

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 22 December 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 (*Acting*)
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR. DENIS CAMPBELL BRAY, C.M.G., C.V.O., J.P.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 GERALD PAUL NAZARETH, O.B.E., Q.C., J.P.
LAW DRAFTSMAN

THE HONOURABLE HU FA-KUANG, J.P.

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

THE HONOURABLE WILLIAM DORWARD, O.B.E., J.P.
SECRETARY FOR TRADE AND INDUSTRY

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

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

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

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

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING

THE HONOURABLE PIERS JACOBS, O.B.E., J.P.
SECRETARY FOR ECONOMIC SERVICES

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

ABSENT

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

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

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

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

THE HONOURABLE GRAHAM BARNES, J.P.
REGIONAL SECRETARY (HONG KONG AND KOWLOON), CITY AND NEW TERRITORIES
ADMINISTRATION

IN ATTENDANCE

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

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Import and Export (Strategic Commodities) Regulations. Import and Export (Strategic Commodities) Regulations (Amendment of Schedule) Order 1982.....	411
Corrupt and Illegal Practices Ordinance. Urban Council and District Boards Election Expenses Order 1982	412
Evidence Ordinance. Evidence (Authorized Persons) (No. 18) Order 1982.....	413
Rules of the Supreme Court (Amendment) Rules 1982. Rules of the Supreme Court (Amendment) Rules 1982 (Commencement) Notice 1982	414
Road Traffic Ordinance. Road Traffic (Public Service Vehicles) (Amendment) Regulations 1982 ...	415
Road Traffic Ordinance. Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 4) Regulations 1982	416
Road Traffic Ordinance. Road Traffic (Driving Licences) (Amendment) (No. 4) Regulations 1982 .	417
Road Traffic Ordinance. Taxis (Lantau Taxis) (Limitation on Number) Notice 1982	418
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Evidence Ordinance. Evidence (Authorized Persons) (No. 19) Order 1982.....	420
Electoral Provisions Ordinance. Urban Council Elections (Special Provisions) Order 1982.....	421

Sessional Papers 1982-83:

- No. 19—Hong Kong Trade Development Council—Annual Report and Accounts
1981-82.
- No. 20—Emergency Relief Fund—Annual Report by the Trustee for the year ending
31 March 1982.

- No. 21—Hong Kong Export Credit Insurance Corporation—1981-82 Annual Report.
- No. 22—Chinese Temples Fund—Income and Expenditure Account with Balance Sheet and Certificate of Director of Audit for the year ended 31 March 1982.
- No. 23—General Chinese Charities Fund—Income and Expenditure with Balance Sheet and Certificate of Director of Audit for the year ended 31 March 1982.
- No. 24—Report of the Brewin Trust Fund Committee on the Administration of the Fund for the year ended 30 June 1982.
- No. 25—Grantham Scholarship Fund—Income and Expenditure Account with Balance Sheet and Certificate of Director of Audit for the year ended 31 August 1982.
- No. 26—The Accounts of the Lotteries Fund for 1981-82.

Clean Hong Kong Campaign

1. MR. CHARLES YEUNG asked:—*What is the result of the current campaign to keep Hong Kong clean and what is Government intending to do after the official campaign period comes to an end on 31 December 1982?*

THE CHIEF SECRETARY:—Sir, the Clean Hong Kong Campaign which was launched on 25 October 1981 comes to an end on 31 December this year. The Campaign is to end but there will be no let-up in the Government's efforts to keep Hong Kong clean after the Campaign ends.

The Clean Hong Kong Campaign Steering Committee will continue in action. The Urban Council's Clean Hong Kong Committee under its Chairman, Mr. Howard YOUNG, and the Clean Hong Kong Campaign New Territories Advisory Committee, under its Chairman, Mr. Charles YEUNG, who has just asked me the question, and the various action groups will all continue their work for they can all see much remains to be done. They have all put in a great deal of work for which everyone is most grateful. I am sure they will continue with the same enthusiasm.

Has the Campaign been a success? Nearly two-thirds of Hong Kong people think so while one-third believe things are about the same. A few—5%—say they think Hong Kong is dirtier now than it was. This is what a survey showed.

The Campaign began with a block-to-block clean up in all parts of the urban area and the new towns, followed by a cleansing programme in public housing estates and temporary housing areas. In the countryside, operations were

mounted to clean all 617 villages in the New Territories. Years of accumulated rubbish has been removed from hillsides and nullahs.

In addition to stepping up cleansing efforts on land, the Marine Department intensified its harbour cleansing activities. A new boat-to-boat refuse collection service was introduced in five typhoon shelters and plans are in hand to extend this service to other anchorages. Plans are also in hand to extend the floating refuse collection service to the New Territories, over the next few years. At present it is confined to Victoria Harbour and Aberdeen Harbour.

A planting programme for trees and shrubs was started in April and will carry through into 1983. Some one and a half million plantings have taken place.

Although the penalties for littering have been significantly increased, the fines that are actually being imposed have, after an initial increase following the launching of the Campaign, dropped back to pre-Campaign levels. This is puzzling. One would have thought that in the face of continuing evidence of this disregard of social obligations penalties would be steadily increased and not reduced.

I am disappointed by the lack of response by people who go to the countryside and beaches for recreation. They go to these pleasant places because they are pleasant. They leave them in a mess. I cannot understand the thoughtlessness of people who make special outings to enjoy the countryside because it is beautiful and who destroy beauty for others.

Something certainly has been achieved. Thousands have helped and it would be strange if nothing had been done. Litter is a disgusting mark of thoughtlessness and can only be eliminated by personal effort by everyone. If Hong Kong people want a clean Hong Kong this can be achieved if we all take just a little more care.

REVD. JOYCE M. BENNETT:—*Sir, what action can be taken against passengers of vehicles who throw things out of the windows?*

THE CHIEF SECRETARY:—This is an offence and if one could lay hands on the passenger instantly, he could be prosecuted. This is difficult because cars go rather fast, and so we have in mind legislation which would impose liability on the owner of any vehicle from which litter was thrown to make him responsible. That is to say, make it an offence for him. This is only in draft.

Car repairing and painting shops

2. DR. HO asked:—*Is Government aware that a large number of car repairing and body painting shops operating in residential areas are causing environmental, fire and health hazards; and if so, what is the Government doing to reduce the hazards caused by such operations?*

SECRETARY FOR CITY AND NEW TERRITORIES ADMINISTRATION:—Sir, yes, Government is aware of the problems caused by these workshops. Indeed I must confess that Government has been trying to find a solution to accommodating vehicle repair shops for many years without much success. In 1979 there were about 800 of such workshops and no doubt there are more now.

They are basically an industrial activity and some sites have been made available in industrial areas. But this can only provide a small part of the answer. The basic problem is that the demand for car repairing service exists where cars are found. The inner urban districts are places where the demand is greatest, but they are so fully developed that suitable sites are simply not available. Hence the workshops make improper use of the ground floors of residential buildings and spill out over the pavements and roadway.

I can see little prospect of removing so many motor vehicle repair workshops from the urban area, and I have therefore asked for the possibility of imposing certain conditions and restraints upon them to be examined with a view to reducing the nuisance they cause.

DR. HO:—*Sir, among the conditions and constraints mentioned in the last paragraph of the answer, will Government consider asking these shop operators to move their business to the ground floors of the flatted factory buildings in urban areas?*

SECRETARY FOR CITY AND NEW TERRITORIES ADMINISTRATION:—Certainly, Sir, but it must be realized that there are vast stretches of the urban area where there are no flatted factory buildings.

Landing sites for emergency helicopter service in the New Territories

3. MR. CHEUNG YAN-LUNG asked:—*In view of our congested road conditions, will the Government consider providing helipad sites in each new town in the New Territories for emergency use such as to transport seriously ill or badly injured people to hospital by helicopter?*

SECRETARY FOR SECURITY:—Sir, it was indeed the congestion on the roads in the New Territories that caused the Government to review the facilities for evacuating patients in emergency to hospitals. As a result, since 5 October, facilities for this service by helicopter has been increased. Landing sites are now available throughout the New Territories including the new towns.

MR. CHEUNG YAN-LUNG:—*Sir, have doctors, ambulance drivers and other people concerned with emergency medical services in the New Territories been made sufficiently aware of available helicopter services and procedure for obtaining such services, so that they can make use of it in an emergency?*

SECRETARY FOR SECURITY:—Yes, Sir, there is a document published signed by the Chief Ambulance Officer called Ambulance Command Temporary Order No. 19 of 1982 entitled ‘Use of Casevac and Medivac Services’ (Casevac meaning casualty evacuation and Medivac meaning medical evacuation), which details exactly who should do what, in order to called up a helicopter for evacuation of medical or casualty cases.

Speed limits on the East Kowloon elevated highway

4. REVD. JOYCE M. BENNETT asked:—*Why was it that there was a 40 m.p.h. limit on the northbound carriageway of the East Kowloon elevated highway and a 30 m.p.h. limit on the southbound carriageway when it was approached from the Airport Tunnel while the limit was 40 m.p.h. when it was approached from the To Kwa Wan area?*

SECRETARY FOR TRANSPORT:—Sir, in line with this general revision of tenses, I am very grateful to Miss BENNETT for having brought this to notice. It was indeed the case that for a period the speed limit sign on the southbound carriageway approach incorrectly showed on occasions 30 m.p.h. The variable speed sign, which can be switched electrically to show 30 or 40 m.p.h., was inadvertently triggered during the testing programme of the computerized traffic surveillance system. The sign was subsequently disconnected from the electrical circuits and set at 40 m.p.h. by manual operation. When the computerized traffic surveillance system is operational in March 1983, all other things being equal, remote control of the speed limit sign will be reimposed.

REVD. JOYCE M. BENNETT:—*Sir, why did it take several months to rectify this mistake?*

SECRETARY FOR TRANSPORT:—I would not describe it as a mistake, Sir, but it does not take several months to rectify. It is the fact that the computer surveillance system has to be tried out, successfully accepted, and brought into operation; that is the reason for delay.

MR. ALEX WU:—*Sir, would there be an automatic correction device so that defects would not have to be reported by motorists?*

SECRETARY FOR TRANSPORT:—Sir, I am advised this is a most unusual technical occurrence and I hope it will not happen again, but no doubt we can rely on linkside motorists such as Miss BENNETT and Mr. WU. *(laughter)*

Speed limits in road tunnels

5. REVD. JOYCE M. BENNETT asked:—*Will the Government make a statement regarding the policy on speed limits in road tunnels?*

SECRETARY FOR TRANSPORT:—Sir, the policy is that speed limits be set at 40 m.p.h. in road tunnels during normal twin tube operation. When traffic is restricted to two-way flow in one tube, the speed limit is reduced to 30 m.p.h. for safety reasons.

REVD. JOYCE M. BENNETT:—*Sir, why is it then that the Airport and Lion Rock Tunnels in which the twin tubes are in use, are restricted to 30 m.p.h.?*

SECRETARY FOR TRANSPORT:—Sir, the speed limit for the Airport Tunnel is indeed 30 m.p.h. This will be increased to 40 m.p.h. as soon as the work on the computer control equipment is completed in March 1983. The Lion Rock Tunnel, I think, was the other tunnel mentioned. The limit was set at 30 m.p.h. in order to control speed at a rather sharp bend at the southerly portal of the southbound tube. We recently reviewed this and it was concluded that raising the limit to 40 m.p.h. should be acceptable within safety parameters. When the variable speed limit sign has been obtained and installed, then Lion Rock Tunnel will have a 40 m.p.h. limit.

Review of films

6. MRS. CHOW asked:—*Will Government explain the current administrative procedure regarding review after a film has been approved by the Film Censors?*

THE CHIEF SECRETARY:—Sir, a film approved for exhibition by the film censors may be reviewed on application received either from the film producers or distributors or from the public. If a film producer or distributor is aggrieved by any decision of the film censors he may apply direct to the Film Censorship Authority for a review by the Board of Review. Members of the public who object to a film being exhibited in the form as approved by the film censor may also request a review, by writing to the Chief Secretary stating the grounds of the objection. If the film has not already been referred to a Board of Review, the Chief Secretary may, if he sees fit, order that the film be reviewed by the Board and may impose any conditions for the review that he thinks justified. He may for instance order that the film not be exhibited until it has been reviewed. The decision of the Board of Review supercedes any made by the film censors and is final. The present system, which provides for review both on application from interested parties in the film industry, and also from citizens concerned generally with censorship standards is fair. It ensures on the one hand that the requirements of the film industry are carefully considered, and, on the other, that censorship standards reflect the standards of the average Hong Kong resident.

MRS. CHOW:—*Sir, when the Chief Secretary orders that a film not be exhibited until it has been reviewed, as a result of complaints from members of the public, and should the Board of Review then find that the complaint is not justified, can the producer or distributor seek compensation from the complainant for the loss suffered?*

THE CHIEF SECRETARY:—No, Sir.

MRS. CHOW:—*Would the Chief Secretary not say that there is something unfair in that provision?*

THE CHIEF SECRETARY:—REPRESENTATIONS ON THESE LINES HAVE BEEN MADE AND WE ARE LOOKING AT THE PROBLEM, SIR.

Subvention of air-conditioning in the Caritas Medical Centre

7. MR. WONG LAM asked in Cantonese:—

明愛醫院多間病房受附近工廠及交通所發出之噪音及空氣污染影響，政府是否有計劃資助在該等病房安裝空氣調節系統？

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

Has Government any plans to subvent air-conditioning in those wards of the Caritas Medical Centre which are badly affected by noise and air pollution arising from the surrounding factories and traffic?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—No. Sir.

A letter from the Medical Superintendent of the Caritas Medical Centre (C.M.C.) on this matter was in fact received in my Department only a few days ago.

In accordance with usual practice, I have advised the Medical Superintendent to refer the proposal, with all relevant details, to the Medical Committee of the C.M.C. for its examination and recommendations in the first instance.

If the proposal is found to be worthy of support by the Medical Committee, a formal submission should then be made to the Government for its consideration with a view to obtaining the necessary approval and funds.

In view of the above, it is premature for the Government at this stage to have any concrete plans for subventing air-conditioning in any of the wards of the C.M.C.

Implications of selective safeguards for Hong Kong's export trade

8. MR. STEPHEN CHEONG asked:—*Will Government inform this Council the possible implications to our future export trade in the light of recent developments in Geneva during the G.A.T.T. Ministerial Meeting on the issue of Selective Safeguards?*

SECRETARY FOR TRADE AND INDUSTRY:—Sir, in order to answer Mr. CHEONG's question in a comprehensible way, I need to recall briefly that Hong Kong's export trade is governed by, indeed protected by, the General Agreement on Tariffs and Trade, or G.A.T.T. This Agreement is predicated on one very basic proposition, namely that any contracting party to it shall not discriminate against any other; or, as the jargon has it, it shall treat all others as well as it treats its 'most favoured' trading partner.

This principle has always been applied to so-called safeguard actions under G.A.T.T., that is to say emergency restrictions of some kind or another imposed by an importing country to avoid or offset serious injury to domestic producers caused by imports of particular products. It was, for example, the failure of the French authorities to respect that principle which prompted our current complaint to the G.A.T.T.

For some years past, however, a debate has been conducted in G.A.T.T. as to whether such actions could or should be taken 'selectively'; that is to say, on whether an importing country, when it believes its industry is being damaged or threatened with damage by imports, should be entitled to restrict imports of the product causing or threatening the damage only from selected sources. A considerable body of opinion, mainly in the developed countries, holds that import restrictions should be directed solely at the supplying country or countries causing or threatening damage. And superficially, and I emphasize *superficially*, this argument has some logic.

After many years of experience and debate, however, the Hong Kong Government is convinced that any definition of criteria for determining injury in a selective safeguards code would inevitably be imprecise and open to interpretations which could be highly inimical to our trading interests. Our experience in textiles with the M.F.A.—which is already a selective instrument and a specific derogation from G.A.T.T. rules—has shown that it has been used by developed countries solely against developing countries. It is our concern that, whatever good intentions might be expressed at the beginning, a selective safeguards code would also degenerate into an instrument whose disciplines would be less and less respected when applied between unequal partners.

The M.F.A. makes clear that its application is specifically and deliberately limited to textiles of cotton, wool, and man-made fibres; and that its principles do not lend themselves to application in other areas of trade. But a selective safeguards code would, in the Hong Kong Government's view, become effectively an M.F.A. writ large. That is to say, it would open up opportunities for developed countries to apply the kind of restrictions which bear more and more heavily upon our textile industry to each and every area of Hong Kong's export trade. The implications of this will be immediately apparent to my Friend Mr. CHEONG and to other Members of this Council.

