council Elections are held in March of that year.

Under the provisions of the Urban Council Elections (Procedure) Regulations, it is a mandatory requirement that an election be held on or after 12 August 1982 to fill the vacancy caused by the death of Mr. CHOI. The Urban

Council has, however, requested Government not to hold a by-election, having regard to the forthcoming urban District Board elections in September this year. An Urban Council by-election in August will be confusing to the public, particularly as there will be encouragement at that time, inviting candidates to come forward for the District Board elections in September and at encouraging electors to turn out to vote.

It is essential that the necessary amending legislation be enacted on or before 16 July 1982 at the latest and for this reason I have proposed that all three readings should be taken in this session to-day.

Sir, I beg to move.

*Question put and agreed to.*

Bill read the second time.

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

### **MERCHANT SHIPPING (ALIENS EMPLOYMENT) (AMENDMENT) BILL 1982**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Merchant Shipping (Aliens Employment) Ordinance’.

He said:—Sir, I move the second reading of the Merchant Shipping (Aliens Employment) (Amendment) Bill 1982.

The Merchant Shipping (Aliens Employment) Ordinance in effect limits the employment as masters, chief officers or chief engineers on British ships of over 60 net registered tonnage, to British subjects.

On the other hand, the Merchant Shipping (Certificates of Competency) Rules, made by the Director of Marine under the Merchant Shipping (Certification of Officers) Regulations, do allow Chinese residents (as defined in the Immigration Ordinance) who are not British subjects to sit for examinations leading to River Trade Certificates which would qualify them as masters, chief officers or chief engineers of ships plying within the river trade limits.

To avoid the situation in which Chinese residents who are holders of River Trade Certificates are prevented from obtaining employment on British ships in the river trade, the Bill provides that the Merchant Shipping (Aliens Employment) Ordinance should not apply to Chinese resident seamen aboard ships engaged on a voyage within river trade limits.

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 ECONOMIC SERVICES.

*Question put and agreed to.*

**MERCHANT SHIPPING (AMENDMENT) BILL 1982**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Merchant Shipping Ordinance’.

He said:—Sir, I move the second reading of the Merchant Shipping (Amendment) Bill 1982.

At present the standards governing accommodation provided for crew on board vessels registered in Hong Kong are prescribed by the Merchant Shipping (Crew Accommodation) Regulations enacted in 1961.

As a port of British registry Hong Kong applies British standards in respect of crew accommodation. These standards have been improved since the current U.K. Merchant Shipping (Crew Accommodation) Regulations came into effect in July 1979. It is proposed that Hong Kong should follow suit and the present Bill is intended to achieve this end. Not to do so would cast doubt on Hong Kong's future as a British port of registry.

Accordingly the Bill enables the Governor in Council to make regulations in respect of the minimum space for sleeping cabins, the location and standards of construction, equipment and furnishing of crew accommodation, the inspection of construction plans and works specifications and the maintenance and repair of it. To ensure that our legislation remains in line with that in force in U.K., the Bill provides for the application to Hong Kong of the U.K. crew accommodation regulations and any amendments made from time to time, as if they were made under the Merchant Shipping Ordinance, unless they are varied by local regulations.

The Bill also provides the Director of Marine with powers to exempt existing ships which, owing to their age and construction, cannot be converted to meet the requirements under the new regulations.

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 ECONOMIC SERVICES.

*Question put and agreed to.*

**PILOTAGE (AMENDMENT) BILL 1982**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Pilotage Ordinance’.

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

At present, it is not compulsory for ships entering or leaving the port of Hong Kong to use pilots. If a pilot is used and an accident occurs, the master or the shipowner is liable for the damage caused but civil action for damages may be brought against the pilot by a claimant, or by the master or shipowner for recovery of the amount of any damages paid to the claimant.

In recent years, there has been a considerable increase in the size of ships, the quantity and hazardous nature of cargo being carried and in the movement of ships at night. The liability involved is too high for a pilot to cover himself by any sort of professional indemnity policy. This is causing the pilots in Hong Kong a great deal of concern and may hamper the Hong Kong Pilots Association's efforts to train up sufficient pilots to make compulsory pilotage practicable. Elsewhere in the world, limitation of pilots' liability exists almost universally, the only notable exception being the United States of America.

The Bill seeks to limit the personal liability of pilots in respect of negligence or lack of skill, by bringing the Pilotage Ordinance into line with the U.K. Pilotage Act, which prescribes that a licensed pilot should not be liable for damages in excess of £ 100 and the pilotage dues in respect of the voyage during which the liability occurs. The limit of £ 100 is a token sum. There is little advantage in setting a higher ceiling because the extra cost of the insurance cover which the pilots would have to take out would be passed on to shipowners in the form of higher fees. Accordingly, the Bill seeks to limit the liability of pilots in Hong Kong to \$1,000 and the pilotage dues in respect of the voyage during which the accident occurs, as in the United Kingdom.

In November last year I spoke about the intention to introduce compulsory pilotage in Hong Kong in about three years. The Hong Kong Pilots Association has been training additional pilots to cater for compulsory pilotage. The Bill now before this Council will remove one obstacle and we consider that the target date can still be met.

