

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 25 May 1983****The Council met at half past two o'clock****PRESENT**

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

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

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR. DOUGLAS WILLIAM ALFRED BLYE, C.M.G., O.B.E., J.P.

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

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

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

THE HONOURABLE DAVID AKERS-JONES, C.M.G., J.P.
SECRETARY FOR DISTRICT ADMINISTRATION

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

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

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

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

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

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

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

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

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

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

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

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

DR. THE HONOURABLE THONG KAH-LEONG, C.B.E., J.P.
DIRECTOR OF MEDICAL AND HEALTH 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, O.B.E., 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 HU FA-KUANG, J.P.

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

THE HONOURABLE CHAN KAM-CHUEN, J.P.

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

THE HONOURABLE 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 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

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.

DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE HENRY CHING, C.B.E., J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE LAWRENCE WILLIAM ROBERT MILLS, J.P.
REGIONAL SECRETARY (HONG KONG AND KOWLOON), CITY AND NEW TERRITORIES
ADMINISTRATION

THE HONOURABLE JUSTIN YUE KWOK-HUNG, M.B.E., J.P.
SECRETARY FOR TRADE AND INDUSTRY (*Acting*)

THE HONOURABLE BERNARD VAUGHAN WILLIAMS, E.D., J.P.
SECRETARY FOR HOUSING (*Acting*)

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

ABSENT

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

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

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

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, O.B.E., J.P.

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

IN ATTENDANCE

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

Affirmation and Oath

Mr. Justin YUE made the Affirmation of Allegiance and Mr. B. V. WILLIAMS took the Oath of Allegiance. They then assumed their seats as Members of the Council.

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Quarantine and Prevention of Disease Ordinance. Quarantine and Prevention of Disease (Scale of Charges) (Amendment) Regulations 1983.....	159
Prevention of Bribery Ordinance. Prevention of Bribery Ordinance (Amendment of Schedule) Order 1983...	160
Merchant Shipping Act 1981. Merchant Shipping Act 1981 (Commencement) Notice 1983.....	163
Antiquities and Monuments Ordinance. Antiquities and Monuments (Declaration of Proposed Monument) Notice 1983.....	164
Detention Centres Ordinance. Detention Centres (Amendment) Regulations 1983	165
Drug Addiction Treatment Centres Ordinance. Drug Addiction Treatment Centres (Amendment) Regulations 1983.....	166
Training Centres Ordinance. Training Centres (Amendment) Regulations 1983	167
Coroners Ordinance. Places for Post-Mortem Examination (Amendment) Order 1983.....	168
Public Health and Urban Services Ordinance. Public Health and Urban Services Ordinance (Amendment of Tenth Schedule) Order 1983.....	169
Public Health and Urban Services Ordinance. Declaration of Markets in the New Territories (Amendment) Declaration 1983.....	170

Sessional Papers 1982-83:

No. 54—1982 Annual Report by the Commissioner of the Independent Commission Against Corruption.

No. 55—Consumer Council Annual Report 1981-82.

No. 56—Police Welfare Fund—Balance Sheet as at 31 March 1981 and Income and Expenditure Account for the year ended 31 March 1981 with Certificate of the Director of Audit.

Oral answers to questions

Counterfeiting of bank notes

1. MR. PETER C. WONG asked:—*Will Government make a statement on what is being done to counteract the counterfeiting of bank notes?*

THE FINANCIAL SECRETARY:—Sir, the Commercial Crime Bureau of the Royal Hong Kong Police Force has a section dedicated solely to combatting counterfeiting. While I can confirm, as has been widely reported in the press, that a number of arrests have recently been made in connection with the possession of forged \$1,000 Chartered Bank notes and that the Police are continuing in their efforts to locate the ultimate source of these forgeries, it would not be sensible to reveal any details of Police operations.

Members will be aware that last year the Government and the two note issuing banks entered into an agreement with Thomas De La Rue and Company Limited under which that company will construct a plant in the New Territories for the production of Hong Kong's notes, and that the opportunity is being taken to introduce a new series of notes, which will probably begin to be issued in 1985. The new notes will incorporate improved security features, using the very latest technology.

MR. PETER C. WONG:—*Sir, can the Financial Secretary also confirm that during the past year or so there has also been a number of forged Hongkong and Shanghai Bank \$1,000 bank notes?*

THE FINANCIAL SECRETARY:—Yes, Sir.

Children in need of care and protection

2. REVD. JOYCE M. BENNETT asked:—*Will the Government consider accepting applications by Justices of the Peace for committing children at risk to care and protection?*

THE ATTORNEY GENERAL:—Sir, the short answer is yes, the Government will so consider in the course of the review that is currently taking place in relation to this matter. The present law relating to children in need of care and protection is that contained in the Protection of Women and Juveniles Ordinance.