Hong Kong has therefore consistently opposed the concept of selective safeguards and, despite considerable pressure from developed countries, the

legalization of that concept has been successfully resisted. Hong Kong has not, of course, been able to do this alone. There has been close and effective cooperation and co-ordination among developing countries on this issue. It will be important to continue that co-operation and co-ordination in the future, for we have certainly not heard the last of selective safeguards. We can expect in the coming year once again to be brought under heavy pressure by the developed countries to accept or at least acquiesce in selective safeguards. At the G.A.T.T. Ministerial Meeting which I attended in Geneva last month, the decision was reached that there was a need for an improved and more efficient safeguard system—not I emphasize that that means or implies selective safeguards—and that an understanding on such a system should be drawn up for adoption by the G.A.T.T. Contracting Parties not later than its November 1983 session.

That same Ministerial Meeting decided also to launch a study on the future of the M.F.A. When I addressed the Meeting I said:

‘The M.F.A. has been described recently as “an organized hypocrisy”. In studying its shortcomings and considering its future, it is essential that the experience it offers be most carefully considered also in the parallel negotiations on safeguards. Nothing in our twenty years of experience of textile negotiations leads us to be able to support any “consensual” arrangement whereby the stronger party would be able to impose, by one means or another, its will on the weaker.’

‘It is only by a genuine and manifest dedication on the part of the major trading partners to respect to the full their obligations when dealing with weaker partners that such improvements as may in fact be necessary in the G.A.T.T. system can be meaningfully devised.’

Sir, the safeguards issue is probably the single most important trade policy problem facing Hong Kong in 1983. I cannot specifically answer Mr. CHEONG’s question as to what the implications of recent developments will be for our future export trade, but I believe I have said enough to indicate that it is a subject which we, and particularly our Geneva representatives, will have to continue to handle delicately but firmly in the coming months, because the downside risk is obviously considerable.

MR. STEPHEN CHEONG:—*Sir, as this is a very important issue for Hong Kong’s export industry will the honourable S.T.I. be able to assure this Council that—*

- (a) our representation in Geneva will continue to be of a high standard and that*
- (b) Hong Kong will make a conscious effort to be a member of the working party in the drawing up of the understanding for adoption by G.A.T.T. contracting parties in November 1983?*

SECRETARY FOR TRADE AND INDUSTRY:—*Sir, as regards the first part of Mr. CHEONG’s question, it is not a matter directly for me as to who will be representing us, but I have no doubt that we shall take care to ensure that our representation is of the calibre necessary to handle such delicate negotiations.*

As regards the second part of Mr. CHEONG's question, I am happy to be able to give him an affirmative answer because, while I was in Geneva a few weeks ago, I did raise the matter of our participation in all of the up coming negotiations on this subject with the Director General of The G.A.T.T. and received his reassurance that we would be invited to participate fully in both the formal and informal negotiations.

MR. STEPHEN CHEONG:—*Sir, while the honourable S.T.I. cannot confirm that it is within his jurisdiction to send whatever representation, I am sure he agrees that it is such an important issue that it must be Government's policy that the aim is to send a representation of the highest calibre?*

SECRETARY FOR TRADE AND INDUSTRY:—Yes, Sir, I agree.

Prevention of squatter fires

9. MRS. CHOW asked:—*Will Government state what measures have been undertaken to prevent squatter fires in the dry winter months?*

SECRETARY FOR HOUSING—Sir, a number of measures have been taken to reduce fire risks in squatter areas.

Following the devastating series of fires in squatter areas last winter, the Information Services Department has mounted a fire prevention publicity campaign directed specifically at the residents of squatter areas. At the same time, continued effort has been made to encourage the formation of local fire watch teams, whose volunteer members play a vital part both in stimulating an awareness among the residents of the danger of fires and as a first line of defence when fires occur. There are now more than 140 such teams organized by the District Offices with assistance from the Fire Services Department.

On the other hand, the Housing Department has started an improvement programme to upgrade safety measures in squatter areas. This includes the provision of fire breaks and improved access and water supplies for fire fighting. Work has already been completed in the large squatter concentrations in Sau Mau Ping, Lam Tin and Cheung Lung Tin. The programme is being progressively extended to other vulnerable areas.

The on-going programme of providing legal supplies of electricity to established squatter areas will also help to reduce fire risks as illegal tapping in the past tended to cause fires. During the last 12 months, a total of 30 additional schemes have been completed, bringing to total of 96 schemes. We will continue to provide such supplies wherever practicable.

MRS. CHOW:—*In view of the fact that most of the squatter areas are inhabited by recent immigrants, will Government consider using Putonghua as well as Cantonese in its major fire prevention campaigns directed towards these residents?*

SECRETARY FOR HOUSING:—Sir, I will certainly pass the message to the Information Services Department.

Starting salary for Social Work Assistants

10. DR. FANG asked:—

- (a) *Since the implementation of the No. 8 Report of the Standing Commission on Civil Service Salaries and Conditions of Service when the starting salary of the Social Work Assistant (S.W.A.) was lowered from M.P.S. 17 to 14, have Social Welfare Department and/or voluntary welfare agencies met with any recruitment difficulty for this grade?*
- (b) *If so, what steps would the Government take to review its position on this matter?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, on the information available to me, I believe that the answer to the first part of the question is that the Social Welfare Department and the voluntary agencies, taken together, are encountering no greater difficulties in recruiting Social Work Assistants now than they did last year, or the year before that. The main difficulty continues to be the insufficient output of diploma-holders from the educational institutions concerned, and this is in process of being remedied. Report No. 8 does not appear to have had any particular effect on the situation.

From enquiries which I have made, it does seem that of 66 students who graduated in social work from the Polytechnic in the summer of 1982, 60 are now employed in the social work field. I think it possible that the actual total figure is higher than 60. Of 24 students who graduated in social work this year from Shue Yan College, I understand that all are now have jobs in the social work field. I have no indication that the position is any different in regard to the 25 Baptist College students who obtained their social work diplomas in 1982.

As regards the second part of the question, I submit that the facts do not indicate a need for the Government to review its position on the matter at the present time. However, I do recognize that this matter is of concern in certain quarters. I am watching the position closely, and I would welcome any additional facts which might assist me in doing this.

DR. FANG:—*Sir, is it not true that the bulk of S.W.A.'s were in fact recruited at point 17 this year? May this Council be told how many S.W.A. posts are being filled or recruited by Government at point 14?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, Dr. FANG is, I believe, correct; I understand that a number of voluntary agencies decided of their own volition to go ahead and recruit people at the higher salary. But if they did so then my understanding is that they used non-Government funds for that purpose. They

used their own funds which might have been used for other purposes. On the second point, this year the Social Welfare Department did advertise for Social Welfare Assistants. It had a number of applicants, but finally only four or five actually accepted the offer of appointment, but my enquiries indicate that all the diploma holders who rejected the offer of appointment with the Social Welfare Department are now in fact employed in voluntary agencies, so that I stand by my remark in my answer that the problem is a problem of the overall output of the educational institutions and that the output as far as I can ascertain is, in fact, largely taking up employment in the social work field.

DR. FANG:—*Does the Secretary for the Civil Service expect difficulty of recruitment next year when all S.W.A. posts will have been lowered to point 14, and whether there is a need to review the position?*

SECRETARY FOR THE CIVIL SERVICE:—No, Sir, I would not expect any difficulty next year. It would amount in fact to a conscious decision to boycott employment in agencies or in the public sector and I don't think that is likely to happen.

REVD. JOYCE M. BENNETT:—*Sir, from Mr. ROWLANDS's reply, is it then the fact that the voluntary agencies were willing to use their own funds to pay at point 17, indicating their belief that point 14 is not a satisfactory point at which these people should be starting work?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, I don't think it's up to me to suggest precisely what went through the minds of the voluntary agencies when they decided to offer the higher salary.

DR. HO:—*Is the Secretary for the Civil Service aware that all the S.W.A.'s who turned down the offers by S.W.D. are now being employed in the private sector at point 17?*

SECRETARY FOR THE CIVIL SERVICE:—Yes, Sir, I am aware of that.

REVD. JOYCE M. BENNETT:—*Sir, how many years have these students studied after their Form V certificate before they took this post at point 17—if they had been to Baptist College or the Polytechnic, or Shue Yan?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, it is my understanding that a typical student would have stayed on at school in Form Lower VI and possibly in Form VI and would then have done a two-year course.

REVD. JOYCE M. BENNETT:—*Sir, is it not true though that many of them could have done two years in the Sixth Form plus four years at the Baptist College?*

SECRETARY FOR THE CIVIL SERVICE:—Yes, Sir.

REVD. JOYCE M. BENNETT:—*Will the Government please seriously consider reviewing the salary of the Social Work Assistant and restoring the point 17 for their start?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, I don't think that I have anything else to add to my written answer and I do not believe that the facts justify a review at the present time.

Government control over commodities trading companies

11. MR. PETER C. WONG asked:—*In view of the recent sudden closure of several commodities and gold futures trading companies, what action will Government take to tighten its control on the activities of such companies?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, since the beginning of this year the Commissioner for Commodities Trading has revoked or suspended the registration of 12 commodity dealers pursuant to the Commodities Trading Ordinance. 11 have had their registrations revoked or suspended since July. All the dealers who have had their registrations revoked or suspended are limited companies.

To put the Commissioner's action in context, I should add that at the beginning of the year there were 290 registered dealers. Of the 12 who have had their registrations revoked or suspended, three had already failed because of financial problems that they had encountered.

Reasons for failure

The Commissioner for Commodities Trading was obliged to take action because it was found that these 12 dealers had failed to comply with various requirements under the Ordinance. For example, some had failed to keep proper accounts, or segregated accounts in respect of clients' funds. And there were instances of misuse of clients' funds and failure to execute orders. Investigations are still continuing and it would be premature for me to make any statement as to their outcome. Unfortunately, investigations are likely to take time having regard to the fact that in some cases there is an overseas element.

Existing powers and duties

The Commissioner for Commodities Trading is already vested with considerable powers under the Commodities Trading Ordinance and is entitled to impose conditions on the registration of a dealer. This he is doing. Furthermore, registered dealers are required to submit to the Commissioner annual financial

statements. And by virtue of section 49 dealers are required to appoint auditors. An auditor so appointed has an obligation to inform the Commissioner of any matter which may affect the financial position of a dealer to a material extent, and is obliged to report to the Commissioner any evidence that a particular dealer is not complying with the accounting requirements, if this be the case. The Commissioner may appoint a separate auditor to examine the books of a dealer whether on the receipt of a report from the dealer's auditors or from the clients of that dealer, or if a dealer fails to lodge an auditor's report.

Amendments to legislation

It is recognized that the provisions of the Ordinance, particularly in relation to intervention, need to be strengthened. In May a Working Party chaired by the Commissioner was appointed to review the Commodities Trading Ordinance generally. Members will recollect that in June this year penalties for various offences under the Commodities Trading Ordinance were substantially increased.

Staffing

Attention has also been given to the provision of additional staff resources to strengthen the Commissioner's office. In July this year a new post of Deputy Commissioner was created together with an additional post of Assistant Commissioner. This latter post is expressly charged with responsibilities in relation to commodities trading. Both the posts of Deputy Commissioner and Assistant Commissioner have been filled from within the Commissioner's office. In November a number of new posts were created to assist in the work of the office of the Commissioner, and at present there are two posts of Senior Securities Officer and five posts of Securities Officer assigned specifically for the purposes of the Commodities Trading Ordinance.

Overseas contacts

Lastly, the Commissioner has been taking steps to build up wider and closer contacts with overseas regulatory authorities. This is particularly important, having regard to the international nature of commodities trading.

MR. PETER C. WONG:—*Sir, I am grateful to the Secretary for Economic Services for his detailed answer. May I ask will Government consider further strengthening the provisions of the relevant Ordinance?*

SECRETARY FOR ECONOMIC SERVICES:—*I don't wish to pre-empt the deliberations of the working party under the chairmanship of the Commissioner, but certainly, depending upon the results of the working party, we would consider strengthening the provisions of the Ordinance.*

MR. ALLEN LEE:—*Is the Commission properly staffed to monitor the activities of these trading companies to safeguard the interests of the consumers?*

SECRETARY FOR ECONOMIC SERVICES:—Could Mr. LEE repeat that?

MR. ALLEN LEE:—*Is the Commission properly staffed to monitor the activities of these trading companies to safeguard the interests of customers?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, Sir.

Road safety at the junction of Chai Wan Road and Shau Kei Wan Road

12. MISS TAM asked:—*In view of the number of traffic accidents occurring in the Chai Wan Road and Shau Kei Wan Road junction area will Government state:*

- (a) what are the major causes of such accidents; and*
- (b) What measures are the Government taking to improve the road safety conditions in that area?*

SECRETARY FOR TRANSPORT:—Sir, almost all the traffic accident casualties in this junction area are pedestrians, and the major cause has been the limited pedestrian facilities for crossing Shau Kei Wan Road.

To make crossing safer at this location, in December 1981 an all red phase lasting six seconds was introduced into the vehicle traffic signal sequence. Higher intensity traffic signals were installed and guard rails erected along Chai Wan Road and Shau Kei Wan Road to channel pedestrians into the proper crossing places. Despite the introduction of these measures and some initial success in checking the increase in the number of traffic accident casualties, this location is still a problem spot. Further measures are being prepared including a specific pedestrian phase in the signal sequence for those pedestrians crossing Shau Kei Wan Road, and the erection of additional safety fences on Shau Kei Wan Road and Chai Wan Road, and on the central divider on Chai Wan Road.

MISS TAM:—*Sir, may I ask when will such dividers and safety measures be completed?*

SECRETARY FOR TRANSPORT:—The ones I have mentioned will be completed within the first six months of next year. I would wish that it could be quicker, but I am afraid that it cannot.

MISS TAM:—*Sir, considering that the said junction is located at the end of a sharp down-hill glide of Chai Wan Road, and there are accidents involving vehicles coming down from the said stretch of Chai Wan Road travelling into the junction area, may I ask if the Government is taking any measures to improve the road safety conditions on that stretch of Chai Wan Road?*

SECRETARY FOR TRANSPORT:—Sir, skid resistance material was laid on Chai Wan Road earlier this year. More and larger signs instructing traffic to engage low gear will be erected on the down-hill slope of Chai Wan Road. The fencing

along Chai Wan Road and Shau Kei Wan Road will also be strengthened, but it is a fact that that *is* a steep hill, and I think without in any way referring to the outcome of the investigations of the accidents which I think Miss TAM has in mind, it is a question of drivers going down that hill at a sensible speed. If a driver goes at a speed which is too great, then whatever one does by way of traffic barriers and so on may not be sufficient to protect pedestrians.

Statements

Hong Kong Export Credit Insurance Corporation—Annual Report 1981-82

SECRETARY FOR TRADE AND INDUSTRY:—Sir, tabled today is the Report of the Hong Kong Export Credit Insurance Corporation for 1981-82, and its accounts, in accordance with section 28 of the Hong Kong Export Credit Insurance Corporation Ordinance.

Established in 1966, the Corporation functions as Hong Kong's official export credit insurer, providing protection for manufacturers and exporters of Hong Kong against the risks of their not being paid for the goods and services they supply to overseas clients. While the Government has provided the Corporation with capital standing at \$20 million, and with a guarantee of its liabilities now up to \$3,000 million, the Corporation operates on a commercial basis and is required to pay its own way, deriving its income from premia payable by its policy holders and also from investment returns.

During the year 1981-82, there was moderate growth in the business of the Corporation. The value of exports insured increased by 8.8% over the previous year to reach \$3,817 million. Gross premium income grew by 6.5% to \$19.4 million and there was also a net increase of 96 policies issued bringing the total to 1 209. With the increase in business, total maximum liability underwritten stood at \$2,342 million at the close of the financial year under review.

The Corporation's insured exports, as was the case in the previous year, represented about 4.6% of Hong Kong's total domestic exports. There was moderate expansion in most markets where there is business for the Corporation. The E.E.C., with \$2,138 million of insured exports, was the largest exposure area. Amongst the E.E.C. States, U.K. remained the largest single market covered, with 17% increase in business at a value of \$1,241 million. North America and Australia also registered business increases of 25% and 32%, that is to say 554 million and 230 million respectively. The products covered by the Corporation were also consistent with the overall pattern of our exports. Textiles, mainly in the form of clothing, represented 43% of exports insured, followed by toys at 11%. Of particular interest was the substantial increase of 145% for radios and electronic components to the value of \$213 million.