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 ECONOMIC SERVICES.

*Question put and agreed to.*

## **PORT CONTROL (CARGO WORKING AREAS) (AMENDMENT) BILL 1982**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Port Control (Cargo Working Areas) Ordinance’.

He said:—Sir, I move the second reading of the Port Control (Cargo Working Areas) (Amendment) Bill 1982.

The Bill seeks to improve the efficiency of operations at public cargo working areas and public waterfronts. At present, goods delivered to these areas are often left unattended. Under existing legislation, the Director of Marine may affix a notice to the goods ordering removal within a specified period. Because the goods cannot be seized by the Director of Marine before the time limit expires, the removal order has practically no deterrent effect and the volume of temporarily abandoned cargo has increased to an extent that hampers normal cargo handling. The Bill seeks to empower the Director of Marine to seize and to remove to a place of storage any goods which he is satisfied have been left unattended. The goods will be released if a written claim is lodged by the owner within 14 days and upon payment to the Director of the costs incurred in removing and storing the goods. If no claim is received within 14 days, the Director may sell the goods. The proceeds of the sale, after deduction of handling costs, may be claimed within three months from the date of the sale. It will also be an offence to tamper with seized cargo.

The Bill also empowers the Director of Marine or a supervisor of a cargo working area to demand disclosure of the name and address of the driver of a vehicle or person in charge of a vessel involved in a suspected offence under the Ordinance and provides for such a statement to be admitted as prima facie evidence in court.

To reduce the nuisances arising from the handling of obnoxious cargo, such as lime and cement, the Bill also enables regulations to be made empowering the Director to set aside parts of public cargo working areas or public waterfronts for specified purposes, to designate the types of cargo handling machinery and equipment to be used and to impose conditions as to their use.

We are also taking the opportunity to rectify the procedure for the declaration of public cargo working areas and public waterfronts. Under present legislation, these areas have to be designated in detail by an order of the Governor published in the *Gazette*, followed by the deposition of a plan of the area in the Land Office. The Bill introduces a much simpler procedure, that is to gazette the areas by reference to a plan already deposited in the Land Office.

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 ECONOMIC SERVICES.

*Question put and agreed to.*

## **TELECOMMUNICATION (AMENDMENT) BILL 1982**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Telecommunication Ordinance’.

He said:—Sir, I move the Telecommunication (Amendment) Bill 1982 be read the second time.

Under section 7 of the Telecommunication Ordinance, subject to regulations made by the Governor in Council, the Telecommunications Authority may grant licences for establishing any means of telecommunication and for using equipment for radiocommunication. Forms of telecommunication licences granted by the Authority are contained in the Third Schedule to the Telecommunication Regulations and their fees in the First Schedule.

In 1973, the Telecommunication Regulations were amended with the intention of empowering the Authority to grant Broadcast Relay Station and Closed Circuit Television Licences. As the First Schedule to the Regulations was not amended to include these licences, doubts have now arisen as to whether the amendments were legally effective.

To remove any doubts, the Telecommunication (Amendment) Bill 1982 validates any such licences that the Authority has granted. The omission of these two classes of licences from the First Schedule has been rectified by the Telecommunication (Amendment) Regulations 1982.

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 ECONOMIC SERVICES.

*Question put and agreed to.*

## **SMOKING (PUBLIC HEALTH) BILL 1982**

THE SECRETARY FOR SOCIAL SERVICES moved the second reading of:—‘A bill to prohibit smoking in certain areas, to provide for the display of a health warning and other information on cigarette packets and in cigarette advertisements and for matters incidental thereto including the amendment of the Places of Public Entertainment Ordinance’.

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

This Bill is based primarily on health considerations, although its social objectives are an important secondary theme.

Over the last 12 years the toll taken by lung cancer has increased and is increasing, rising from 786 victims in 1970 to 1826 in 1981—an increase of 132 per cent. Even allowing for our increase in population lung cancer deaths per 100 000 population rose from 19.9 in 1970 to 35.4 in 1981—an increase of 78 per cent.

On an international plane the World Health Organization has calculated that in communities where smoking is widespread it is responsible for 90% of lung cancer deaths. It is also estimated to cause 75% of bronchitis deaths and 25% of ischaemic heart deaths. In actuarial terms the risk of a smoker dying before the age of 65 is one and a half times to twice as great as for a non-smoker. Put in another way, if there were identical twins, one of whom smoked and the other did not, the non-smoker could expect to outlive the other twin by eight to nine years. All these factors point to smoking as the major preventable cause of mortality and ill-health.

Medical studies in recent years have also referred to the risks of passive smoking, that is to say non-smokers breathing air containing smoke produced by smokers in their close proximity. While there may be no clear evidence that exposure to such smoke causes damage to the health of the majority of non-smokers, the reverse appears to be the case for small babies who have a higher risk of pneumonia and bronchitis when their parents are smokers. There are many persons also with asthma, allergies or chest complaints who suffer acute discomfort from pipe, cigar or cigarette smoke, and the majority of non-smokers—that is to say about four fifths of the population of Hong Kong—find a smoke-laden atmosphere unpleasant.