Section 34 of that Ordinance defines three different types of situation in which care and protection orders can be made:—

First, where the child is parentless or has an unfit parent or is falling into bad association or is exposed to moral danger or is beyond control. *Secondly*, where certain specified offences, for instance incest, have been committed involving the child and, *thirdly*, where a child is found wandering without any settled place of abode and without visible means of subsistence.

Under the Ordinance an application may be made by the Director of Social Welfare for a probation officer or any person authorized by the Director in writing or by any Police officer to the juvenile court. Once the application is made the Court has the power to appoint the Director of Social Welfare to be legal guardian or to commit the child to the care of any person, whether a relative or not, who is willing and suitable to undertake care of him or to an institution. Thirdly, to order the parent or guardian to enter into recognizance to exercise proper care and guardianship or, without making such order or in addition to it, make an order placing the child for a specified period of not exceeding three years under the supervision of a probation officer, or of some other person appointed by the Court.

Honourable Members will recognize that the powers therefore exist in the Ordinance. The problem, of course, is in recognizing the individual cases and where such applications need to be made, and in that area the thrust of Miss BENNETT's question is much taken in mind.

The effect of the care and protection orders is to remove from the parents their responsibilities and rights and duties either temporarily or permanently and to replace those by the persons named in the order.

In addition to the general procedure I have just described, immediate action can be taken under a different section of the Ordinance to remove a child known or suspected to be the victim of any form of child abuse from his home by means of the detention of the child in a place of refuge. This power is intended to provide a quick acting remedy in urgent and immediate cases—the child can be taken at once and put in a place of safety. Any probation officer or any person authorized in writing by the Director of Social Welfare, or any Police officer above station sergeant is empowered to detain a child immediately in such circumstances. The actual procedure for investigating cases was described to this Council by my honourable Friend the then Director of Social Welfare in his answer to a question from Miss BENNETT in this Council on 24 November 1982 and I need not repeat what he said on that occasion.

Obviously any measures that can be taken that will extend the protective network that the Society gives to children in this crucial area of social concern must and will be given very serious consideration by the Director and others, and as I have said, the suggestion implicit in my honourable Friend Miss BENNETT's question will be examined to decide whether or not it would be a helpful and appropriate thing to do.

I would end by saying that it is, of course, really the neighbours and the friends of the family and the public who have the best insight into what is going on in any particular family. The procedures are there to protect children, but the procedures can't begin to operate until the neighbours and the friends and the family do their duty which is to raise and report the matter. And that is, of course, a particular difficulty in some circumstances, but I would publicly urge anyone who knows of or suspects of the abuse of a child to raise the matter with the Director or with the Police.

REVD. JOYCE M. BENNETT:—*Sir, would it be possible for the Director of Social Welfare to authorize in writing those in charge of subvented voluntary agencies to have these powers?*

THE ATTORNEY GENERAL:—It would certainly be legally possible for him to do so and I have no doubt he has heard Miss BENNETT's question and will consider whether or not and which agencies it might be appropriate to consider so authorizing.

REVD. JOYCE M. BENNETT:—*Sir, I note that the Attorney General in answering my question relates this matter to children who have been abused. Is it not true though that the majority of children facing care and protection orders have been identified during raids on girlie bars, brothels and other vice establishments?*

THE ATTORNEY GENERAL:—I don't have the figures at my finger tips if that is the correct description, but I will see that Miss BENNETT is given the information in a written answer in due course.

(The following written reply was provided subsequently.)

I have now been informed by the Director of Social Welfare that as at 30 April 1983 there were 1 170 care and protection cases of which 350 (about 30%) were identified during raids on girlie bars, brothels and other vice establishments. Another 82 cases (about 7%) involved abused children. The balance included boys and girls with behavioural problems, abandoned or illegitimate children, victims of indecent assault and others requiring care and protection.

Car repair workshops

3. MR. CHARLES YEUNG:—*Will Government consider the designation of a single authority to administer the rules applicable to car repairing operations in urban residential areas?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, I do not believe that, generally speaking within a bureaucracy, designating single authorities which cut across departmental responsibilities is the correct and most efficient way to deal with the many different aspects of a particular problem. I have a general responsibility for street management and for trying to bring about improvements in the general provision and control of car repair workshops. Other departments and authorities are responsible for the safety, the cleanliness, the removal of obstructions and the compliance with lease conditions of car repair workshops. Co-ordination of effort and a unified approach to this intractable problem is the more likely to produce results. This is what we are doing.