The problems of recession and bankruptcies in nearly all overseas markets, and political upheavals in some countries have been the cause of increasing claims payable. In 1981-82, \$20.9 million was required to meet and to provide for claims. This increase of nearly 50% in claims meant that the Corporation had to sustain an underwriting deficit of \$5.78 million. This was, however, offset by an improved yield from investment income, which increased by 34% to \$8.1 million, leaving the Corporation with an overall surplus of \$2.3 million.

There are two main causes of claims, commercial and political; the former is when an overseas buyer becomes bankrupt, defaults on payment or repudiates his contract; and the latter when there is a change in the circumstances in the buyer's country, resulting in, for example, shortage of foreign exchange, civil disturbances or import restrictions. In 1980-81, the commercial risks accounted for 61% of the claims amounts paid, while 1981-82 the commercial risks claims grew to 84%. Losses occurred in nearly all markets, with Western Europe and in Latin America in the lead.

Sir, I am confident we can view the high rate of claims to premium income in 1981-82 as being exceptional. It was a difficult year worldwide. The Commissioner and his staff will continue to work towards the Corporation's aim of increasing the volume of business with a tolerable quality of risk.

Trade Development Council Annual Report and Accounts 1981-82

MR. BROWN:—Sir, the Annual Report of the Trade Development Council for the year ended 31 March 1982 is among the papers laid on the table of this Council today.

May I take this opportunity to highlight some of the promotional events during this year and outline some of the work carried out by the Trade Development Council during this period. However for greater detail, I would ask Members to read this report, which contains much statistical data.

As Members are well aware, the past year has been one fraught with economic difficulties. The major countries of the world, which are the primary markets for Hong Kong's exports, have been in deep recession and, generally speaking, world trade has remained stagnant.

In fact, total world merchandise trade last year dropped by one per cent in value terms, the first decline recorded since 1958. At the same time, many governments have adopted even more restrictive trade policies in an attempt to protect home industries and to alleviate high unemployment problems.

Faced with such unfavourable conditions, the work of the Trade Development Council is made all the more difficult, yet, evidently more important also. These adversities have exerted great pressures on Hong Kong's businessmen

and the T.D.C. to maintain our export performance. Yet, even against this background, Hong Kong's external trade in 1981 could be described as satisfactory. Total world trade reached a record HK\$260,537 million to show a rise of 24 per cent over the previous year's level.

For the year under review, even greater efforts were made by the T.D.C. to expand promotional activities of Hong Kong's products and image abroad.

The T.D.C. has formulated a programme of trade promotions aimed at diversifying Hong Kong's products and markets. In the 1981-82 financial year, over 60 promotional projects were organized overseas. Though garments faced more restrictions overseas than any other sector of Hong Kong's industry, the T.D.C.'s major fashion promotion at the 41st Salon International du Pret-a-Porter Feminin in Paris in April 1981 captured the attention of the world's press, as well as tremendously enhancing Hong Kong's image as a major fashion producer.

Following up on this success in Europe, the T.D.C. has planned further major garment promotions in Japan which is a market offering considerable untapped potential.

In other areas, the T.D.C. expanded its participation in the Inhorgenta Fair for watches and jewellery in Munich, the American International Fur Fair in New York and the International Toy and Sporting Goods Fair in Sydney, to name a few. Responding to demand, the Council also participated for the first time in the I.S.P.O. Sporting Goods Fair in Munich and the National Hardware Show in Chicago while pilot participations were mounted in the Chain Stores Fair in Tokyo and the Thessaloniki International Trade Fair in Greece.

Though product promotion via participation in major trade fairs is a major part of the T.D.C.'s objective, the Council is also mindful of the need to cement better economic relations with the governments of major countries. During the year, high level economic missions, seminars and official visits were led by T.D.C. chairman, Sir Yuet-keung KAN to such places as France, the United Arab Emirates, Egypt—where the mission was warmly received by the late President Sadat,—Greece, F. R. Germany, Austria and Mexico where the T.D.C. opened a new office in March this year. T.D.C. senior executives also went on study missions to the People's Republic of China to promote closer liaison and expand lines of communication and co-operation with trade bodies of that country.

Such activities are likely to be stepped up in the following years as a result of successful and fruitful dialogues with senior Government officials and commercial leaders. Reciprocally, during the year the T.D.C. has also met 125 incoming trade delegations from 31 different countries. During these visits, intensive programmes were arranged by the T.D.C. for the foreign dignitaries and businessmen to give them maximum exposure to Hong Kong's industries and infrastructure.

In addition to these exchanges, the T.D.C. handled a total of 117 551 trade enquiries while the publicity department distributed some 1.5 million publications which included its four major magazines together with a wide range of information brochures.

During the year, the T.D.C. organized the annual Hong Kong Toy and Gift Fair which attracted some 5 000 buyers. T.D.C. staff also assisted other industry groups in the organization of specialized shows such as the Hong Kong Watch and Clock Fair and the Hong Kong Electronics Fair. Assistance was also offered to foreign trade bodies in staging exhibitions in Hong Kong and these included the Indian Textile Exhibition in May, the Japan Wool Textile Exhibition in October, the Westminster Chamber of Commerce and the American Textile Exhibition in February this year.

As a member of the Trade Development Council I am happy to say that no effort has been spared, or will be spared in the future, to ensure that Hong Kong products receive the maximum exposure in our overseas markets and that our reputation as one of the major manufacturing and trading centres of the world is maintained.

Government Business

Motions

LEGAL AID ORDINANCE

THE LAW DRAFTSMAN moved the following motion:—That the amounts of disposable income and disposable capital specified in subsection (1) of section 7 of the Legal Aid Ordinance be amended, with effect from 3 January 1983, by substituting—

- (a) for ‘one thousand dollars’, ‘one thousand five hundred dollars’; and
- (b) for ‘ten thousand dollars’, ‘fifteen thousand dollars’.

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

The Legal Aid Ordinance currently specifies that legal aid for civil cases may be made available to persons who have disposable incomes of not more than \$1,000 a month and whose disposable capital resources do not exceed \$10,000. These means test limits were raised to their present levels in June 1977. Since then inflation has had its effects and the cost of living and wages have risen substantially. The cost of obtaining legal representation has also risen substantially.

This motion, therefore, seeks to raise the present means test limits for legal aid in civil cases from a monthly disposable income of \$1,000 to \$1,500; and for disposable capital from \$10,000 to \$15,000. The new limits will apply from

3 January 1983, and will mean that more people will be financially eligible for legal aid in civil cases and it is expected that as a result, the number of successful applications under the scheme will increase by around 16% next year.

The Legal Aid Ordinance and Regulations made under it require some recipients of legal aid to make contributions towards the cost of the services provided to them. If the means test limits are increased, then obviously the threshold at which contributions become payable from income and capital will have to be raised and the scales of contributions extended. Provision for those matters has been incorporated in the Legal Aid (Assessment of Contributions) (Amendment) (No. 2) Regulations 1982 which were approved by the Executive Council yesterday subject to this motion being passed. I should add that those regulations also provide for a substantially more generous method of assessing the disposable capital of legal aid applicants.

Sir, I beg to move.

Question put and agreed to.

CRIMINAL PROCEDURE ORDINANCE

THE LAW DRAFTSMAN moved the following motion:—That the Legal Aid in Criminal Cases (Amendment) (No. 2) Rules 1982, made by the Chief Justice on 2 December 1982, be approved.

He said:—Sir, I move the second motion standing in my name on the Order Paper. This is concerned with legal aid in criminal, as opposed to civil, cases.

Provision for such aid is contained in the Legal Aid in Criminal Cases Rules made by the Chief Justice under the Criminal Procedure Ordinance. The current means test limits in those Rules are a monthly disposable income of \$1,500 and disposable capital of \$10,000.

However, unlike the position under the legal aid scheme for civil cases, most applicants for aid in criminal cases have no difficulty in meeting the means test. This is because in practice most such applicants do not have disposable capital or income of the order in question.

Nevertheless, I am sure, that Members will agree that it is desirable that there should be uniform financial criteria for eligibility under the two legal aid schemes. To achieve this, only the disposable capital limit needs to be increased to \$15,000 as the disposable monthly income limit is already \$1,500. Provision to increase the disposable capital limit to \$15,000 has been made by the Chief Justice in the Legal Aid in Criminal Cases (Amendment) (No. 2) Rules 1982. In line with the increased limits for civil cases, these Rules are designed to take effect on 3 January 1983. But before they can do so they must receive the approval of this Council and it is that approval that this motion seeks.

Like the legal aid scheme in civil cases, the scheme for legal aid in criminal cases also requires some recipients of aid to make contributions towards the cost of the services provided to them. However, the Legal Aid (Assessment of Contributions) Regulations that I mentioned in moving the previous motion will apply for the purpose also of regulating contributions in criminal cases. There is, therefore, no need to make special provision for contributions in relation to criminal cases.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

PUBLIC FINANCE BILL 1982

PNEUMOCONIOSIS (COMPENSATION) (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

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to provide for the control and management of the public finances of Hong Kong and for incidental and connected purposes’.

He said:—Sir, the purpose of the Public Finance Bill 1982 is for the first time to provide a statutory framework for the control and management of the public finances of Hong Kong. The Bill does not introduce any change basic or otherwise in the present system, which in essence meets current needs. However, the authorities which underly this system are various and often untraceable. The Bill is therefore designed to clarify these authorities and to bring them together in one place. Its provisions are consistent with the provisions of the Letters Patent and the Royal Instructions.

There is only one change to which I must draw Members’ attention. Proposals for supplementary provisions during the course of a financial year are at present first examined by Finance Committee and, following approval by that committee, are submitted to this Council for covering approval. In practice, the initial approval given by Finance Committee is taken as sufficient authority for the Government to proceed. This practice is recognized in the Bill which provides for Finance Committee to approve supplementary provisions without obtaining covering approval from this Council. However, all

supplementary provisions approved by Finance Committee or under delegated powers will be tabled in this Council at the end of each quarter. Where the total provision appropriated for a head of expenditure is exceeded, the excess will, as now, be covered by a Supplementary Appropriation Ordinance as soon as possible after the close of a financial year.

The Bill, Sir, will facilitate the delegation of financial authorities by simplifying the chain and method of delegation. There is an undoubted need to extend the limits of delegation in view of the increasing complexity and pace of Government business. It is intended that the Bill will come into effect on 1 April 1983.

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 FINANCIAL SECRETARY.

Question put and agreed to.

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1982

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to amend the Pneumoconiosis (Compensation) Ordinance’.

He said:—Sir, in moving the second reading of the Pneumoconiosis (Compensation) (Amendment) Bill 1982, I am proposing amendments that have been recommended by the Pneumoconiosis Compensation Fund Board and which are similar to those made to the Industrial Training (Construction Industry) Ordinance (Cap. 317) on 7 January 1981.

In the administration of the levy scheme, the Pneumoconiosis Compensation Fund Board has found that the number of cases of non-reporting or late reporting of work commencement has been on the increase resulting in the Board losing interest income and incurring higher administrative costs. The Board has accordingly recommended the inclusion of a provision for a 5% penalty for late payment of levy or surcharge, as well as a further 5% penalty where the levy or surcharge is still outstanding three months after the expiry of the prescribed period.

The Pneumoconiosis (Compensation) Bill 1982 also introduces provisions in order to enable the Fund Board to employ professional quantity surveyors to counter-check the value of construction works and to divulge information to the Construction Industry Training Authority and the Fund Board.

The proposed amendments are designed to give effect to these two points, with the necessary consequential and transitional clauses.

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

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

Question put and agreed to.

KOWLOON-CANTON RAILWAY CORPORATION BILL 1982

Resumption of debate on second reading (8 December 1982)

Question proposed.

MR. PETER C. WONG:—Sir, in introducing the second reading of this Bill, the Secretary for Transport eloquently summarized the events leading to the proposed establishment of the Corporation, the rationale for so doing and the main provisions of the Bill.

The Community Services Working Group of the Unofficial Members of this Council, initially convened by Miss Lydia DUNN, met on three occasions to study the Bill, including a useful session with the Secretary for Transport.

The Bill is based partly on the existing Kowloon-Canton Railway Ordinance which was enacted in April this year replacing the 1909 Ordinance as a result of the electrification of the railway, and partly on the M.T.R. Ordinance, with certain safeguards built in to ensure that Government, being the sole owner of the Corporation, will have substantial policy controls on financial and other matters. In this respect, the Bill appears to represent a compromise, balancing the interest of the Government on the one hand and that of running the enterprise on purely commercial principles on the other. It is not easy at this stage to say whether the right balance has been achieved.

The main safeguards are contained in clause 6 and Part III of the Bill. While recognizing that some controls are both necessary and desirable in the public interest, the Group would like to see that such controls are cautiously exercised and that they would not hamper the smooth operation of the Corporation in accordance with prudent commercial principles. As this is the first major Government department to become a statutory Corporation, it is important that its operation be kept under regular review. I am sure we will all wish to ensure that this first project will be a success.

Part III of the Bill relates to financial matters of the Corporation. There is no compelling reason why Government should remain indefinitely the sole owner of the Corporation. The Secretary for Transport's indication that at some future date the public might be permitted to own shares of the Corporation is therefore welcome news. Public participation will, no doubt, have its advantages and may enhance the efficiency of the Corporation.

Certain powers conferred on the Corporation to enter private land as contained in Part V of the Bill are, in the opinion of the Group, perhaps unnecessarily wide. Furthermore, the lack of redress or compensation in certain cases where damage may have been caused to private property is a matter for concern. However, it is argued that these powers are necessary if only to protect the Corporation from vexatious claims and that the absence of redress or compensation is more apparent than real. On balance, we accept that in the majority of cases, the private land owner is well protected and it is unlikely that the Corporation would abuse its powers or behave in an irresponsible manner, bearing in mind that it will be wholly owned by Government.

Nevertheless, we are pleased that Government has agreed to the following amendment—

Clause 29(4) The original clause reads as follows—

‘No claim for compensation shall be accepted by the Corporation or the Lands Tribunal after the date fixed by the Governor by notice in the *Gazette* in respect of claims arising out of the work specified in the notice.’

A notice in the *Gazette* is useful as an official record but may not be really helpful to a claimant. Not everyone reads the newspaper, far less the *Government Gazette*. To avoid any injustice that may arise, it was agreed that a more acceptable limitation would be by reference to a fixed period of time. The proposed amendment reads as follows—

‘No claim for compensation shall be brought after the expiration of three years from the date on which the injury on which the claim is founded was suffered.’

Finally, the Group is pleased to note that appropriate *ex-gratia* compensation arrangements will be made for the benefit of the existing Kowloon-Canton Railway staff and that they will be offered appointment by the new Corporation. Needless to say, it is a matter of importance that the existing staff should be made fully aware that when they join the new Corporation, they will cease to be civil servants and become employees of a private commercial enterprise.

Sir, in supporting the motion, I would like to wish the new Corporation every success in its endeavour to provide for the people of Hong Kong an efficient, economical and safe form of transport.

MR. SWAINE:—Sir, on 15 September 1981 the Governor in Council approved the conversion of the Kowloon-Canton Railway into a public corporation. The present Bill seeks to implement that decision. In the interim period a Transitional Board chaired by the Secretary for Transport and comprising official and unofficial members has been at work in order to make the transformation possible.

The proposed K.C.R. Corporation will be wholly-owned by Government, and this is reflected by the provision in clause 10 concerning the initial capital of the Corporation, which is estimated at \$4.2 billion, the bulk of which comprises the assets transferred from the Government as well as the cost of modernization and electrification. This figure represents Government's investment in the railway, of which the amount of \$1 billion is treated under clause 10(2) as a debt due by the Corporation to the Government.

Reflecting its nature as a public corporation, clause 5 provides that the Corporation, when exercising its powers, shall have regard to the reasonable requirements of the public transport system of Hong Kong, and to the efficiency, economy and safety of operation of its services and facilities. The Corporation's charter is enshrined in clause 8 which enjoins the Corporation, in so far as consistent with the proper discharge of its functions and duties, to achieve a satisfactory rate of return on the assets employed in its undertaking in accordance with ordinary commercial criteria.

Consistent with the Government's investment in the Corporation, various financial safeguards are written into the Bill in order to protect the Government's interest, but express provision is made in each case for the Government's powers to be exercised only after consultation with the Corporation.

In a sense this reflects the dilemma inherent in the hiving-off process: to what extent should the Corporation through its Board be fully autonomous and how much residual financial power should Government reserve to itself over its statutory offspring. After much thought and deliberation, the present Bill represents, I believe, a balanced package.

Sir, I would therefore support the motion.

MR. CHEUNG YAN-LUNG:—Sir, the Bill before us, on being enacted, will decree that the K.C.R. should become the K.C.R.C. Only one extra letter of the alphabet has been added, but it signals such important changes just ahead.