These observations are supported by a public opinion survey commissioned by the Government in 1981 which indicated an acceptance of stronger anti-smoking measures, when more than half of those who expressed a view felt that the Government should act to protect the non-smokers' interests. In addition, there was general support for health warnings on cigarette packets and advertisements, for the banning of smoking in enclosed public places and for further controls on cigarette advertising on television.

The Bill before Council is a package of these measures which I believe will prove effective. From a public health viewpoint, it aims to warn the community of the risks of smoking and thereby persuade smokers to stop smoking, and to dissuade non-smokers from starting to smoke. Socially it aims to protect the non-smoker, particularly in public places where he might find himself in unavoidable proximity with a smoker.

This Bill provides firstly for the establishment of no-smoking areas by banning or partially banning smoking in certain enclosed public places, including public transport and public lifts and secondly for the display of health warnings and, in certain cases, tar group designations on cigarette packets and specified advertisements. Controls on cigarette advertisements on television and cinema will be effected by action under the Television Ordinance and Places of Public Entertainment Ordinance respectively.

Administrative action has already been initiated by the Government on the more positive promotion of public health education, while in schools, hospitals, clinics, food business premises and in all Government offices and buildings steps have been taken to establish no smoking areas: may I say following the good

example set in this Chamber where we have enjoyed a smoke-free environment for many years?

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.*

### **WIDOWS' AND CHILDREN'S PENSIONS (AMENDMENT) BILL 1982**

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

He said:—Sir, I move the second reading of the Widows’ and Children’s Pensions (Amendment) Bill 1982.

Following a change of policy which took effect on 1 June 1981, pensionable officers of the Civil Service reaching the normal retiring age may, in appropriate cases, be re-employed on agreement terms which provide for the payment of their monthly service pension in lieu of a contract gratuity. Although such officers are no longer in pensionable service, the Widows’ and Children’s Pensions Ordinance is so worded that they are obliged to continue making monthly pension contributions from their salary, notwithstanding that they cannot benefit from those contributions.

This is clearly inequitable, and the present Bill seeks accordingly to exempt such officers from the requirement to contribute, and provides for the return of contributions made by them since 1 June 1981.

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

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

*Question put and agreed to.*

### **INDUSTRIAL TRAINING (CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1982**

THE SECRETARY FOR EDUCATION moved the second reading of:—‘A bill to amend the Industrial Training (Construction Industry) Ordinance’.

He said:—Sir, I rise to move that the Industrial Training (Construction Industry) (Amendment) Bill 1982 be read a second time.

The main object of this Bill is to facilitate the assessment of training levies on the construction industry. The Construction Industry Training Authority assesses levies on the basis of notifications given by contractors and authorized persons about the value of the construction works concerned, such notifications being given in forms prescribed by the Executive Council. As these forms need amendments from time to time to reflect changed circumstances, the Authority has suggested that the power to specify the forms should be transferred to the Authority. This will obviate the need to trouble the Executive Council every time the need to amend the forms arises.

The Authority's suggestion has been accepted in principle by the Government. Accordingly, clauses 3 and 4 of the Bill stipulate that the forms are to be specified by the Authority. Clauses 5 and 6 make consequential amendments to remove the provision for the Executive Council to make regulations to specify the forms, and also to revoke the regulations specifying the present forms.

Clause 1 provides for the foregoing amendments to come into effect on 1 August 1982, so as to allow the Authority time to notify the industry of the changes involved.

Lastly, there is a housekeeping amendment to reflect the change in name of one of the bodies that nominate representatives to the Authority. This amendment is provided by clause 2.

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 EDUCATION.

*Question put and agreed to.*

## **EDUCATION (AMENDMENT) BILL 1982**

THE DIRECTOR OF EDUCATION moved the second reading of:—‘A bill to amend the Education Ordinance’.

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

Sir, this Bill gives effect to the Government's policy on kindergarten education, set out in the White Paper on Primary Education and Pre-Primary Services, published in July 1981; and to rectify specific matters which have arisen in the course of administering the Education Ordinance since its enactment in 1971.

Under the White Paper proposals, entry to primary schools will as at present be compulsory from the start of the school year following the child's reaching the age of six, but will be permitted from five years eight months. It is not intended, for the time being, to allow new entrants to Primary 1 to join the class other than at the beginning of the school year.

This proposed lower age of entry to primary school at five years eight months is within the existing definition of primary education, at section 3 of the Ordinance, as suitable for normal pupils in the range of 5-12 years. And consequently, no amendment of the definition of primary education is therefore required. The change of age of entry to primary school will be introduced administratively with effect from 1 September 1983.

I should add that the age of entry to schools operated by the English Schools Foundation will continue to be five years. And this is in conformity with the United Kingdom practice in which primary education is for children age five to eleven plus.

Kindergarten education is defined in section 3 of the Ordinance as education which is suitable for normal pupils who have attained the age of four years, but not the age of five years. The White Paper states that pre-primary services could most effectively be divided at the age corresponding to two years before entry to primary school, with children below that age attending child care centres and those above that age attending kindergartens registered under a suitably amended Education Ordinance. In order to reflect this, clause 2 of the Bill reduces the lower age limit of four years in the definition of kindergarten education to three years eight months, in line with the reduction to five years eight months which will be the age of entry to primary school.