MR. CHARLES YEUNG:—*Sir, does the Secretary realize the gravity of uncertainty created thus in the mind of the operators of the car repairing shops especially when they are banked in with notice of enforcement of the lease condition or to impose waiver fines?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Yes, Sir, of course I realize the gravity of this but such an imposition would only be taken in very necessary circumstances, and would taken into account the great nuisance caused by the car repair workshop.

MR. CHARLES YEUNG:—*When notice has been received will the Secretary enlighten this Council as to which department the operator should go to air their grievances?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, if the notice is issued by the Land Authority they should go to the Land Authority obviously; and the Director of Lands, if it were a notice issued under the lease conditions. If however it were issued by the Fire Services Department because of some fire hazard then they should go there. If it were a question of dealing with obstructions on the pavement outside and they had a complaint about the action that might have been taken by the Police Department then they should go there.

Premia assessments for the re-grant of leases

4. MR. F. K. HU asked:—*Will Government consider setting up an appellate body to review premia assessments for the re-grant of leases and modifications arising from zoning changes?*

SECRETARY FOR LANDS AND WORKS:—Sir, a proposal to set up such an appellate body has recently been discussed in the Real Estate Development Sub-Committee of the Building Development Advisory Committee and Government has undertaken to consider the need for additional appeal procedures.

The study is now in hand and a paper on the subject will be put to the July meeting of the Sub-Committee for further discussion.

Quality of teachers in practical and cultural subjects

5. REVD. JOYCE M. BENNETT asked:—

- (a) *Will the Government state its present policy relating to upgrading the quality of teachers in practical and cultural subjects such as dress making, by providing advanced courses of teacher training?*
- (b) *How many advanced teacher training courses, and in what subjects, will be offered this year and what governs the policy in deciding which courses are to be held?*
- (c) *In this policy decision what consideration is given to the needs of the schools, the lack of local teachers in the subjects concerned and the needs of trade and industry?*

DIRECTOR OF EDUCATION:—Sir, the Government's present policy in upgrading the quality of teachers of practical and cultural subjects through the Advanced Course of Teacher Education offered at the four Colleges of Education is to equip them to teach up to Form V level in their chosen specialisms.

The Course comprises a core of studies in Education, Educational Technology, Complementary Studies and Language Skills which all students must follow. In addition, each student is required to study in depth, on an elective basis, one area of subject specialization. Practical teaching in schools is an integral part of the Course, and for technical teachers the practical teaching element is replaced by a period of attachment to industry.

There are six practical and cultural subjects in the Course—Art and Design, Physical Education, Home Management, Dress and Design, Music, and Design and Technology. This year five of these courses will be held because there were not enough suitable candidates to justify expensive College resources for the sixth.

In deciding the range of these courses, their nature and objectives, it should go without saying that the needs of schools, the lack of local teachers in the subjects concerned, the needs of the community and the capacity of the Colleges to mount courses dictate policy.

The Advanced Course of Teacher Education is important but it is only part of the massive training and re-training programme for non-graduate teachers in the Colleges of Education. Priorities must be set among various training areas so as not to affect the Government's overall teacher training commitment which, of necessity, must lie in the new two and three-year basic training courses.

The Colleges of Education are undergoing a major programme of expansion to produce additional teachers for primary and secondary schools and this has been carefully planned so as not to over stretch College resources and lower standards. Expansion of the Course in which Miss BENNETT has expressed a particular interest will take place if it is justified and feasible.

REVD. JOYCE M. BENNETT:—*Since we have university graduates as well as College of Education graduates to teach Art and Design, why is this course still held when there are insufficient local teachers of Dress and Design and we do not yet have a degree in Dress and Design?*

DIRECTOR OF EDUCATION:—Sir, a balance must be struck between the various subjects that have been mentioned. In Dress and Design, in actual fact, there were very few applicants for the course this year and in previous years. There are very many more applicants for Art and Design and we feel that non-graduates in these areas should be given their chance to teach in Forms IV and V.

REVD. JOYCE M. BENNETT:—*Sir, is it not true that Dress and Design is vital to the industry and trade of this community and we should therefore be doing our utmost to ensure that more secondary school students are able to take Dress and Design in their Certificate Examination?*

DIRECTOR OF EDUCATION:—Sir, I am prepared to take Miss BENNETT's word for it.

REVD. JOYCE M. BENNETT:—*Sir, with regard to the statement that there were not enough suitable candidates to hold all these courses, could the Director of Education clarify the criteria for deciding the suitability of the candidates? How far are they the good teachers who are given another year's training or are they those the schools most need to be trained because of the lack of local teachers?*

DIRECTOR OF EDUCATION:—Sir, a joint selection college board does in fact look very carefully into every application for an advanced course. That scrutiny includes a careful study of the candidates's background in the college, teaching experience, potential, aptitude and with some evidence of the applicant's ability in the field chosen. It would be nice if we could take everybody on these

advanced courses but, in actual fact, I have to trust the professional discretion of my selectors in deciding which of these applicants will profit most from the advanced course.