A Government undertaking becomes a corporation, a diesel train service fades into history as an electric train service turns into reality, and millions of train travellers face the bright prospect of comfortable, convenient and fast through-travel by train between the heart of urban Hong Kong and the northern limit of the New Territories.

Developing the K.C.R. into the K.C.R.C. is a complex and long term process that must take into account personnel, finance and a multitude of other considerations. Unlike its urban railway cousin, the M.T.R., which was a newly-created transport service, the K.C.R. has been an existing railway service for over half a century which must now, not only 'switch tracks' as it were, but also transform itself into a body-corporate.

By so doing, the entire nature of the Railway must alter because in its new capacity, its Management Board is given a much greater freedom and wider discretion in the exercise of its managerial powers and in the performance of its statutory duties. In this regard, there will be a need for watchful and continuous reviews to ensure that the correct balance of public and private interests is maintained. By enacting this particular Ordinance, this Council is showing an immensely great confidence in the new statutory creature.

Let us hope that streamlined operations and more efficient services will be among the positive results achieved by the Corporation. It is also hoped that, given the scope to extend and improve the existing railway service, to recruit, reward and discipline its own staff, and to determine its own fares and charges, the K.C.R.C. will, at all times, keep the welfare of the travelling public at the forefront of its decision-making process.

Before the complete electrification of train services can be fully operational, it is worth mentioning that there are grounds for improvement to the existing railway systems. The most pressing one being that of scheduling. At present the only satisfactory scheduling applies between Kowloon and Sha Tin. For the rest of the New Territories the public is more or less forced into taking alternate means of transport because of bad scheduling. If this is not improved as soon as possible, it will mean a loss of revenue to the K.C.R.C. Transport by rail must be given a face-lift, cleanliness and maintenance of train carriages and station amenities must be given due attention.

I look for an early settlement arrangement between the K.C.R. staff and the Government so that the K.C.R.C. can succeed more smoothly. At this point, I wish to pay tribute to the staff of the K.C.R., especially long-serving staff, for their loyal and dedicated service to the Railway. Being a New Territories Belonger, and having been brought up in the rural setting, I have always regarded the K.C.R. officers as members of my own community. Speaking as a veteran K.C.R. passenger, I can vouch for the fact that for over half a century all K.C.R. personnel have always regarded themselves as part of the New Territories. Their dedication to their respective jobs has been the same as we would have dedicated to our ancestral heritage. Formation of the K.C.R.C. will bring about changes in the terms and conditions of employment of all serving K.C.R. staff, whose support and goodwill are among the most valuable assets of the future K.C.R.C. I look forward to seeing the same dedication in the years to come.

The new electric trains will improve passenger travel first and foremost, but they will also ease the workload of operations staff, especially in the enforcement of better discipline aboard trains, and by ensuring that all train travellers have previously purchased their tickets before boarding the trains. In fact, these are changes about which we should all be smiling soon.

Finally a plea for the preservation of the beautiful countryside landscape through which the Railway passes. At present, private developers contribute to the beautification of some areas to the landscape, making a train ride a pleasant scenic experience. I hope that this unofficial programme of beautification will not be discontinued when the Railway rings in the K.C.R.C. on 1 January 1983.

With these remarks, Sir, I support the motion.

SECRETARY FOR TRANSPORT:—Sir, Mr. Peter C. WONG has referred to the work done on this Bill by the Community Services Working Group of the Unofficial Members of this Council, and summarized their principal concerns. I am very grateful for their wise advice and confirm agreement with the amendment which Mr. WONG will move to clause 29(4)

Mr. CHEUNG Yan-lung has felicitously described the transformation of the Kowloon-Canton Railway, and what the public and the Government will expect of the new Corporation. In several of his many public roles, he will no doubt continue to keep a close eye on the standard of service of the Railway. I assure him that scheduling and service from Sha Tin to Lo Wu will be vastly improved as the next two stages of electrification are completed by the middle of next year. I then hope we shall see more smiling passengers.

Finally, Sir, I am grateful for Mr. SWAINE's analysis of the principles behind this Bill and his conclusion that we have found the right balance between the public interest particularly the travelling public and the requirements of a commercially-oriented corporation. I trust that he will turn out to be right.

Sir, I beg to move.

Question put and agreed to.

Bill read the second time.

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

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1982

Resumption of debate on second reading (8 December 1982)

Question proposed.

REVD. JOYCE M. BENNETT:—Your Excellency, when this Bill was discussed by the Unofficials, there was general acceptance of the changes proposed in the size and weight of future public light buses, especially as the aim is to ensure greater safety for passengers and the general public. I too support these improvements.

However, I wish to draw attention to a number of weaknesses in the control of public light buses on our roads.

They have proved to be very useful in carrying passengers in Hong Kong, but too often their public image is spoiled. They are double parked and parked on the corners of streets blocking the free flow of traffic—an example is Tung Ming Street in Kwun Tong and the corner of Hang On Street and Tung Ming Street. Drivers make U turns in the middle of streets, causing chaos to the traffic—an example is Hip Woh Street in Kwun Tong. I am sure other Members of this Council can supply the authorities with details of other streets where the public is troubled by the lack of discipline of public light bus drivers.

I mentioned the problems of double parking, I should like to draw your attention to the fact that if each public light bus, as I understand it, can be in future one foot longer, fewer vehicles will be able to be parked in the present public light bus stands. Can we expect even more public light buses parking illegally?

I remember a few years ago we had a strike of their drivers and many people found their journeys whether by public or private transport were easier. We must ensure that these heavier and bigger public light buses are not driven carelessly or recklessly nor exceeding the speed limits. Were they to do so, there may be even more dangers than in the past.

Another point that has exercised my mind as I pondered these larger and heavier vehicles concerns their extra cost. Surely this extra cost will be passed on to the passengers. I therefore beg the Transport Department not to withdraw Kowloon Motor Bus or China Motor Bus routes and replace them by maxicabs or minibuses. These public light buses will still only seat 14 passengers. They cannot cope with rush hour traffic and they use up too much road space. I continually see very long queues for the public light buses in Kwun Tong to take passengers from central Kwun Tong to such places as Sau Mau Ping. In earlier years I understood that public light buses were to be a temporary measure until we could have enough franchised omnibuses. It was also said public light buses would go where omnibuses could not go. These aims seem to have been forgotten. Is that wise?

My last point relates to their fares, which seem to be less under control than the fares of the omnibuses. At the Lunar New Year, for instance, the fare of a minibus will shoot up in price. I am concerned that some drivers may find the operation of these larger vehicles will not be viable. Am I right that the larger, heavier vehicles will use more fuel per mile? What controls will be exercised over the fares?

Apart from raising these danger signals concerning public light buses, I am pleased to support a bill which is aimed at improving our travel by public light bus.

DR. HO:—Sir, the Road Traffic (Amendment) (No. 2) Bill 1982 is worthy of support, because when enacted, it will make travelling by public light buses safer and more comfortable.

However, I am not without misgivings. The Road Traffic Ordinance specifies that the seating capacity of the light bus, regardless of the type of vehicle being used is 14. As the new type of light bus will be larger, heavier and more powerful, the operating cost is likely to be higher than that of the existing models. This increase in operating cost will inevitably be passed on to the passengers. I would therefore like to ask the Transport Department to protect the interests of the commuting public and to guard against light bus operators taking advantage of the opportunity to raise bus fares higher than is justified by any actual increase in operating cost. Some unscrupulous light bus operators already have the reputation of ruthlessly jacking up the bus fares under circumstances favourable to themselves, such as during rush hours, typhoon days and certain statutory holidays.

With these remarks, Sir, I support the motion.

SECRETARY FOR TRANSPORT:—Sir, Miss BENNETT and Dr. Ho Kam-fai expressed concern about the possible effect on fares of the introduction of larger light buses. There may indeed be an increase in operating costs, for example if air-conditioned vehicles are introduced—but this would provide a better service. At present, operators have virtually no choice of model, but this Bill will allow them to ‘shop around’ thus introducing an element of price competition among suppliers. Increases in depreciation because of these being new vehicles and fuel costs should to some extent be offset by lower maintenance costs, as compared with elderly P.L.B.s near the end of their working life.

The points made by Miss BENNETT about the control of public light buses are continually in our minds—indeed, Sir, we are never allowed to forget them! There are already considerable controls, for instance, through the designation of P.L.B. prohibited zones. Notwithstanding their admitted disadvantages, P.L.B.s have become an accepted feature of the transport scene in Hong Kong, and they provide about 19% of public transport passenger journeys. The problem of their duplicating the routes of franchised buses is fully understood. The number of P.L.B.s has been frozen for some years at 4 350 and encouragement is given to P.L.B. operators to provide maxicab services. 560 of the 4 350 P.L.B.s in fact now operate on maxicab routes. Maximum fares for maxicab routes are set by the Government, and the routes selected are generally those where access for franchised buses is difficult or where the passenger load does not justify service by a franchised company.

There is no Government control over the fares of P.L.B.s (other than maxicabs) and they generally face competition from franchised buses, the Mass Transit Railway, trams and taxis. This to some extent determines the level of

fare which they can charge. Nevertheless, I must admit that the particular criticisms of Dr. Ho and Miss BENNETT in respect of fares being jacked up have to be admitted.

This Bill is aimed, however, as Miss BENNETT concludes, 'at improving our travel by public light bus'.

Sir, I beg to move.

Question put and agreed to.

Bill read the second time.

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

ROAD TRAFFIC BILL 1982

Resumption of debate on second reading (8 December 1982)

Question proposed.

MR. CHAN KAM-CHUEN:—Sir, I rise to support the Road Traffic Bill 1982.

This Bill is controversial as it affects both the minority, motorists, and the whole community of pedestrians. The loudest outcry has come from professional drivers and as they spend more time each day on the road than most private motorists do in a whole week, I sympathize with their anxiety over the increased fines and the possibility of suspension of their driving licences.

However, good roads and traffic management in my opinion are essential in a crowded city like Hong Kong and should achieve two main objectives—accident prevention and smooth flow of traffic.

Suffice it to say that smooth flowing traffic systems are like healthy arteries enabling people to move swiftly to and from work, goods to be distributed efficiently, and at leisure hours recreation to be pursued and shopping to be done.

To make our roads safe is even more important. Every effort made to save that extra unnecessary death or loss of limb from traffic accidents is worthwhile.

Traffic accidents are due to four main causes, the driver, the pedestrian, the vehicle and the road system. From the traffic accident report for the 3rd quarter of 1982, one can see that the contributing factors in traffic accidents were 68.4% due to drivers and 31.6% due to pedestrian negligence. Of the cases due to drivers' negligence 40% were due to driving too fast.

Of the cases due to pedestrians' negligence about 75% happened when crossing roads and possibly jaywalking. It is interesting to note that 35.8% of casualties are of the 20 to 30 age group and not the aged or children. It is therefore good advice not to run across the road thinking one can outrun an approaching vehicle. Government should tackle the jaywalking problem with standard measures. Footbridges without escalators are not favoured by pedestrians who continue to jaywalk but the elevated walkways in Central are frequently used by pedestrians. Segregation of traffic from pedestrians is one of the best means of accident prevention.

The annual inspection of vehicles would eliminate many accidents due to lack of maintenance by owners.

As to road systems contributing to traffic accidents, the records of the Tuen Mun Highway could throw some light on this subject.

Reckless Driving

The introduction of the new term 'reckless driving' to replace 'dangerous driving' brings about quite a few problems in Hong Kong. With a 98% Chinese population, a suitable Chinese translation is important but I must admit that an adequate one is not easy to come by. Even if the best translation is found, it still gives the public a feeling of 'new bottle with the same wine' (新瓶舊酒).

Furthermore, I heard a U.K. legal expert in our City Hall not long ago praise Hong Kong's law for being to the point and easily comprehensible. It is therefore important that we call a spade a spade and thus ensure that the public may understand and abide by the laws which affect their daily lives.

As this new term of reckless driving is still developing in British law, it is reassuring to learn that the Attorney General's office will initially decide on all reckless driving cases and not the Police. However, during the initial period, a clear cut definition will have to be found which can be seen by all laymen as easy to understand and fair. For example, in 'causing death by reckless driving' there is the dead body. If 'reckless driving' could be reserved only for cases of 'grievous bodily injury', the medical certificate could be seen by all as fair and simple. In fact, there were 2 367 such casualties in the last quarter to be considered. It would be sufficient to see justice done and deter reckless driving.

For offences due to bad motoring habits which may or may not cause traffic accidents, fines should serve an educational purpose, as long as persistent offenders are fined progressively heavier each time. Where the offences involved are serious, such as causing death or injury, racing, and driving while under the influence of alcohol or drugs, I support that the full force of the law should be applied, but in other cases, I recommend hitting hard at the offender's purse, subject to their ability to pay by instalments, and not at his rice bowl.

Penalties

It is useless for motorists to complain about the stiffer penalties as the existing ones have been eroded by inflation and the pinch of the penalty is less acute and provides no deterrent to increasing casualties.

For the 12-month period between October 1981 and September 1982 there were 339 335 casualties and for the corresponding period last year there were 323 546. This shows an increase of 8.27% in casualties against an increase of 4.88% in the number of vehicles registered. Increase in population during the corresponding periods has been stable since the flood of illegal immigrants has been stopped.

Although I sympathize with professional drivers as stated before, I regret that their accident figures make it difficult for me to support them except for the reduction in fines etc. to be made by my Colleagues. In the last quarter, the number of vehicles involved in accidents as a percentage of the total number of such vehicles on the road were, in the order of severity as follows:—

Private bus	19.2%
Taxi	8.7%
Franchised public bus	8.1%
Private light bus	6.8%
Public light bus	5.9%
Motorcycle	3.1%
Government vehicles	2.3%
Goods vehicles	1.7%
Private Car	1.2%

Every careless and dangerous action of each driver may contribute to the pool of casualties and when these figures reach an unacceptable level, the authorities have no alternative but to impose more stringent and unpleasant measures in order to cut down the accident figures. Think of the 478 dead in 1981 and all the sad losses to their families and 7 446 seriously injured who may be handicapped for the rest of their lives, then offenders may not find the penalties too harsh. It is the combined efforts of all motorists in being more careful and considerate in their driving habits which will lower traffic accident figures and avoid another round of even stiffer penalties in the future. They are well advised that their licence is to drive and not to kill or maim.

With these observations, Sir, I support the motion.

SECRETARY FOR TRANSPORT:—Sir, as Unofficial Members indicated in their speeches on 8 December and today, there has been extensive discussion of the proposals in the Road Traffic Bill 1982, and amendments to 32 clauses of the Bill and its Schedule are proposed. Accordingly I pay a very warm tribute to the thoroughness with which the Unofficial Members of the Community Services Working Group have examined the proposals embodied in this Bill.

This Council will however wish to be reassured that this plethora of amendments does not mean that the Bill is untimely or that its principles had not been sufficiently well thought out before introduction into Council. It is a long and complex Bill, of 114 clauses with schedules; and along with some substantive amendments, which I shall shortly cover in detail, there are many minor ones involving punctuation, cross references, errors of transcription and changes of terminology. One single substantive change, the transfer of the responsibility for suspending vehicle licences from the Transport Tribunal to the Commissioner for Transport, alone requires several amendments.

Moving so many amendments individually would be very time-consuming and as they are agreed amendments, Your Excellency has approved that they be moved *en bloc*, or rather in several blocks. Mr. S. L. CHEN will move one block of amendments, which reflects certain matters on which Unofficial Members have especially strong views; and I shall move the remainder.

Unofficial Members expressed particular concern about the level of penalties for reckless driving, and Mr. CHEN will move amendments to reduce significantly the level of penalties for reckless driving causing death. The introduction of the concept of reckless driving gave rise to other concerns—about its definition, its translation into Chinese, and how it would be interpreted in practice. On these matters, Sir, I wish to comment in some detail and to give certain assurances.

The absence of a definition of reckless driving in the Bill has been taken by some commentators to mean that the term is not capable of precise interpretation. This is not so. The term 'reckless driving' has been used for almost a decade in United Kingdom road traffic legislation, and its interpretation has been made clear in case law. Indeed, in 1981 in the appeal case of the Queen vs. Lawrence, the House of Lords stated in specific terms what must be proved in order to establish whether a particular piece of driving was reckless. I think, Sir, this is worth repeating again and entering in the record of our proceedings. The Law Lords considered that the standard of the ordinary prudent motorist should be applied and they held that it must be proved:

first, that the defendant was in fact driving the vehicle in such a manner as to create an obvious and serious risk of causing physical injury to some other person who might happen to be using the road, or of doing substantial damage to property; and

second, that in driving in such a manner the defendant did so without having given any thought to the possibility of there being any such risk, or having recognized that there was some risk involved, had nonetheless gone on to take it.