When replying to questions in this Council on 5 May 1982, dealing with the co-ordination of child care centres and kindergartens, I explained that the key to the arrangements for implementing the proposals set out in the 1981 White Paper is consultation, publicity and flexibility. Although my Colleague the Director of Social Welfare and I myself have been at pains to stress the flexibility of these arrangements, there is still some unease on the part of Kindergarten operators. I would like, Sir, to take this opportunity to reassure them.

As regards the Bill, the change in the definition of the lower age limit for kindergarten education, from four years to three years eight months, will be brought into operation in September 1985 and I have advised kindergarten operators, by means of school circulars, that this new lower age requirement should be introduced gradually between September this year and 1985. However, I would like to make it clear that the decision on exactly how to introduce this new age criterion is up to the operators themselves.

I have been approached by representatives of kindergarten operators who have expressed unease over the registration requirements which they will be expected to meet from 1985 onwards in respect of several baby classes.

Therefore, in keeping with the spirit of consultation and flexibility, to which I have already referred, I propose in the near future that there should be a series of meetings with representatives of kindergarten operators, with a view to resolving outstanding difficulties and finalizing mutually acceptable arrangements for baby classes, or nursery classes as I should prefer to call them. While sympathetic to their practical difficulties and amenable to suggestions as to how they may best be met, I am none the less anxious not to compromise the sound philosophy of the White Paper which emphasizes the special needs of these very young children.

I trust, Sir, that this statement will clarify the present situation and reassure kindergarten operators. In addition, my staff have organized a series of seminars to explain the present policy to kindergarten operators, to answer any questions and hopefully to resolve any problems that they might have.

The second amendment arising from the White Paper, reflects the importance that is to be attached to having properly qualified persons as principals of kindergartens.

The White Paper states that it is considered essential that the principal of a kindergarten should attend a two-year kindergarten teacher training course, unless he or she possesses a qualification, following a course of study containing a kindergarten training element. Section 54 of the Ordinance, which enables the Director of Education to refuse to approve a teacher as the principal of a school, is amended by clause 5 of the Bill to enable him to refuse approval, where in the case of a kindergarten, he is not satisfied that the teacher is appropriately qualified to be the principal. Section 56, which allows the Director to withdraw his approval, is similarly amended by clause 6.

Sir, may I also say at this point that other White Paper proposals concerning kindergartens have already been given effect to, by amendments to Education Regulations which were published in the *Gazette* on 24 June this year. These include new provisions regarding space requirements and class size, together with special requirements for full-day kindergartens. It is the intention that these new requirements will come into operation in September, 1986.

I now turn to those parts of the Bill which seek to rectify anomalies which have arisen since enactment of the Ordinance in 1971.

Section 38 of the Ordinance provides for the management committee of a school to recommend another registered manager of the school to be the supervisor in specified circumstances. It does not, however, provide for a situation where the supervisor, although continuing to be approved as such by the Director, is unable to carry out his duties because of his absence from Hong Kong or because of illness. In view of the importance of the duties of the supervisor and because he is the channel of communication between the Director of Education and the management committee, clause 3 of the Bill amends the Ordinance by adding, as section 38A, a requirement for the management committee to recommend an acting supervisor for the approval of

the Director, when the supervisor is absent from Hong Kong or is ill for a period of not less than 28 days. It is proposed that the Director may approve such a recommendation for such period of time as he may specify.

Section 41 of the Ordinance provides for the appointment of additional managers by the Director, where it appears that a school is not being managed satisfactorily or that the education of the pupils is not being promoted in a proper manner. It does not provide for the situation where a school is left without management when, for example, the sole manager has died. The practice has been to await the issue of Letters of Administration and then to register the executor, or a person recommended by the executor, as manager. It is, however, undesirable for a school in receipt of public funds to be without a registered manager for any period of time and clause 4 amends section 41 of the Ordinance to provide for the appointment by the Director of a manager, whenever a school has, for any reason, no manager.

I am satisfied, Sir, that if enacted, this Bill will give effect to important features of the White Paper on Primary Education and Pre-Primary Services, and contribute to the more efficient management of schools.

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

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE DIRECTOR OF EDUCATION.

*Question put and agreed to.*

### **CHILD CARE CENTRES (AMENDMENT) BILL 1982**

THE DIRECTOR OF SOCIAL WELFARE moved the second reading of:—‘A bill to amend the Child Care Centres Ordinance’.

She said:—Sir, I move that the Child Care Centres (Amendment) Bill 1982 be read the second time.

The main purpose of the Bill is to give effect to recommendations contained in the 1981 White Paper on Primary Education and Pre-primary Services as they effect the policy governing the development of child care centres. The opportunity is also taken to amend certain other sections of the Ordinance to remove possible ambiguity of interpretation. In this regard, section 2 of the principal Ordinance is amended to make it clear that children under the age of six who are members of families ordinarily resident in premises, *are* to be counted for the purposes of determining whether the premises are a child care centre as defined by the Ordinance. Section 13 of the Ordinance is amended to make it clear that the Director of Social Welfare or an inspector or medical officer may, at all reasonable times, enter and inspect not only any child care centre but also any premises which are suspected to be a child care centre.