Having studied this judgment, Unofficial Members have, I am grateful to record, accepted that it is not desirable to define reckless driving in the Bill, because this would put the concept in a strait jacket and negate its possible further evolution through case law.

Reserving the charge of 'reckless driving' solely for offences involving bodily injury, as Mr. CHAN Kam-chuen suggested a moment ago, would not I think help, because creating a serious risk of physical injury, whether or not actually causing it, is an integral part of the concept of reckless driving in this Bill as stated in the judgment of the House of Lords which I quoted just now.

Unofficial Members, Sir, also reflected the strong concern expressed by drivers' associations that the translation of 'reckless driving' into Chinese used in the explanatory memorandum to the Bill is inadequate. The Secretary for Home Affairs wishes to join me in expressing appreciation for the care with which Unofficial Members have worked to produce a translation which clearly embodies the concept of driving without regard to the consequences. The resulting phrase which is before Members in the written version of this speech (不顧後果的魯莽駕駛) will form part of the explanatory memorandum when the Bill is published as an Ordinance. Without wishing further to confuse the issue, it can be re-translated as 'without regard to the consequences, driving recklessly'.

Anxiety has been expressed as to whether members of the Royal Hong Kong Police Force will be able fairly to distinguish between reckless driving and careless driving. Members of the Police Force will in the normal course be trained in the provisions of the new legislation, including the offence of reckless driving. But in any case, may I point out that the charging of an offence of reckless driving is not left to the traffic policeman at the scene of the offence. The possibility and nature of such charges is carefully considered at senior levels within the Force. Furthermore, I am happy to add this assurance from the Attorney General: that as an additional safeguard, in the initial period following the implementation of the Bill, all cases which are considered to be offences of reckless driving will be referred not only to senior levels within the Force, but also to the Director of Public Prosecutions in the Attorney General's Chambers.

With regard to the level of penalties for serious offences, such as reckless driving, the Bill, as published, proposed tenfold increases. Following discussions with Unofficial Members who considered the Bill in detail, the Administration has accepted that a number of fines should be reduced from the levels proposed, so that they represent a four-fold increase over fines for comparable offences in the existing legislation. I understand that my Unofficial Friends had, inter alia, in mind that a four-fold increase is roughly in line with inflation in consumer prices since 1957, when the existing Road Traffic Ordinance was passed.

Disqualification from driving is not, strictly speaking, a penalty, it is rather a preventive device; but Unofficial Members were chary of it being imposed mandatorily for reckless driving on first conviction, for the reason that in certain circumstances, such a disqualification could be harsh, and yet the courts would be bound to disqualify. The Administration therefore has acceded to

their view that disqualification should be discretionary for first convictions in offences of reckless driving causing death, reckless driving, and driving under the influence of drink or drugs.

An addition to clause 2 is a definition of 'special reasons'. In the amended clauses 35, 36 and 38 a second or subsequent conviction in respect of reckless driving causing death, reckless driving or driving under the influence of drink or drugs would normally attract mandatory disqualification. However, provision is now proposed by amendment for a court or a magistrate for special reasons to order no disqualification or a shorter period of disqualification than is set down in the Bill. In the past, 'special reasons' has been interpreted as applying only to the offence. However, it is now proposed that the definition should be extended to include in exceptional circumstances special reasons relating to the offender, or to such other circumstances as the court may consider relevant. This would permit the court, for example, to take account of driving being the livelihood of the offender or a spiked drink being given to a person convicted of driving under the influence of drink.

I feel, Sir, that I should record my initial hesitation and continuing reservations about reducing the penalties initially proposed. I recognize that these amendments will be welcomed by one section of the community, but I find it hard to overlook the view, which has recently found strong expression in editorials in both Chinese and English newspapers, that pedestrians—the silent majority of road users—deserve to be, and must be, protected from reckless drivers as indeed Mr. CHAN Kam-chuen so forcefully argued a few moments ago, and as Miss BENNETT touched upon in speaking on public light buses in the immediately preceding Bill. It is of course right to be properly concerned about the livelihood of professional drivers—provided they drive safely and sensibly; but we must also be properly concerned about the safety, health and livelihood of pedestrians at risk of being killed or injured by reckless drivers.

Unofficial Members will, I am sure, join me in emphasizing that the reductions in the proposed fines for serious offences, and the changes in the provisions for disqualification in driving, should not be misinterpreted as a weakening of the Government's resolve to tackle driving behaviour which endangers the lives of other road users. And in that connection, and with due respect to the Judiciary, I join those Unofficial Members who noted in their speeches on 8 December that fines actually imposed in connection with convictions for dangerous driving fall far short of the existing maximum penalty in the Road Traffic Ordinance; and who expressed the view that penalties on conviction should reflect the aim of deterrence as well as punishment.

I believe therefore that the question of penalties should be reviewed at an appropriate period after the implementation of the Bill, and shall make arrangements accordingly.

This future review of the adequacy of penalties will also cover the penalty for reckless cycling, to which Mrs. Selina CHOW referred. The maximum proposed penalty for reckless cycling, at \$500, is considerably lighter than the penalties for motorists. However, there must be no doubt that cyclists are required to comply with road signs, and with the regulations, as appropriate to cycles and cyclists, which will be made under the Bill. A cycle is included in the definition of vehicle in the Bill, and so all signs which must be observed by the drivers of vehicles must also be complied with by riders of bicycles. Let me, Sir, also point out that under the present road traffic legislation, cyclists are required to observe road signs.

Mr. CHEUNG Yan-lung dealt with the important aspect of the new system of road signs which, although not part of the Bill itself, it is intended to introduce in the Road Traffic (Traffic Control) Regulations. He asked whether it really is necessary to create a third 'language' by way of a code of symbols and colours. A common 'language' of traffic signs is, I believe, essential. Pictorial signs have been encouraged by United Nations conventions, and are widely used not only in the West, but also in the East, for example in China, and in Singapore. Pictorial signs should largely eliminate any language barrier. They present therefore advantages not only for the many visitors coming to Hong Kong, but also for Hong Kong drivers when abroad. And it is interesting to note that in recent years 30 000 Hong Kong drivers each year have been issued with international driving licences.

However, even in this specialized field of art, beauty to some extent lies in the eye of the beholder; and a recent meeting with Mr. CHEUNG has resulted in a number of his helpful suggestions being accepted.

Several Members just spoke upon the road safety implications of the Bill. In particular, Mr. WONG Lam expressed the hope that the Bill is only part of the Government's overall plan to improve road safety. I hasten to confirm this. Among road safety measures which will be implemented in 1983 are the provision of more pedestrian facilities; more investigations into and remedial works at pedestrian problem spots; a publicity campaign concentrating on pedestrian safety but also emphasizing the value of seat belts (with legislation to follow to make the wearing of seat belts compulsory); the requirement to fit reflective number plates; and better driver training at an off-street driver training centre.

Now, Sir, may I deal with the amendments set down in my name. The first set deals with the definitions of goods vehicles. As I said in introducing this Bill last June, the categorization of goods vehicle by weight must be made unambiguous. The proposed amendments make it clear that a 'light goods vehicle' may have a permitted gross vehicle weight up to and including 5.5 tonnes; a 'medium goods vehicle' would weigh over 5.5 tonnes and up to and including 24 tonnes; and that a 'heavy goods vehicle' may have a permitted gross vehicle weight of over 24 tonnes and up to and including 38 tonnes.

In connection with the revised classification of goods vehicles, driving licence arrangements will also be changed so that after implementation of the Bill a person wishing to drive, for example, a heavy goods vehicle will have to pass the test on such a vehicle. All existing goods vehicle licence holders however, will be allowed to drive heavy goods vehicles without undergoing a re-test. Holders of goods vehicle licences who wish to drive articulated vehicles however will be required to pass a re-test on the vehicle. This was a point of close interest to some Unofficial Members, and I am happy to record their agreement that on safety grounds, this re-test is essential, because of the special and difficult handling characteristics of articulated vehicles.

Traditionalists may regret the replacement of the term 'omnibus' in clauses 7, 24, 26, 51, 113 and the First, Third and Seventh Schedules, by the term 'bus'. Perhaps they will take comfort from the fact that the longstanding Chinese translation will not be affected.

The reference to 'trailers' in clauses 9 and 32 is superfluous, because trailers are covered by the definition of 'vehicle', and should be deleted.

Several amendments concern the operation of Transport Tribunals. A new clause to be inserted after clause 17 will allow the Transport Tribunals to consult a legal adviser. The Bill as drafted placed the responsibility for suspending a vehicle licence with the Transport Tribunal. The Chairman of the Tribunal, Mr. F. K. HU, suggested that it would be preferable for this responsibility to rest with the Commissioner for Transport, and for the Tribunal, as it does in other areas, to consider appeals made against the Commissioner's decisions. Mr. HU's Colleagues and I welcome this suggestion and a series of amendments in Part X are tabled accordingly. An amendment to clause 28 would enable the Commissioner for Transport to issue licences to one-man operations and, naturally, therefore to waive the condition relating to the employment of staff in such operations.

Attention has been paid to style as well as content, and the amendments to clauses 21, 30, 33 and 39 fall in this category.

Clause 40 is amended to increase the fine for speeding in accordance with the guideline of a four-fold increase which I mentioned earlier. The amendment to clause 41 makes it clear that a certificate relating to an application for a duplicate licence can be treated in the same way for the purposes of sub-clause (2) as a certificate relating to an application for a licence renewal.

There are two amendments to clause 68. The first is a technical correction, because for the time being the cross reference must be to the existing Road Traffic (Public Service Vehicles) Regulations, and not to the proposed revised regulations which have yet to be made. The second amendment enables the disqualification provisions of clause 68 to be applied to a person who knowingly uses a vehicle with defective brakes, tyres or steering. Such a person can be as dangerous as a person who, in his driving behaviour, knowingly takes risks with the lives of other road users. When the existing legislation was passed, it was

intended that disqualification provisions should apply to such construction and maintenance offences, but court judgments have shown otherwise. The amendment will remedy this deficiency.

The amendment to clauses 83(4) and 84(3) are adjustments in the level of fine to bring them into line with other fines in the Bill. Clause 84(3) is further amended, on the recommendation of Unofficial Members, to enable the Commissioner to extend the period allowed for compliance with a vehicle repair order, if he considers fit.

Finally, Sir, clause 85(2) originally provided for doubling the examination fee in respect of any vehicle which failed its first examination. After discussions with Unofficial Members about vehicle examination procedures, it was concluded that doubling the fee could in some circumstances be unfair, for example when a failure to pass the first time involved relatively minor points. The amendment retains double charging only for further examinations on vehicles subject to a vehicle suspension order.

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).

4.25 p.m.

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

4.40 p.m.

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1982

Resumption of debate on second reading (13 October 1982)

Question proposed.

DR. FANG:—Sir, since the publication of this Bill, we have received representations from various quarters, including workers, employers, insurers and bankers. In order to seek a balanced view, the Unofficial Members' Social Services Group and Economic Services Group have met and discussed these representations in details, in full consultation with the Administration.

I am convinced that the Bill now before us, when enacted, will be another great step forward in improving employees' benefits, and more importantly, at a cost that the employers can bear. To those who seek extra benefits not yet covered by this Bill, I would urge that they accept it as a new and better platform upon which further improvements could be built when the time comes. And to those who maintain that the Bill would cost employers more and hence weaken their competitiveness, I would ask them to think in terms of a higher output from a more contented workforce as a result of the improved benefits.

Turning to the Bill itself, this is a complex Bill. I would like to dwell on two aspects in particular.

Special Assessment Board

My first point concerns the proposed two-tier system of Employees' Compensation Assessment Boards, that is, the Ordinary and the Special Assessment Boards. I am reasonably satisfied with the composition of the Ordinary Assessment Board which will consist of two persons, a Labour Officer together with a medical or dental practitioner. This means that the Board will comprise members not necessarily from the Government. The Special Assessment Board, however, will consist of an Occupational Health Officer, a Senior Labour Officer, and a Labour Officer from the Ordinary Assessment Board. That is to say, the Board will be made up of officers entirely from the Labour Department. I am therefore concerned that the Board will not include members who are experts outside of Government.

In the course of our discussions, the Commissioner of Labour has explained that this has arisen not by design, but simply because there are not many occupational health consultants outside Government, and to insist on getting outside experts to serve on the Board may result in delays. The Commissioner has also indicated that under the new section 16(E)4, he can appoint additional members to the Board; and has given the assurance that he would take a liberal view and review the Board's composition after they are in operation for a year. Whilst still on the Board's composition, may I also suggest that the Medical Associations be fully consulted in the selection of members to serve.

Compulsory Insurance

My second point relates to the provisions on compulsory insurance. The Bill provides that an employer must take out either compulsory insurance or a bank guarantee for the full amount of the liability for both compensation and damages in the case of an accident at work. As regards the bank guarantee, in the course of our deliberations, we noticed that there would be technical difficulties in implementation, and have asked the Commissioner to consider the possibility of removing this provision. I understand that the Commissioner would now be moving amendments to this effect.

Turning to the implementation of the provision on compulsory insurance, I am concerned that the many small business including cooked food stalls the owners of which may not be aware of such requirements, even after the enactment of the Bill. It is hoped that there will be a grace period of at least one year during which time the Commissioner would launch extensive publicity programmes to ensure that small operations would be made aware of the new requirements.

With these observations, Sir, I am happy to support the motion.

MRS. CHOW:—Sir, may I first say that the Bill before us certainly goes one step further in the protection of employees by means which are both affordable and acceptable to the employers. There are three points to which I would like to speak.

Although the Bill already aims to expedite payment of compensation, the representatives of workers have expressed their concern that victims and their dependents are still subject to hardship, particularly in cases where the employer and the employee concerned are in dispute and the case has to be referred to court, in which event it would be left pending for long periods, sometimes for as long as a whole year. The Administration is urged to assist as much as possible to avoid delay and shorten the waiting periods in all cases and thereby reduce the hardship so created.

Another point concerns the rate of compensation for cases of death or permanent incapacity. Employees proposed the increase of 50% on to-day's maximum of \$192,000 to \$300,000 and requested annual review of this rate. The Administration's reaction is, we find, reasonable in that reviews would be conducted biannually, which means that the present figure which was revised in 1980, is under study, and we should be hearing about the result of the revision very soon.

A third point relates to the burial expenses payable in cases where the deceased left no dependents. It was felt in general that the \$3,000 presently provided for such purpose is far from adequate at to-day's prices.

The Administration's view was that this should be adequate. Moreover it was explained that in the 1980 review, the maximum compensation for death had increased by 280%, 40% more than for permanent incapacity. This 40% which represented \$24,000 was meant for burial expenses. And in any case, the Labour Department had been successful in persuading employers to grant *ex-gratia* payment between \$5,000 to \$20,000 to dependents of victims of fatal injuries. The Administration has therefore declined to increase the burial expenses presently allowed.

I feel however that the above arguments could be equally applied to uphold the request for review. If employers are already prepared to pay up to \$20,000 as *ex-gratia* payment, they should not have strong objections towards increasing

the existing compensation from \$3,000 to say \$6,000. After all this is only onequarter of \$24,000 allowed for such expenses in the 1980 review of the rate of maximum compensation in cases with dependents. Moreover this figure was last reviewed in 1980, and deserves to be looked at again now.

With these remarks, Sir, I support the motion.

COMMISSIONER FOR LABOUR:—Sir, I am grateful for the assistance and support given to the Employees' Compensation (Amendment) Bill 1982 by the Social Services Group and the Economic Services Group of the U.M.E.L.C.O. which closely examined this Bill in the light of comments from various quarters.

Dr. Harry FANG has made the point that the composition of the Special Assessment Board should be reviewed in the light of operational experience to see if medical experts outside Government should be included. Although it would require professional men outside the Civil Service being prepared to devote a proportion of their time to serve on the Board, I can assure Dr. FANG that I will review the Board's composition after the system has been implemented for about a year and we have gained experience of its operation. At the appropriate time I will, as suggested by Dr. FANG, consult with the Medical Associations.

Mrs. Selina CHOW has urged that the period required for settling cases be shortened so as to reduce the hardship of the injured employees or their dependents, and that the adequacy of the existing levels of compensation, including burial expenses, should be reviewed. I share her views. This is why various measures have been included in the Bill in order to expedite payment of compensation. In certain cases however where an employer disputes liability or where the relationship and the degree of dependancy of the dependants have to be determined by the Court, there may be some unavoidable delay in payment but we will do our best to keep this to the minimum. In such cases, injured employees or their dependants who encounter financial difficulties will be referred to the Social Welfare Department for assistance until they eventually obtain compensation. A review of the levels of compensation is being conducted. This is a separate exercise, and increases proposed will have to be approved by this Council by resolution.