Turning to the main purpose of the Bill, amendments to Section 18(1) of the Ordinance are intended to enable implementation of recommendations contained in Chapter 3 of the White Paper on Primary Education and Preprimary Services namely: a redefining of the age structure of children attending child care centres and the empowering of the Director of Social Welfare to approve fees in child care centres. I would like to comment in a little detail on the policy implications of these amendments.

The White Paper recommends that, in future, child care centres should offer services for children over the age of two years but below kindergarten age, that is, three years eight months. In other words child care centres will cater mainly for two and three years old children, while children of four and five years old will be provided for in kindergartens registered under the Education Ordinance. The philosophy behind these recommendations is that very young children of two or three require a more care-oriented approach offered by child care centres whereas older children of four or five are better able to profit from a more structured approach to education. This philosophy does not appear to be in dispute. Sir, my Colleague, the Director of Education and I are both aware that the implementation of this new age definition may cause initial adjustment problems to the operators of some child care centres and kindergartens. I am also conscious of the fact that, at present, only a few registered kindergartens offer full-day programmes. The Director of Education has referred in an earlier speech to the Government's willingness to discuss and resolve with those concerned any practical problems over the registration requirements for baby classes, without further compromising the sound philosophy of the White Paper.

I wish to stress, therefore, that although the Bill now under consideration, provides powers which enable the enactment of regulations governing the classes or types of child care centres and the minimum or maximum age of children admitted to any classes or type of child care centre, no regulations to restrict the admission of children to child care centres, by reason of age, will be enacted at this stage pending further consultation. I would also add that such regulations will not be enacted until the Government is satisfied that adequate provision is available in full-day kindergartens to meet the needs of four and five years old children who require full-day care and supervision. Accordingly, child care centres will continue, for the time-being, to admit children up to the age of five years eight months when they will enter primary school.

An additional clause is also inserted in section 18(1) of the Ordinance to extend to the Director of Social Welfare powers, similar to those of the Director of Education under the Education Ordinance, to control the amount of fees and charges made by child care centres and the method of collection of fees and charges. The purpose of this amendment is to ensure that child care centres charge reasonable fees, bearing in mind that they are catering, in most cases, to low-income families. Members may wish to note that, subject to the endorsement of this Bill by this

Council, additional provisions to the Child Care Centres Regulations will be submitted for approval by the Governor in Council. These provisions include requirements with regard to the keeping of proper accounts, the manner in which fees and charges are to be collected and a prohibition on the varying of approved fees and charges without the consent in writing of the Director of Social Welfare.

Although not a direct consequence of provisions in the Bill now under consideration, I would like to take this opportunity to report on the progress of the fee assistance scheme for pre-primary services which comes into effect in September this year. This system will replace the present scheme of direct subvention to non-profit making child care centres. Sir, I am aware that this change-over has been a cause of some concern to operators of day nurseries. I am happy to report, therefore, that the response by parents of children attending these child care centres has been most encouraging, suggesting that the fear of operators that parents would be deterred from applying for fee assistance and that enrolments in child care centres would fall dramatically, were unduly alarmist.

Since the announcement of the scheme at the beginning of June nearly 7 100 applications for fee assistance have been received from parents of children attending day nurseries. This figure already represents over 50% of the total number of places in day nurseries. Of the total number of applications received present indications are that nearly 80% of applicants meet the necessary eligibility criteria with regard to income and social need.

What is even more pleasing is that an analysis of some 1 000 cases which have already been completed shows that over 50% of successful applicants will be required to pay less than \$100 per month for each child in a child care centre, with 24% paying less than \$50 per month. This shows that many families will pay considerably less for child care services than under the present policy which requires all parents to pay a flat fee of some \$134 per month.

I believe these statistics speak for themselves and indicate that the fee assistance scheme *is* achieving its main objective of helping those in the greatest need of financial assistance from the Government.

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

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE DIRECTOR OF SOCIAL WELFARE.

*Question put and agreed to.*

**LEGAL PRACTITIONERS (AMENDMENT) BILL 1982**

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

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

Under section 4 of the Legal Practitioners Ordinance, a person can become qualified for admission as a solicitor by serving under articles of clerkship in Hong Kong with a practising solicitor. Service under articles in Hong Kong is governed by the Articled Clerks Rules made by the Council of the Law Society under the principal Ordinance.

Rule 6(3) of the Rules provides a slightly different approach; it says that a person wishing to become a solicitor may serve under articles with a person employed in the Legal Department, the Registrar General’s Department or the Legal Aid Department if that person is a solicitor, or is a person qualified for admission as a solicitor in Hong Kong. A person who has been admitted in the United Kingdom as a solicitor is, if he is a fit person, a person qualified for admission as a solicitor in Hong Kong. The object of rule 6(3) is clearly to enable articled clerks to serve their apprenticeship with lawyers employed in the relevant Government departments who, though they are not actually admitted as solicitors in Hong Kong, have all the necessary qualifications for admission.