When I moved the second reading of this Bill on 13 October 1982, I said that I was considering the comments made by the Hong Kong Association of Banks on the banks guarantee provisions and might have to seek the consent of this Council to move an amendment at the committee stage. At a meeting with U.M.E.L.C.O. Members held on 10 November 1982, it was suggested that the possibility of removing the provisions of the bank guarantee should be further examined. This has been done and it is clear that there would be very considerable practical difficulties in operating such a scheme. Subsequently, the Executive Council, after a study of the situation, advised that the inclusion of a bank guarantee as an alternative to insurance should be abandoned.

I intend therefore, during the committee stage, to propose that section 41 and all references to bank guarantees in the Amendment Bill be removed.

Section 40 of the Amendment Bill requires an employer to take out an insurance policy with an ‘authorized insurer’ authorized under the Insurance Companies Bill 1982. This section was so drafted because it was anticipated that the Insurance Companies Bill would be enacted this year before the Employees’ Compensation (Amendment) Bill. However since the Insurance Companies Bill would not now be enacted until some time next year, there is no meaning in making references to the Insurance Companies Ordinance under section 40. I will therefore propose amendments during the committee stage to delete the word ‘authorized’ wherever it occurs.

In section 42(1) concerning the notice of insurance, amendments will also be required in the committee stage so that the notice would also indicate the date of issue of the insurance policy and the dates of commencement and expiry of the period of insurance to facilitate enforcement. This is based upon the recommendation from the Accident Insurance Association of Hong Kong which is also acceptable to the U.M.E.L.C.O. Group.

Finally, I will, as suggested by Dr. FANG, arrange for extensive publicity programmes on the issue of compulsory insurance to ensure that the message gets across to all employers, large or small, and I might take this opportunity to make it clear that it *will* include domestic employment.

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).

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1982

Resumption of debate on second reading (8 December 1982)

Question proposed.

MR. PETER C. WONG:—Sir, tourism is a pleasant subject to discuss, and this is particularly so during the festive season. It reminds us of holidays and the happy memories associated with it.

The Legislation Scrutiny Group was therefore delighted to have an opportunity to study this Bill and has, I am happy to report, given it a clean bill of health.

The Secretary for Economic Services has given notice that he intends to move an amendment to section 4(b) of the principal Ordinance. The existing subsection reads as follows—

‘to further the development of the Colony as a holiday resort.’

The words ‘holiday resort’ have given rise to certain policy problems as it has never been intended that the Association is to be involved in the development of holiday resorts. It is now proposed to change these words to ‘tourist destination’, which, in my view, are far more appropriate and accurately reflect the role the Association is expected to play.

Established on 21 June 1957, the Association has made substantial contribution to our tourism industry under the able management of its Board, chaired by distinguished and experienced members of our society, supported by the expertise and professionalism of its Executive Director. A distinguished Member of this Council, the Financial Secretary, is a former chairman. That was before he crossed the fence. (*laughter*)

In 1981, the total tourism receipts amounted to no less than 8.1 billion dollars, which represented an increase of some 13.7% in real terms. This amount is certainly very respectable even in the Hong Kong context. We owe much to the splendid work undertaken by the Association to attract more tourists, and hence more financial and other benefits, and to improve the image of Hong Kong abroad.

Currently, the Association operates some 13 overseas offices, embracing countries such as Japan, South East Asia, The Americas, The United Kingdom, West Germany, France, Italy, Australia and New Zealand. I have visited most of these offices, and it is fair to say that credit must be given to the Association for the very successful promotion work being done by these overseas offices, which maintain close liaison with our Trade Development Council overseas offices.

Perhaps it is worth mentioning that a major exercise recently completed by the Association was the introduction of a compulsory gold marketing scheme for members dealing in gold items. This came into effect on 1 January 1982 and it provides for regular inspection of members’ merchandise by qualified consultants employed by the Association. No other place in the world has an accepted private scheme among its retailers for ensuring the quality of gold jewellery sold to tourists. This last statement speaks for itself.

It is therefore important that the well-known emblem in the form of a red Chinese junk—the logo of the Association—deserves adequate protection. The proposal to increase the penalty for infringement certainly deserves our support.

Sir, with these remarks, I support the motion.

SECRETARY FOR ECONOMIC SERVICES:—Sir, I rise to thank Mr. Peter WONG for his support. May I add that I associate myself wholeheartedly with all that he has said about the Hong Kong Tourist Association's record of achievement. Sir, I now move that the Bill in question be read a second time.

Question put and agreed to.

Bill read the second time.

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

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1982

Resumption of debate on second reading (8 December 1982)

Question proposed.

MR. LOBO:—Sir, the Immigration (Amendment) (No. 2) Bill 1982 is but the first of four Bills we are to examine this afternoon which stem from the British Nationality Act 1981. Some of my Colleagues will speak later on the practical effects of these four Bills. For my part, I would like to speak on how we have arrived at this position and place on record the role played by U.M.E.L.C.O. in trying to safeguard the interests of Hong Kong's British subjects under the Act.

In April 1977 Her Majesty's Government (H.M.G.) published a Green Paper entitled 'British Nationality Law—Discussion of Possible Changes'. It proposed that the present citizenship of the United Kingdom and Colonies be replaced by two citizenships: a *British Citizenship* for those who had close ties with the U.K. and who should have an unqualified right of entry to the United Kingdom, and a *British Overseas Citizenship* (B.O.C.) which would be held by the remainder of those persons who were Citizens of the United Kingdom and Colonies, such as British subjects who were born, naturalized or registered in an existing dependent territory like Hong Kong.

In June 1977 Sir Y. K. KAN, then Senior Member of U.M.E.L.C.O., and Sir S. Y. CHUNG attended discussions in the Foreign and Commonwealth Office (F.C.O.) in London and handed a memorandum to the Minister of State (the late Lord GORONWY-ROBERTS). In the memorandum, U.M.E.L.C.O. acknowledged that the British Government had a genuine need to rationalize its nationality law. However, it urged that this should not be done at the expense of residents of dependent territories for whom the British Government had special responsibilities.

In August 1977 the Minister replied that the Green Paper did not indicate any alteration in H.M.G.'s policy towards Hong Kong and its commitment to Hong Kong's security and prosperity. The constitutional relationship between the United Kingdom and Hong Kong would be unaffected. The Minister of State went on to say that it was not envisaged that any existing rights would be withdrawn.

There followed a period of discussion between U.M.E.L.C.O. and the Hong Kong Government regarding the technical implications of the Green Paper proposals. Briefly, U.M.E.L.C.O. did not favour the two-tier concept of citizenship, saw no grounds for changes and urged the Government to make representations to H.M.G. to avoid any erosion of the existing rights of Hong Kong's British subjects.

It was felt that Hong Kong's British subjects would prefer to remain Citizens of the United Kingdom and Colonies; but if a change had to be made, a different citizenship should be created for British subjects of existing dependent territories instead of including them in the B.O.C. category of citizenship which would eventually lapse. These views were conveyed to the F.C.O. with the request that, in any event, the passport prefix 'British Subject' must be retained for citizens of existing dependent territories such as Hong Kong's British subjects.

In November 1979 Sir Y. K. KAN made further representations to the then Foreign Secretary, Lord CARRINGTON, in London. At the same time, in London, Mr. O. V. CHEUNG and Mr. LI Fook-wo attended discussions on Hong Kong's position with various M.P.s, including the Minister of State at the Home Office, Mr. Timothy RAISON.

In July 1980, H.M.G. published a White Paper entitled 'British Nationality Law—Outline of Proposed Legislation'. It would replace Citizenship of the United Kingdom and Colonies with a three-tier citizenship scheme, namely, British Citizenship, Citizenship of the British Dependent Territories (C.B.D.T.) and British Overseas Citizenship.

In September 1980 U.M.E.L.C.O. discussed the proposals contained in the White Paper with Mr. Timothy RAISON, Minister of State of the Home Office, in the U.M.E.L.C.O. Office, and held further discussions in October 1980 with Sir Hugh CORTAZZI of the Foreign and Commonwealth Office and Sir Paul BRYAN, Chairman of the Anglo-Hong Kong Parliamentary Group.

On 14 January 1981, the British Nationality Bill 1981 was presented to the U.K. Parliament and Sir S. Y. CHUNG, Mr. O. V. CHEUNG and Mr. David NEWBIGGING arranged to be present in London for the debate in the House of Commons.

On 28 January 1981, at the second reading stage, Sir Paul BRYAN sought assurances on the nationality of Hong Kong's British subjects. Sir S. Y. CHUNG and Mr. O. V. CHEUNG saw the Foreign Secretary (Lord CARRINGTON) on

2 February and the Home Secretary (Mr. WHITELAW) on 6 February to impress on these two senior Ministers Hong Kong's views and wishes in respect of the Nationality Bill.

On 9 February 1981 a Parliamentary Standing Committee was set up to consider the Bill and two Members, Mr. Raymond WHITNEY and Mr. Edward LYONS, were invited to Hong Kong to learn at first hand the feelings of Hong Kong people on the Bill. U.M.E.L.C.O. held two meetings with Messrs. WHITNEY and LYONS.

In March 1981, the Governor (Lord MACLEHOSE) visited London and saw Lord CARRINGTON and the Home Secretary. Sir S. Y. CHUNG later joined the Governor to present Hong Kong's case to a number of influential Members of Parliament.

As a result of these representations a number of significant amendments were made to the Bill by the Standing Committee. One of these gave C.B.D.T.s the right to be registered for British Citizenship after five years' residence in the U.K. without having to meet other requirements; another permitted Crown Service in a dependent territory to be accepted, in exceptional individual cases, as an alternative to the residence requirement in the U.K.

U.M.E.L.C.O. learned that the prefix 'British Subject' would not appear in the C.B.D.T. passport and pressed H.M.G. strongly for a definition of British nationality to be provided in the Bill, or for the prefix 'British National' to be added to the C.B.D.T. title. However, H.M.G. insisted that there were legal and practical reasons which precluded the use of the term 'national' in relation to any citizenship titles.

On 4 June 1981 the House of Commons approved the British Nationality Bill, as amended in Committee, by 287 votes to 234. In closing the debate the Home Secretary and Mr. Timothy RAISON repeated earlier assurances that the Bill would in no way alter H.M.G.'s commitment to the dependent territories and that C.B.D.T.s would remain British.

On 22 July 1981, the House of Lords amended the Bill to afford the British subjects of Gibraltar the right to be registered as British citizens. The amendment was agreed, we were told, on grounds of Gibraltar's special position in the E.E.C.

On 28 July 1981, Sir S. Y. CHUNG, whilst in London to represent Hong Kong at the Royal Wedding, took the opportunity to press Hong Kong's case with Mr. Nicholas RIDLEY, Minister of State for Foreign and Commonwealth Affairs. He also briefed Sir Paul BRYAN on Hong Kong's reaction and position in regard to the concession allowed to Gibraltar.

In October 1981, the debate on the British Nationality Bill was resumed in the House of Lords. In the light of the concession to Gibraltar, U.M.E.L.C.O. asked the Governor to convey to the Foreign Secretary our continuing grave

concern that the Bill failed to make it clear that C.B.D.T.s remained British Nationals. U.M.E.L.C.O. argued that the law should repeat the assurances given by H.M.G. to Hong Kong in the course of the Bill's third reading in the House of Commons.

On 10 October 1981, U.M.E.L.C.O. learned that Lord GEDDES had put down an amendment to the Bill to provide that all B.C.s, C.B.D.T.s and B.O.C.s should have the status of British National. Sir S. Y. CHUNG conveyed U.M.E.L.C.O.'s full support for this amendment in a cable addressed to Lord GEDDES, which I would like to read in part, and I quote:—

‘One of our main concerns from the beginning has been that the British connection and status of Citizens of United Kingdom and Colonies in Dependent Territories, who already have no right of entry to an abode in the United Kingdom, should not be reduced in any way. To preserve our British connection and status we maintain that the British Nationality of C.B.D.T.s should be clearly stated in the Bill. We ask for nothing more than to provide under the law the assurances given by H.M.G. in the course of third reading debate in the House of Commons’.

Lord GEDDES had earlier indicated that should this amendment fail he proposed to move another to substitute ‘British Dependent Territories Citizen’ (B.D.T.C.) for ‘Citizen of the British Dependent Territories’ (C.B.D.T.) *and* to permit the alternative description ‘British (Hong Kong) Citizen’ to be used in the passports.

On 13 October 1981 Lord GEDDES' first amendment was narrowly lost in the House of Lords by 105 votes to 102. U.M.E.L.C.O. was then advised that the latter part of Lord GEDDES' fall-back amendment, aimed at incorporating the title ‘British (Hong Kong) Citizen’ in Hong Kong passport, could not be accepted for debate. This was because a very similar amendment had been moved by Lord ELWYN-JONES earlier and had been withdrawn for lack of support. U.M.E.L.C.O. had not been aware of the ELWYN-JONES' amendment and we were greatly disappointed at the loss of this provision from the Lord GEDDES' fall-back amendment.

U.M.E.L.C.O. viewed the change from ‘C.B.D.T.’ to ‘B.D.T.C.’ as being largely of cosmetic value and declined to be associated with it. Lord GEDDES' limited second amendment was accepted by H.M.G. without a division on 20 October 1981.

On 30 October 1981, the British Nationality Bill was passed into law and it will come into force on January 1983.

In the period since U.M.E.L.C.O. have continued to represent that passports issued to Hong Kong's British subjects should contain a nationality description. The matter was pressed further when the Lord Privy Seal (Mr. Humphrey

ATKINS) visited Hong Kong in January this year, and Mr. ATKINS agreed to consider the matter. However, he was unable to reply before resigning his office over the Falklands crisis.

In May 1982 H.M.G. confirmed that there were legal reasons why only the citizenship designation B.D.T.C. should appear in (Hong Kong) B.D.T.C. passports. This view was challenged by our Attorney General whose opinion was referred to H.M.G. It argued that it was lawful and indeed appropriate to describe in a passport not only the holder's category of citizenship, but also the relationship which gives rise to the right to protection, i.e. nationality.

In September 1982, when the Prime Minister visited Hong Kong, U.M.E.L.C.O. stressed afresh the importance we attached to retaining a nationality description in the new B.D.T.C. passports. It is a matter of public record that Mrs. THATCHER promised to look into the matter personally.

Sir, the Chief Secretary reported to this Council on 24 November 1982 that H.M.G. had agreed that the description 'British' would appear opposite the word 'Nationality' on the first page of all British Dependent Territories passports. This was most welcome news and a great relief; and I would like to pay particular tribute to the Attorney General's advocacy on our behalf. But at the end of the day, it gave us nothing new; noting we did not already possess. I can only say that had we failed to persuade H.M.G. to our point of view B.D.T.C. passports issued to Hong Kong's British subjects would not have contained a clear description of nationality.

Turning now to the recent proposed Falklands amendment to the British Nationality Act, which will afford Falkland Islanders the right to British citizenship: there is no question the measure is discriminatory against other dependent territories of which Hong Kong is much the biggest. Sir, your predecessor, Lord MACLEHOSE spoke to the Falklands bill in the House of Lords and I think accurately reflected our views. In conclusion, I would like to quote two passages from Lord MACLEHOSE's address:—

'The British Nationality Bill's treatment of dependent territories was bitterly resented, not least in Hong Kong. It is true the door to the United Kingdom was closed to residents of dependent territories in 1962, but the Nationality Bill appeared, gratuitously, to double-lock the door. Similarly the change in name of citizenship was regarded as explicable only as an act of political disengagement.'

Lord MACLEHOSE went on to say:

'... I do not think that Hong Kong people themselves would wish to carry their resentment to the point of opposing doing something for the Falkland Islanders.'

Furthermore, if this Bill becomes law the Government will have accepted, admittedly in this very special case, the need to amend the Act's provisions over a dependent territory, within the limits of what is necessary and numerically possible, when justified by special circumstances.'

Sir, I do not think I have reported Lord MACLEHOSE's words out of context. I only wish I could have said it half as well.

With the reservations implicit in these observations, I support the motion.

MR. PETER C. WONG:—Sir, the British Nationality Act 1981 will come into effect on 1 January 1983. It is therefore essential that we should tidy up our own ordinances before that date. Hence, the four captioned Bills are now before Council.

Sir, with your permission, may I speak on the four Bills as a package with specific references to individual Bills where necessary.