By virtue of rule 6(3), which dates back to 15 September 1972, a number of persons have successfully completed their articles in the relevant Government departments, and been admitted as solicitors.

However, the question has recently been raised whether rule 6(3) is valid, principally on the ground that, while the Council of the Law Society is empowered to regulate articled clerks, both as respects articles and examinations, the Ordinance would appear to require that articles must always be served with a practising solicitor, and not merely with someone who is a person qualified for admission as a solicitor. This view of the law, if it is correct, clearly holds the gravest implications for those immediately affected. For that reason it is proposed in this Bill to remove any question of doubt as to the validity of the present arrangements and to ensure that those whose qualifications might otherwise be in doubt will have nothing to fear. In addition, those who are still serving articles under the present arrangements or are about to enter articles must be in no doubt either as to their future.

Accordingly, clause 2 amends section 2 of the principal Ordinance to redefine the expression ‘articles’, to make it clear that it is not necessary for an articled clerk to be apprenticed to a solicitor admitted as such in Hong Kong. It makes further provision with respect to the application of the Rules to persons qualified for admission. Also, clause 4 amends section 20, which at present restricts the right of solicitors to take articled clerks to practising solicitors, by

extending that right to Government lawyers who otherwise have the necessary qualifications. This recognition of non-admitted Government lawyers is to apply to service in a relevant Department both before and after the coming into operation of the Bill.

Rule 6(3) is no longer required and, though declared for technical reasons to be valid in all respects, is revoked. Likewise, and this is very important for past and present articulated clerks apprenticed to Government lawyers, articles entered into, at any time since 15 September 1972, with a principal who has been a serving Government lawyer as outlined above are declared to be valid.

Lastly, in clause 7, section 75 is extended to apply certain saving provisions to officers of the Legal Aid Department. The remainder of the Bill is concerned with minor and consequential amendments.

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

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE LAW DRAFTSMAN.

*Question put and agreed to.*

### **SUPREME COURT (AMENDMENT) (NO. 3) BILL 1982**

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

He said:—Sir, I move that the Supreme Court (Amendment) (No. 3) Bill 1982 be read the second time.

This Bill relates to two matters, the first of which concerns the protection of intellectual property, that is, copyright, patents and trade marks and other such property as defined in new section 44A in clause 2 of the Bill.

The problem dealt with in new section 44A is very much in the nature of lawyers’ law. Briefly, the High Court has jurisdiction under Order 29, rule 2, of the Rules of the Supreme Court to make orders for the preservation and taking possession of property which is the subject matter of legal proceedings, and to authorize entry upon land or buildings for that purpose. Such an order will not usually be made unless notice of the application is given to the other party. However, in the case *E.M.I. Ltd. v. Pandit* (1975) 1 All E.R. 418, the High Court in England held that notice need not be given if it would assist the other party to dispose of or destroy the property in question before the order could be carried out. Soon afterwards, in the leading authority *Anton Piller K.G. v. Manufacturing Processes Ltd.* (1976) 1 All E.R. 779, the Court of Appeal approved that decision. Such orders have since come to be known to lawyers as Anton Piller orders.

Then in the case *Rank Film Distributors Ltd. v. Video Information Centre* (1981) 2 All E.R. 76 the House of Lords held that Anton Piller orders were subject to a privilege against self-incrimination and therefore should not be made if a risk of self-incrimination could be seen to exist. The effect of that decision was greatly to curtail the effectiveness of Anton Piller orders, especially, though not exclusively, in enabling owners of trade marks and copyright and so on, to move swiftly against persons passing off counterfeit goods, pirating tape recordings etc. It seems clear that the courts in Hong Kong would always follow that decision, having regard to the principle laid down by the Privy Council in the Hong Kong case *de Lasala v. de Lasala* (1979) 2 All E.R. 1146.

In the United Kingdom, as a result of the House of Lords decision, section 72 of the Supreme Court Act 1981 was enacted to remove the privilege against self-incrimination as a ground for refusing to make an Anton Piller order, in cases involving infringement of intellectual property rights, or passing off. The new section made provisions protecting the incriminated party from having the incriminating information used in evidence against him or his spouse in subsequent criminal proceedings.

It is now proposed in clause 2 of this Bill to make a similar amendment to the Supreme Court Ordinance by adding new section 44A, which substantially reproduces section 72 of the 1981 Act.

The second matter is dealt with in clause 3. Clause 3 makes a minor amendment to section 55 of the principal Ordinance to enable the membership of the Rules Committee of the Supreme Court to be expanded to include 5 judges of the Supreme Court, whether Justices of Appeal or High Court judges; and to enable the Registrar or an assistant registrar to be a member and to act as secretary to the Rules Committee.

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

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE LAW DRAFTSMAN.

*Question put and agreed to.*

## **MEDICAL REGISTRATION (AMENDMENT) BILL 1982**

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

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

The Bill has three objectives.