The vetting of these Bills was a complex and time-consuming exercise. The task was undertaken by the Legislation Scrutiny Group of the Unofficial Members of this Council. We literally worked overtime so that a detailed study of the various provisions could be completed in time for the resumed debate to take place this afternoon.

By and large, the Group is satisfied with the legal and drafting aspects of the Bills. However, two agreed amendments to the Immigration (Amendment) (No. 2) Bill 1982 will be moved at the committee stage—

1. *Clause 7*—This clause will be re-worded to avoid cross-reference and hence possible confusion. There is no change in substance.
2. *Clause 10*—The First Schedule sets out categories of Hong Kong belongers. It was felt that in principle any amendment to this Schedule should be by resolution of this Council. The original clause will be accordingly amended.

We are grateful for the assistance given to us by the Administration. The constant references and cross-references to B.N.A. 1981 and earlier Acts certainly did not make our task any easier. At our request, Government has agreed to publish the British Nationality Act 1981 by notice in the *Gazette*. This move, I am sure, will be welcomed by all concerned.

Most of the amendments are consequential, involving mainly changes in nomenclature. However, the opportunity was taken—

1. To tighten the definition of Hong Kong belonger, and
2. To impose immigration controls on non-Hong Kong belongers born after 31 December 1982, including children born to Vietnamese refugees.

These are policy matters approved by the Executive Council. Given the special circumstances of Hong Kong, the Group feels that the proposed measures are justified. The immigration controls are contained in the Immigration (Amendment) (No. 3) Bill 1982.

With effect from 1 January 1983, existing Hong Kong citizens of the United Kingdom and Colonies will automatically become British Dependent Territories Citizens, Hong Kong. B.D.T.C.s Hong Kong will also automatically become Hong Kong belongers and have an absolute right of abode in Hong Kong. They cannot be removed or deported.

The new definition of Hong Kong believer ensures that the absolute right to land and remain in Hong Kong is enjoyed only by those who have acquired B.D.T.C. status by connection with Hong Kong. Nevertheless, all persons, who are at present Hong Kong belongers, will retain that status.

In practical terms, the new definition will be more restrictive. However, it is estimated that the number of persons affected will be relatively small. As from 1 January 1983—

1. B.D.T.C. status and that of Hong Kong believer will not be acquired by a child born here if both of his parents fall into one of the following categories—
 - (a) Visitor
 - (b) Person on condition of stay
 - (c) Vietnamese refugee
 - (d) Illegal immigrant
2. Spouses who are not Hong Kong B.D.T.C.s themselves will not become Hong Kong belongers by marriage to Hong Kong B.D.T.C.s or belongers unless and until they themselves become naturalized B.D.T.C.s. Applications for naturalization will be considered if the applicant has been in Hong Kong for three years and is free of conditions of stay.

Some concern has been expressed regarding the status of children born here after 31 December 1982. Part II of B.N.A. 1981 specifically provides that a child born in a territory will not automatically become a citizen. In this respect Hong Kong has no choice to legislate otherwise. Nevertheless, it is important to stress that—

1. If one of the parents is a B.D.T.C. or is settled in the territory, the child will be a B.D.T.C. 'Settled', in this context, means ordinarily resident in Hong Kong and free of conditions of stay.
2. A new born foundling in the territory whose parents are unknown, will, in the absence of proof to the contrary, be a B.D.T.C.
3. A child born in the territory who is not automatically a B.D.T.C. will be entitled to be registered as a B.D.T.C.—

- (a) if during minority, one of the parents becomes a B.D.T.C. or becomes settled in the territory,
- (b) after ten years of continuous residence in the territory.

There are, of course, other channels whereby a child may become a B.D.T.C. During the period when the child is not a B.D.T.C., he may travel abroad with a Document of Identity issued by the Immigration Department.

The British Nationality (Miscellaneous Provisions) (Amendment) Bill 1982 amends the principal Ordinance to reflect the level of penalties contained in B.N.A. 1981 and to substitute a new Schedule of fees in connection with applications for registration, naturalization and related matters. These fees will for the time being be kept at their present levels.

The British Nationality Act 1981 (Consequential Amendments) Bill 1982 amends numerous ordinances and instruments to bring them in line with the terminology adopted by B.N.A. 1981. Accordingly, the single concept of citizen of the United Kingdom and Colonies is replaced with a three-fold concept of British Citizenship, British Dependent Territories Citizenship and British Overseas Citizenship. These new definitions will be included in the Interpretation and General Clauses Ordinance (Cap. 1).

In the course of our discussion with the Administration in relation to the categories of Hong Kong belongers set out in the First Schedule, it was discovered that as a direct result of B.N.A. 1981, certain potential Hong Kong belongers could not acquire this status automatically. Perhaps at an early date, the Administration should take up this matter with Her Majesty's Government.

The British Nationality Act 1981 and its implications are certainly not easy to understand. Honourable Members will be pleased to note that the Immigration Department operates a special nationality section which deals exclusively with problems associated with B.N.A. 1981 and the consequential amendments to our own ordinances. There is also a telephone enquiry service. As part of the Department's programme to acquaint the public with the new law, explanatory pamphlets in English and Chinese will soon be available.

Sir, with these remarks, I support the motion.

MR. SWAINE:—Sir, at one time all persons born within the Queen's domain were British subjects with free right of entry into the U.K. In 1948 a fundamental change was introduced by the creation of the status of Citizenship of the U.K. and Colonies, thereby identifying a citizenship status distinct from that of the other countries of the Commonwealth, although the generic term 'British subject' or 'Commonwealth citizen' continued to apply to all members of the Commonwealth. The right of entry into the U.K. remained unrestricted. Immigration control first came to be imposed in 1962 and was extended by the Immigration Act of 1971. The right of abode in the U.K. was limited to persons who had a close connection with the U.K., and such persons were known as

patrials. The British Nationality Act of 1981 has done away with the concept of patrial and replaced it with the term British citizen, so that henceforth only British citizens as defined by the 1981 Act are to have the right of abode in the U.K.

Persons who were born, naturalized or registered in Hong Kong were not patrials within the 1971 Act (unless they could show descent from a patrial or other close connection with the U.K.) and were therefore subject to immigration control. As from 1 January 1983 the title Citizenship of the U.K. and Colonies will disappear from the statute books by reason of the 1981 Act, and will be replaced, so far as the dependent territories are concerned, by the label British Dependent Territories Citizen. This change has been legislated for Hong Kong as well as for other dependent territories by the U.K. Parliament in Part II of the British Nationality Act 1981.

One of the fundamental changes introduced by that Act is that citizenship is not automatically conferred by birth; it is also necessary that the father or mother of the child is a citizen or is settled in the territory. However, the Act enables the child to be registered as a citizen if either parent subsequently becomes a citizen or becomes settled while the child is still a minor, or if the child remains in the territory for the first ten years of its life. In either event, registration becomes a matter of right.

Although we have no say over who qualifies to be a citizen, we do have a say over who is to be a Hong Kong believer, for that is a matter of immigration control and remains within the province of this Council. Hence the present Bill before Council. We do not have here the concept of the right of abode but we do have the equivalent, which is the right to land, and this is governed by the Immigration Ordinance. Under section 8, only Hong Kong believers have the absolute right to land in Hong Kong. So it is to the definition of Hong Kong believer that we must turn and this, according to section 2, means a British subject who was born, naturalized or registered in Hong Kong, or the British subject spouse or British subject child of such person.

Under our present Immigration Ordinance therefore, you cannot be a Hong Kong believer without first being a British subject, and additionally you have to show your Hong Kong connection. This you do if you are married to are the child of such a person.

The difficulty which arises relates to those children born in Hong Kong on or after 1 January 1983 who do not qualify as British Dependent Territories Citizens under the criteria described earlier. Are we nevertheless to constitute them as Hong Kong believers, thereby creating a class of believer without citizenship? It would be within our power to do so but would it be right for us to do so? That is the question with which we are really concerned.

The children who will be chiefly affected are those born of refugee parents and illegal immigrants. There are persons who have no legitimate calls on our resources and over whom we have had to enact stringent but necessary measures

of control in recent years. Are their children to be free of immigration control? It is a painful decision but given the circumstances of Hong Kong today, their exclusion from belonger status is I believe justified.

Sir, with these observations, I support the Motion.

SECRETARY FOR SECURITY:—Sir, I would like to refer *first* to the speech of my honourable Friend Peter WONG and I would like to refer to four points he made. The first is, I would like to thank the Legislative Scrutiny Group of Unofficial Members of this Council who examined the legislation so expeditiously and carefully to have it ready for the resumption of the debate today. Second, I would like to add my strong support to the two amendments which my honourable Friend will be moving at the committee stage. Third, I would like to confirm that the Government will be publishing the British Nationality Act 1981 in the *Gazette* on 31 December together with the subsidiary legislation, and that we will also publish any further subsidiary legislation the British Government passes. Fourth, I must confess I do have a bit of trouble with my honourable Friend's suggestion that we should take up with Her Majesty's Government his discovery, or the discovery of his Group, that as a direct result of the B.N.A. 1981 certain potential Hong Kong belongers could not acquire the status of Hong Kong belonger automatically. As far as I can see, Sir, the only way in which this might occur would be if a non British Dependent Territories Citizen child were adopted in the United Kingdom by Hong Kong British Dependent Territories Citizen parents. I can't honestly think that is going to happen very often; but if it did, the British Nationality Act 1981 provides that once the child had been brought to Hong Kong section 17 would empower the Secretary of State to register it as a British Dependent Territories Citizen. In fact, Sir, I suspect or as far as we understand anyway, the Secretary of State will be delegating this power to you.

Secondly, Sir, I would like to refer to the speech of my honourable Friend Mr. SWAINE, and to thank him for a very clear exposition of the essential implications of the British Nationality Act and the need for Hong Kong to amend its legislation in consequence.

Finally, Sir, the speech of my honourable Friend Mr. LOBO. I certainly would like to recommend it to the press and to suggest that it should appear on the front pages of all tomorrow's editions. I would also like to recommend very strongly that the public of Hong Kong should read it, this being a very remarkable example of the remarkable way in which the honourable Members of the Executive Council and this Council fight for the interests of the Hong Kong community. And I am thankful that we have been at least in part successful.

Question put and agreed to.

Bill read the second time.

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

IMMIGRATION (AMENDMENT) (NO. 3) BILL 1982**Resumption of debate on second reading (8 December 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).

BRITISH NATIONALITY ACT 1981 (CONSEQUENTIAL AMENDMENT) BILL 1982**Resumption of debate on second reading (8 December 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).

BRITISH NATIONALITY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 1982**Resumption of debate on second reading (8 December 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).

Committee stage of bills

Council went into Committee.

KOWLOON-CANTON RAILWAY CORPORATION BILL 1982

Clauses 1 to 28 were agreed to.

Clause 29

MR. PETER C. WONG:—I move that clause 29 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 29

That clause 29 be amended by deleting subclause (4) and substituting the following—
'(4) No claim for compensation shall be brought after the expiration of three years from the date on which the injury on which the claim is founded was suffered.'

The amendment was agreed to.

Clause 29, as amended, was agreed to.

Clauses 30 to 39 were agreed to.

First to Fourth Schedules were agreed to.

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1982

Clauses 1 and 2 were agreed to.

ROAD TRAFFIC BILL 1982

Clauses 1, 3 to 6, 8, 10 to 20, 22 and 23, 25, 27, 29, 43 to 50, 52 to 67, 69 to 82, 86 to 88, 93 to 104, 106 to 112 and 114 were agreed to.

Clauses 2, 7, 9, 21, 26, 28, 30 to 34, 39 to 41, 51, 68, 83 to 85, 89 to 92, 105 and 113

SECRETARY FOR TRANSPORT:—I move that the clauses specified be amended as set out in the paper circulated to Members.

Proposed amendments

Clause 2

That clause 2 be amended—

- (a) in the definition of 'heavy goods vehicle', by deleting 'of 24 tonnes or more' and substituting the following—
'exceeding 24 tonnes but not exceeding 38 tonnes';

- (b) in the definition of ‘light goods vehicle’, by deleting ‘of less than’ and substituting the following—
‘not exceeding’;
- (c) in the definition of ‘medium goods vehicle’, by deleting ‘of 5.5 tonnes or more but less than’ and substituting the following—
‘exceeding 5.5 tonnes but not exceeding’; and
- (d) by inserting the following definition—
‘ “special reasons” means special reasons relating to the offence, and in exceptional circumstances special reasons relating to—
(a) the offender; and
(b) to such other circumstance that the court may consider to be relevant;’.

Clause 7

That clause 7 be amended in subclause (1)(i) by deleting ‘Omnibus’ and substituting ‘Bus’.

Clause 9

That clause 9 be amended in subclause (1) by deleting ‘and trailers’ where it occurs therein and in paragraphs (a) and (e).

Clause 21

That clause 21 be amended in subclause (2) by deleting paragraph (b) and substituting the following—
‘(b) other than in the class within which it is registered.’.

Clause 26

That clause 26 be amended—

- (a) in subclause (2), by deleting ‘Omnibus’ and substituting ‘Bus’; and
- (b) in subclause (4)—
 - (i) by deleting paragraph (b) and substituting the following—
‘(b) is of a type specified in section 4(3) of the Public Bus Services Ordinance; and’; and
 - (ii) in paragraph (c), by deleting ‘issued under the Public Omnibus Services Ordinance’ and substituting the following—
‘granted under the Public Bus Services Ordinance’.

Clause 28

That clause 28 be amended in subclause (1)(b)(vi) by inserting before ‘the staff’ the following—
‘where the Commissioner thinks fit.’.

Clause 30

That clause 30 be amended by deleting ‘section 30’ and substituting the following—
‘section 29’.

Clause 31

That clause 31 be amended by deleting subclause (2) and substituting the following—
‘(2) If a licensee applies for a review of the Commissioner’s decision by a Transport Tribunal under section 32, a cancellation, suspension or variation shall not take effect pending the review, and shall take effect—
(a) where the application for the review is deemed to have been withdrawn under section 33(4); or
(b) where the cancellation, suspension or variation is confirmed or varied by a Transport Tribunal under section 34(2),
on such date as the Commissioner shall specify in a notice served on the licensee.’.

Clause 32

That clause 32 be amended in subclause (1)(a) by deleting ‘or trailer’.

Clause 33

That clause 33 be amended in subclause (1) by deleting ‘section 33’ and substituting the following—
‘section 32’.

Clause 34

That clause 34 be amended by deleting subclause (1) and substituting the following—
‘(1) On a review a Transport Tribunal shall consider—
(a) any evidence received by it, whether tendered on behalf of the applicant or otherwise, which it considers relevant to the review;
(b) any representations made by or on behalf of the applicant, whether orally or in writing;
(c) any representations made by or on behalf of the Commissioner, whether orally or in writing.’.

Clause 39

That clause 39 be amended in subclause (5) by inserting a comma before ‘the maximum’.

Clause 40

That clause 40 be amended in subclause (1) by deleting '\$2,000' and substituting '\$4,000'.

Clause 41

That clause 41 be amended in subclause (2) by inserting after 'renewal' the following—
'or a duplicate'.

Clause 51

That clause 51 be amended in subclause (4)(a) by deleting 'Omnibus' and substituting 'Bus'.

Clause 68

That clause 68 be amended in subclause (1)—

(a) by deleting paragraph (f) and substituting the following—

(f) subject to any regulations made under section 7, a contravention of any of the following provisions of the Road Traffic (Public Service Vehicles) Regulations, namely regulation 27(a), (b), (e) and (f) (relating to the obligations of taxi drivers) and regulation 28 (relating to prescribed taxi fares);; and

(Cap. 220, sub.
leg.)

(b) by inserting after paragraph (f) the following—

(fa) any offence under any regulation made under section 9 of using or causing or permitting the use on a road of any motor vehicle or trailer in contravention of any provision or requirement of any such regulation as to brakes, tyres or steering gear, except where the convicted person proves that he did not know and had no reasonable cause to suspect that the facts of the case were such that the offence would have been committed;'

Clause 83

That clause 83 be amended in subclause (4) by deleting '\$1,000' and substituting '\$10,000'.

Clause 84

That clause 84 be amended in subclause (3) by deleting 'commits an offence and is liable to a fine of \$1,000' and substituting the following—

'or on such further date and at the time as the Commissioner may allow in any case, commits an offence and is liable to a fine of \$10,000'.

Clause 85

That clause 85 be amended in subclause (2) by deleting 'or 84(2)'.

Clause 89

That clause 89 be amended in subclause (2)—

- (a) in paragraph (b), by deleting ‘a Transport Tribunal’ and substituting the following—
 ‘the Commissioner’;
- (b) in paragraph (c)(i), by deleting ‘a Transport Tribunal should not suspend the vehicle licence’ and substituting the following—
 ‘the vehicle licence should not be suspended’; and
- (c) in paragraph (c)(ii), by deleting ‘Tribunal should not suspend the vehicle licence’ and substituting the following—
 ‘vehicle licence should not be suspended’.

Clause 90

That clause 90 be amended in subclause (1) by deleting ‘Tribunal should not suspend the vehicle licence’ and substituting the following—

‘vehicle licence should not be suspended’.

Clause 91

That clause 91 be amended—

- (a) by deleting subclause (1) and substituting the following—
 ‘(1) A Transport Tribunal shall after considering—
 (a) any evidence received by it, whether tendered on behalf of the registered owner of the motor vehicle or otherwise, which it considers relevant to the hearing;
 (b) any representations made by or on behalf of the registered owner of the motor vehicle, whether orally or in writing;
 (c) any representations made by or on behalf of the Commissioner, whether orally or in writing,
 determine whether or not the registered owner has shown cause why the vehicle licence should not be suspended.’; and
- (b) in subclause (3), by deleting ‘Tribunal should not suspend the vehicle licence’ and substituting the following—
 ‘vehicle licence should not be suspended’.

Clause 92

That clause 92 be amended—

- (a) by deleting subclause (1) and substituting the following—
 ‘(1) If—
 (a) no written representations are made by or on behalf of the registered owner of a motor vehicle, and no application is made for a hearing before a Transport Tribunal, within the time notified in a notice served under section 89(1); or

- (b) an application for a hearing before a Transport Tribunal is deemed to have been withdrawn under section 90(4), the Commissioner shall suspend the vehicle licence for the appropriate period specified in column 3 or 4 of the Fourth Schedule.’;
- Fourth Schedule.
- (b) in subclause (2), by deleting ‘the Tribunal’ and substituting the following—
‘the Commissioner’;
- (c) in subclause (3), by deleting ‘a Transport Tribunal suspends a vehicle licence under subsection (1) or (2), the Commissioner’ and substituting the following—
‘the Commissioner suspends a vehicle licence under subsection (1) or (2), he’;
and
- (d) by deleting subclause (5) and substituting the following—
‘(5) The Commissioner shall keep a record of every suspension of a vehicle licence under subsection (1) or (2) in such form as he thinks fit.’.

Clause 105

That clause 105 be amended in subclause (1)(a) by deleting ‘fees’ and substituting the following—
‘removal’.

Clause 113

That clause 113 be amended by inserting after subclause (1) the following—
‘(1A) In any law, for any reference to the Public Omnibus Services Ordinance, there shall be substituted a reference to the Public Bus Services Ordinance.’.

The amendments were agreed to.

Clauses 2, 7, 9, 21, 26, 28, 30 to 34, 39 to 41, 51, 68, 83 to 85, 89 to 92, 105 and 113, as amended, were agreed to.

Clauses 24, 35, 36, 37, 38 and 42

MR. S. L. CHEN:—Sir, I move that clauses 24, 35, 36, 37, 38 and 42 be amended as set out in the paper circulated to Members.

The purpose of the amendment to clause 24(4) is to delete the requirement in subclauses (b) and (d) for the Commissioner for Transport to take into account on receiving an application to licence a motor vehicle as a taxi the number of vehicles licensed as taxis which are owned by the applicant and his financial

resources. In discussions on this point my Unofficial Colleagues and I considered these to be irrelevant and unnecessary requirements. The amendments accordingly provide for their deletion.

The amendments to clauses 35, 36, 37 and 38 have already been foreshadowed in my earlier speech on the Bill's second reading and were the result of intensive discussions on the Bill. Briefly the amendments generally reduce maximum fine levels, except the fine on indictment for reckless driving under clause 36, and terms of imprisonment and delete the provision for compulsory disqualification for a first offence under these clauses. Provision has also been made for a summary offence of causing death by reckless driving. The fine on indictment for reckless driving under clause 36 has been increased to preserve logical relativities in respect of penalty levels, while that on summary conviction remains at \$10,000.

The purpose of the amendment to clause 42 is to provide a difference in penalty for two related offences. Unofficial Members of the Community Services Working Group considered that there should be a differentiation in penalty for failing to produce a driving licence on the spot and for failing to produce the licence within 72 hours. The amendment accordingly provides for the second offence to carry a penalty twice that of the first and sets the fine at \$2,000. Another minor amendment clarifies that a document issued by the Commissioner certifying that the person has applied for a duplicate licence shall also be acceptable on presentation to a Police officer.

Proposed Amendments

Clause 24

That clause 24 be amended—

- (a) in subclause (1)(vii), by deleting 'Omnibus' and substituting 'Bus'; and
- (b) in subclause (4), by deleting paragraphs (b) and (d).

Clause 35

That clause 35 be amended by deleting subclauses (1) and (2) and substituting the following—

'(1) A person who causes the death of another person by driving a motor vehicle on a road recklessly commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$25,000 and to imprisonment for five years; and
- (b) on summary conviction to a fine of \$12,500 and to imprisonment for two years.

(2) A person convicted of an offence under this section shall be disqualified for a period of not less than two years in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under

section 11(3) of the repealed Ordinance unless the court or magistrate for special reasons orders that he be disqualified for a shorter period or that he not be disqualified:

Provided that when a period of not less than five years has elapsed since his last previous conviction of an offence under this section or under section 11 (3) of the repealed Ordinance, the court or magistrate may deal with the offence as a first offence.’.

Clause 36

That clause 36 be amended—

- (a) in subclause (1)(a) by deleting ‘\$10,000’ and substituting ‘\$20,000’; and
- (b) by deleting subclause (2) and substituting the following—

‘(2) A person convicted of an offence under this section shall be disqualified for a period of not less than 18 months in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under section 11(1) of the repealed Ordinance unless the court or magistrate for special reasons orders that he be disqualified for a shorter period or that he not be disqualified:

Provided that when a period of not less than five years has elapsed since his last previous conviction for an offence under this section or under section 11(1) of the repealed Ordinance, the court or magistrate may deal with the offence as a first offence.’.

Clause 37

That clause 37 be amended in subclause (1) by deleting ‘\$10,000’ and substituting ‘\$4,000’.

Clause 38

That clause 38 be amended—

- (a) in subclause (1)(a) by deleting ‘\$50,000 and to imprisonment for five years’ and substituting the following—
‘\$20,000 and to imprisonment for three years’; and
- (b) by deleting subclause (2) and substituting the following—

‘(2) A person convicted of an offence under this section shall be disqualified for a period of not less than two years in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under section 12 of the repealed Ordinance unless the court or magistrate for special reasons orders that he be disqualified for a shorter period or that he not be disqualified:

Provided that when a period or not less than five years has elapsed since his last previous conviction of an offence under this section or under section 12 of the repealed Ordinance, the court or magistrate may deal with the offence as a first offence.’.

Clause 42

That clause 42 be amended—

(a) in subclause (3)—

(i) in paragraph (b), by inserting after ‘renewal’ the following—

‘or a duplicate’; and

(ii) by inserting after ‘offence’ the following—

‘and is liable to a fine of \$1,000 and to imprisonment for three months’;

(b) by deleting subclause (4) and substituting the following—

‘(4) Any person who, upon being required to produce his driving licence under subsection (1)(a), fails to produce his driving licence or a document issued by the Commissioner indicating that that person has applied for the renewal or a duplicate of his driving licence and who further fails to bring either his driving licence or any such document, in person, within 72 hours of such requirement being made, to a police officer at such police station or other official address as is specified at the time commits an offence and is liable to a fine of \$2,000 and to imprisonment for three months.’; and

(c) by deleting subclause (5).

The amendments were agreed to.

Clauses 24, 35 to 38 and 42, as amended, were agreed to.

New clause 17A

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

SECRETARY FOR TRANSPORT:—In accordance with Standing Order 46(6), I move that new clause 17A as set out in the paper circulated to Members be read a second time.

Question put and agreed to.

Clause read the second time.

SECRETARY FOR TRANSPORT:—I now move that new clause 17A be added to the Bill.

*Proposed Addition***New clause 17A**

That there be added after clause 17 the following—

‘Legal **17A.**(1) A Transport Tribunal shall have a legal adviser who shall
adviserto a be any member of a panel of legal advisers appointed by the Attorney
Transport General.
Tribunal

(2) A Transport Tribunal may, in connexion with any hearing before
it, consult a legal adviser on any question of law, procedure or any other
matter.’

The addition of the new clause was agreed to.

First to Sixth Schedules were agreed to.

Seventh Schedule

SECRETARY FOR TRANSPORT:—I move that the Seventh Schedule be amended as set out in the paper circulated to Members.

*Proposed Amendment***Seventh Schedule**

That the Seventh Schedule be deleted and substituted by the following—

‘SEVENTH SCHEDULE

[s. 113.]

MINOR AND CONSEQUENTIAL AMENDMENTS

	<i>Enactment</i>	<i>Amendment</i>
<i>(Cap. 107.)</i>	<i>Tramway Ordinance</i>	<i>By repealing sections 35, 36 and 37.</i>
<i>(Cap. 109.)</i>	<i>Dutiable Commodities Ordinance</i>	<p>(1) <i>In section 15(2)—</i></p> <p style="margin-left: 2em;">(a) by deleting “public omnibuses” and substituting “public buses”; and</p> <p style="margin-left: 2em;">(b) by deleting “2(2) of the Road Traffic Ordinance” and substituting “2 of the Road Traffic Ordinance 1982”</p> <p>(2) <i>In section 19(2)—</i></p> <p style="margin-left: 2em;">(a) by deleting “public omnibus” and substituting “public bus”; and</p> <p style="margin-left: 2em;">(b) by deleting “2(2) of the Road Traffic Ordinance” and substituting “2 of the Road Traffic Ordinance 1982”.</p>

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|----------------------|-----------------------------------|---|
| (Cap. 203.) | Cross Harbour Tunnel Ordinance | <p>(1) In section 62A(1) by deleting “29 of the Road Traffic Ordinance” and substituting “62 of the Road Traffic Ordinance 1982”.</p> <p>(2) In section 62C(1), in the definition of “driving licence”, by deleting “5 of the Road Traffic Ordinance” and substituting “8 of the Road Traffic Ordinance 1982”.</p> |
| (Cap 203, sub. leg.) | Cross Harbour Tunnel Regulations | In regulation 9, by deleting “27 and 28 of the Road Traffic Ordinance” and substituting “55 and 56 of the Road Traffic Ordinance 1982”. |
| (Cap. 221.) | Criminal Procedure Ordinance | In section 83H(3)(c)(ii), by deleting “IV of the Road Traffic Ordinance” and substituting “VIII of the Road Traffic Ordinance 1982”. |
| (Cap. 227.) | Magistrates Ordinance | <p>(1) In section 18E(3), by deleting “15(1) of the Road Traffic Ordinance” and substituting “40(1) of the Road Traffic Ordinance 1982”.</p> <p>(2) In the Third Schedule, in paragraph 3(1), by deleting “4(4), 5(4A), 15(1) or 20 of the Road Traffic Ordinance” and substituting “40(1), 41(2), 45, 47 or 51 of the Road Traffic Ordinance 1982”.</p> |
| (Cap. 230.) | Public Omnibus Services Ordinance | <p>(1) In section 1, by deleting “Omnibus” and substituting “Bus”.</p> <p>(2) In section 2, by deleting the definition of “omnibus” and by inserting before the definition of “Commissioner” the following—</p> <p style="margin-left: 40px;">(75 of 1982.) “bus” has the same meaning as in the Road Traffic Ordinance 1982;”.</p> <p>(3) In section 17(1), by deleting “omnibus” and substituting “bus”.</p> <p>(4) In section 18(1)(b) and (c), by deleting “omnibus” and substituting “bus”.</p> <p>(5) In section 23(2)(b), by deleting “omnibus” and substituting “bus”.</p> |

- (6) In section 25(2), by deleting “omnibus” and substituting “bus”.
- (7) In section 36(1)(e)—
- (a) in sub-paragraph (i), by deleting “an omnibus” and substituting “a bus”, and by deleting “the omnibus” and substituting “the bus”; and
 - (b) in sub-paragraphs (iii) and (v), by deleting “omnibus” and substituting “bus”.
- (8) In the Ordinance, other than the amendments mentioned in (1) to (7) above—
- (a) by deleting “public omnibus” wherever it occurs and substituting “public bus”;
 - (b) by deleting “an omnibus” wherever it occurs and substituting “a bus”; and
 - (c) by deleting “omnibuses” wherever it occurs and substituting “buses”.
- | | | |
|-------------------------|---|--|
| (Cap. 330.) | Motor Vehicles
(First Registration
Tax) Ordinance | In the Schedule— |
| | | <ol style="list-style-type: none"> (a) in item 4, by deleting “Public omnibuses, except omnibuses which are to be used solely in connexion with operating a public omnibus service under the Public Omnibus Services Ordinance” and substituting “Public buses, except buses which are to be used solely in connexion with operating a public bus service under the Public Bus Services Ordinance”; and (b) in item 5, by deleting “omnibuses” and substituting “buses”. |
| (Cap. 368.) | Road
Tunnels
(Government)
Ordinance | In section 12(1) by deleting “29 of the Road Traffic Ordinance” and substituting “62 of the Road Traffic Ordinance 1982”, and by inserting “1982” before “at any tunnel”. |
| (Cap.368,
sub. leg.) | Road Tunnels
(Government)
Regulations | <ol style="list-style-type: none"> (1) In regulation 2, in the definition of “taxi”, by inserting “1982” after “Ordinance”. (2) In regulation 3(1)(b), by deleting “(Roads and Signs) Regulations” and substituting “(Traffic Control) Regulations 1983”. |

(L.N. 207/82.)	Ferry Services (Hongkong and Yaumati Ferry Company, Limited) (Determination of Fares) Order 1982	In item 1(<i>h</i>) of the Schedule, by deleting “Omnibus” and substituting “Bus”.’.
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The amendment was agreed to.

Seventh Schedule, as amended, was agreed to.

EMPLOYEES’ COMPENSATION (AMENDMENT) BILL 1982

Clauses 1 to 27 were agreed to.

Clause 28

COMMISSIONER FOR LABOUR:—I move that clause 28 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 28

That clause 28 be amended—

- (a) in new section 38—
 - (i) in the definition of ‘domestic premises’ by deleting the semicolon and substituting a full stop; and
 - (ii) by deleting the definition of ‘guarantee’;
- (b) in new section 40(1)—
 - (i) by deleting ‘subject to section 41(1), no’ and substituting the following—
 - ‘No’; and
 - (ii) by deleting ‘authorized’;
- (c) by deleting new section 40(2);
- (d) by deleting new section 41;
- (e) in new section 42(1) by inserting, after paragraph (c), the following paragraphs—
 - ‘(ca) the date of issue of the policy;
 - (cb) the dates of commencement and expiry of the period of insurance;’; and
- (f) in new section 45D(1)—
 - (i) in paragraph (a) by deleting ‘or a guarantee’; and
 - (ii) by deleting ‘or guarantee’ in each place where it occurs in paragraphs (a) and (b).

The amendment was agreed to.

Clause 28, as amended, was agreed to.

Clauses 29 to 38 were agreed to.

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1982

Clauses 1 to 12 were agreed to.

New clause 3A. ‘Amendment of section 4’.

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

Question put and agreed to.

Clause read the second time.

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

Proposed Addition

New clause 3A

That there be added after clause 3 the following—

‘Amendment of section 4. **3A.** Section 4(*b*) of the principal Ordinance is amended by deleting “holiday resort” and substituting the following—
“tourist destination”.’.

The addition of the new clause was agreed to.

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1982

Clauses 1 to 6 were agreed to.

Clause 7

MR. PETER C. WONG:—I move that clause 7 be amended as set out in the paper circulated to Members.

BRITISH NATIONALITY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 1982

Clauses 1 to 6 were agreed to.

Council then resumed.

Third reading of bills

THE CHIEF SECRETARY reported that the

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL

IMMIGRATION (AMENDMENT) (NO. 3) BILL

BRITISH NATIONALITY ACT 1981 (CONSEQUENTIAL AMENDMENTS) BILL and the

BRITISH NATIONALITY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL

had passed through Committee without amendment and the

KOWLOON-CANTON RAILWAY CORPORATION BILL

ROAD TRAFFIC BILL

EMPLOYEES' COMPENSATION (AMENDMENT) BILL

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL and

IMMIGRATION (AMENDMENT) (NO. 2) BILL

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

Question put on the Bills and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—Before I adjourn the Council may I wish all Members a very happy Christmas and a successful New Year. In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 5 January 1983.

Adjourned accordingly at fifteen minutes to six o'clock.