First, consequent upon the establishment of a medical school at the Chinese University of Hong Kong (C.U.H.K.), there is a need to extend to that body the same privileges which are presently enjoyed by the University of Hong Kong. The Bill accordingly renames 'Colony diploma' as 'Hong Kong diploma' and amends the definition to include a degree granted by C.U.H.K. It expands membership of the Medical Council to include a C.U.H.K. nominee. Additionally, the Bill enables C.U.H.K. to issue a certificate of experience for the purpose of medical registration, allows doctors working full-time in the Medical Faculty of C.U.H.K. to be deemed to be registered and also exempts its staff from the requirement to pay registration fees.

Second, to clarify in the light of experience certain provisions in the Licentiate Examinations procedure relating to residential status of applicants, which have been found to be imprecisely defined at present. The opportunity is also taken to amend membership of the Licentiate Committee by deleting a post which no longer exists and substituting a suitable replacement.

Third, recognition is made of the role of subvented hospitals as part of the public sector, and doctors employed therein are accordingly granted exemption from the requirement to pay registration fees, in line with the exemption already granted to their counterparts employed in the Government service.

It is intended to consult further with the Medical Council of Hong Kong on the question of discretion to recognize certain foreign qualifications. Following this consultation, it is proposed to introduce suitable legislation in the next session of the Legislative Council.

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

*Motion made. That the debate on the second reading of the Bill be adjourned—*THE DIRECTOR OF MEDICAL AND HEALTH SERVICES.

*Question put and agreed to.*

## **SUMMARY OFFENCES (AMENDMENT) BILL 1982**

THE SECRETARY FOR SECURITY 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) Bill 1982, the purpose of which is to prevent the resale at a profit of travel tickets in public places.

In order for the Police to take action under existing legislation, the activities of 'ticket touts' must be quote, 'to the annoyance of or in a manner likely to annoy any other person' unquote. In the past, it has been comparatively rare for such complaints to be made to the Police because in most cases the person

directly importuned was perforce willing, or eager, to buy the ticket offered. However, statistics on recent prosecutions indicate that the problem is growing, mainly in respect of the organized reselling in public at exorbitant prices of Hong Kong/Macau ferry, hydrofoil and jetfoil tickets. This usually takes place in the vicinity of the Macau ferry wharf.

The Places of Public Entertainment Ordinance prohibits the sale of tickets for public entertainment in certain public places, or at a price exceeding that stipulated by the organizer or promoter of the entertainment. It is considered that similar provision should be made in the Summary Offences Ordinance in respect of travel tickets. This Bill, therefore, seeks to make it an offence for any person to sell in a public place, at a price exceeding the authorized price, a ticket or voucher issued for travel on any type of public conveyance.

Provision is made to cover all modes of public transport to prevent the so called 'scalpers' transferring their attention to other areas, such as for example the resale of Kowloon-Canton Railway tickets during the Lunar New Year period.

Sir, I move that the debate on the second reading of this Bill 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.*

## **SUPREME COURT (AMENDMENT) (NO. 2) BILL 1982**

### **Resumption of debate on second reading (30 June 1982)**

*Question proposed.*

MR. PETER C. WONG:—Sir, the main object of this Bill is to enable solicitors in Crown Service in Hong Kong to be eligible for appointment as High Court Judges.

This is a departure from the long standing practice that only barristers are eligible for such appointment.

The Attorney General has put forward arguments why this limited concession should be made in respect of solicitors in Crown Service and I will not repeat them.

The Legislation Scrutiny Group examining this Bill received representations from the Law Society of Hong Kong, which are briefly as follows—

1. In so far as professional qualifications are concerned, both barristers and solicitors will have to go through the same basic academic training—the P.C.L.L. course of the University of Hong Kong.
2. Many Supreme Court Judges appointed during the past 20 or 30 years had very little or no experience as advocates before the Supreme Court, even though they had originally qualified as barristers.
3. The Law Society remains unconvinced that any valid reason exists for excluding solicitors generally from consideration by the Judicial Service Commission for appointment as Supreme Court Judges.
4. The Bill in effect creates a class of solicitors, who because they have been employed by the Crown, but not necessarily as advocates, are eligible for appointment while the rest of the solicitors are not.
5. A more appropriate amendment would be to give the Judicial Service Commission a discretion to select solicitors whose work has been of such a character, which in the opinion of the Commission would fit them for appointment as Judges of the Supreme Court.

The Bar Committee, on the other hand, views with grave concern any inroads by solicitors into areas of responsibility and their attendant advantages which are legitimately the province of barristers. So far as the main provision of this Bill is concerned, the Bar is prepared to concede that it is a measure which would better serve the public interest and hence agrees to this minor concession.

While some sympathy is felt for the representations of the Law Society, it is considered that on balance it would be unwise to recommend that the concession be extended to solicitors generally.

Ideally, an appointment should go to the person best suited for the job, but the appointments under discussion have to be considered in the light of the traditional division of work between the two branches of the profession. The system has worked well and it would not be in the interest of the profession or of the public to rock the boat.

Solicitors aspiring to be Supreme Court Judges can, of course, join Crown Service or take steps to become barristers. The avenues to the fulfilment of their aspirations remain open.

Sir, with these observations, I support the motion.

THE ATTORNEY GENERAL:—Sir, I am grateful to the learned and honourable Mr. WONG and the Legislative Committee for the support that they have given to my side of the profession and then for the thought which had gone in to what they have said.

*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).*

### **CROWN LAND (AMENDMENT) BILL 1982**

#### **Resumption of debate on second reading (30 June 1982)**

*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).*

### **EVIDENCE (AMENDMENT) BILL 1982**

#### **Resumption of debate on second reading (30 June 1982)**

*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).*

### **DANGEROUS DRUGS (AMENDMENT) (NO. 2) BILL 1982**

#### **Resumption of debate on second reading (30 June 1982)**

*Question proposed.*

MR. PETER C. WONG:—Sir, the problems of drug-trafficking in Hong Kong merit firm and swift action even if it means involving a degree of retrospective effect.

However, the Legislation Scrutiny Group was somewhat concerned that owners of ships, which had been found carrying drugs in the eighteen months prior to the coming into operation of the amendment, might not know that their vessels had been so involved and therefore particularly vulnerable to the payment of a substantial penalty.

We therefore sought assurance from the Administration that if this Bill were enacted, steps would be taken to inform all such owners that drugs had been found on their ships during the period in question and that this constituted the

first offence in terms of the new measures. This has been agreed and I understand the Secretary for Security will be announcing later this afternoon the action he proposes to take.

Sir, subject to the assurance, I support the motion.

MISS TAM:—Sir, the Dangerous Drug (Amendment) (No. 2) Bill 1982 has the support of the Action Committee Against Narcotics.

According to the statistics of the Central Registry of Drug Abuse, there are about 40 000 drug addicts in Hong Kong of which about 94% are males and 6% are females. Between September 1976 and 31 December 1979 there was a steady decline in the number of new drug addicts but in 1981 the trend was reversed: the number of new drug addicts increased from 38 700 to 42 098. This was the result of a good harvest of poppies in the Golden Triangle and an increased amount of heroin being smuggled into Hong Kong. During the year from January 1981 to 1982 the wholesale price of No. 3 heroin dropped by 60% and many of those on methadone treatment lapsed into taking heroin again because of its comparative cheapness and ready availability from the suppliers. If we do not take immediate action against the smuggling of dangerous drugs into Hong Kong the number of new and lapsed drug addicts must and will continue to rise.

The most effective way to hit at drug trafficking is, by detection and seizure both at the point of entry to Hong Kong and during its manufacture here. The find at this stage is usually large and it is prevented from reaching the hands of the addicts in the rear lanes, red light districts and housing estates of the urban area, and the old abandoned village huts in the New Territories.

This is important because prevention is far better than cure and while it is now easy to medically cure a man of drug addiction, we can never be certain of his successful rehabilitation. Many of them go through cycles of methadone treatments and periods of probation and supervision by social workers, only to lapse into taking heroin whenever the price goes down and they can afford it and obtain it in the streets.

This Bill, once enacted, will enhance the effort of hitting drug trafficking at source and of closing the door on the entry of such lethal cargoes into Hong Kong.

Hence, Sir, my support for the Bill.

SECRETARY FOR SECURITY:—Sir, I wish to reply briefly.

It is certainly most reasonable that any ship owner who is rendered vulnerable to proceedings under this Bill by virtue of a first seizure of an excessive quantity of dangerous drugs should be made aware of this fact.

It is therefore the Government's intention to inform such owners, as the honourable Member has suggested, and to do so in writing. These written

warnings will be issued *now* in respect of all such seizures which have occurred in the past twelve months and they will also continue to be issued to ship owners in respect of all such seizures in the future.

It is, Sir, the intention not to bring this Bill, if enacted, into *operation* until six months after its enactment. Thus, all owners of ships found to be carrying excessive quantities of dangerous drugs eighteen months before the operation of this new legislation will have received written warning.

*Question put and agreed to.*

Bill read the second time.

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

### **Committee stage of bills**

Council went into Committee.

### **SUPREME COURT (AMENDMENT) (NO. 2) BILL 1982**

Clauses 1 to 4 were agreed to.

### **URBAN COUNCIL (EXTRAORDINARY ELECTION) BILL 1982**

Clauses 1 and 2 were agreed to.

### **CROWN LAND (AMENDMENT) BILL 1982**

Clauses 1 to 4 were agreed to.

### **EVIDENCE (AMENDMENT) BILL 1982**

Clauses 1 to 3 were agreed to.

### **DANGEROUS DRUGS (AMENDMENT) (NO. 2) BILL 1982**

Clauses 1 to 3 were agreed to.

Council then resumed.

**Third reading of bills**

THE ATTORNEY GENERAL reported that the

SUPREME COURT (AMENDMENT) (NO. 2) BILL

URBAN COUNCIL (EXTRAORDINARY ELECTION) BILL

CROWN LAND (AMENDMENT) BILL

EVIDENCE (AMENDMENT) BILL and the

DANGEROUS DRUGS (AMENDMENT) (NO. 2) BILL

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

*Question put on each Bill and agreed to.*

Bills read the third time and passed.

**Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday, 28 July 1982.

*Adjourned accordingly at eighteen minutes past four o'clock.*