Second harbour crossing

6. MISS DUNN asked:—*What is the present state of play on Government's thinking about a second harbour crossing between Hong Kong Island and East Kowloon?*

SECRETARY FOR TRANSPORT:—Sir, a bridge at Lei Yue Mun continues to be the preferred option for a second fixed vehicular harbour crossing, provided that it does not interfere unduly with the airport instrument landing system. Examination of the consultants' report on the effects on the instrument landing system of such a bridge will soon be finished, and a memorandum will be submitted to the Governor in Council next month.

MISS DUNN:—*Sir, the Secretary for Transport's answer is in essence similar to those given in this Council on the same subject on 14 October 1981, 4 May 1982 and 9 March 1983. My question is, without wishing to pre-empt any submission to the Governor in Council, can the Government say at this point whether any progress towards a second crossing at Lei Yue Mun can be expected in the near future?*

SECRETARY FOR TRANSPORT:—Sir, I believe that, despite the impressive catalogue of previous replies, progress is as required. The projected date for this bridge, if indeed it is built, has always been something like 1987; and if it is to be built then, we are well in hand with the necessary progress in planning and so on. I cannot I am afraid, say more than that at the moment except that, I repeat, the submission will be made to Your Excellency in Council next month.

Females convicted of criminal offences

7. MR. PETER C. WONG asked:—

- (a) *Will Government make a statement on the annual crime rate of female offenders over the past five years?*
- (b) *If there has been an increase, what are the causes and the social implications of such an increase?*

SECRETARY FOR SECURITY:—

(a) *Females Convicted of Criminal Offences*

<i>Year</i>	<i>Total (percentage increase p.a.)</i>	<i>Per 100 000 of the female population aged over 7 (percentage increase p.a.)</i>
1978	2 164	109.5
1979	2 307 (+ 6.6%)	111.9 (+ 2%)
1980	2 620 (+ 14%)	124.4 (+ 11%)
1981	2 850 (+ 8.4%)	130.9 (+ 5.2%)
1982	3 125 (+ 9.6%)	140.7 (+ 7.5%)
Percentage increase over 5- year period	44.4%	28.5%

(b) (i) Since the increase in the number of female offenders almost exactly parallels that for male offenders, it is reasonable to suppose that the same basic causes of crime apply to both sexes. Certainly, there is nothing I can see in the pattern of crimes committed to lead to any other conclusion. The causes are of a general social and economic nature.

(ii) The social implications of this increase are, I suggest, of no great significance. In reaching this conclusion I have taken into account that female offenders represent less than 10% of all offenders in Hong Kong and that they tend to indulge in primarily the less serious types of crime.

MR. PETER C. WONG:—*Sir, is Government concerned about the 44.4% increase in criminal offences committed by females over the past five years and what steps are being taken to correct or improve the situation?*

SECRETARY FOR SECURITY:—Yes, Sir, indeed the Government is concerned. But, as this increase in fact is more or less the same size as the increase in males convicted of criminal offences, the Government is not devoting any specific effort towards female offenders. In other words, females are part of the Government's overall target in fighting crime.

MR. PETER C. WONG:—*Sir, will the Secretary amplify his statement, and I quote, 'the less serious types of crime' contained in Part (b) (ii) of his answer?*

SECRETARY FOR SECURITY:—Sir, property crimes in 1982, females convicted were 1 337, males 8 226. On the other hand, if you take robbery as an example, females were only 58 compared with males 1 602. Miscellaneous theft also tends to be a higher proportion of female, that is, higher than the roughly 10% for all crimes, with females 1 230 and males 4 879.

Child abuse (the case of CHAU Pui-man)

8. REVD. JOYCE M. BENNETT asked:—*Will the Government make a statement to this Council concerning the findings of the Social Welfare Department's inquiry into the death of CHAU Pui-man?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, a very thorough review has been carried out into the way that this sad case was handled, to see what lessons may be learned and what improvements need to be made to existing procedures. Not surprisingly, the review has indicated that there is room for improvement.

But may I say, Sir, at the outset, there is no doubt that all who were concerned with this case acted in what was conscientiously thought, at the time, to be in the child's best interest. Hindsight, Sir, has the advantage of always being right. It is too easy to criticize after the event, and to argue that judgement was at fault in a particular case or at a particular time. Whether or not such criticism is justified, the aim must be to ensure that social workers are properly equipped for their tasks, and that the guidance they are given, and the procedures which they are expected to follow, are the best that can be devised.

The review has shown, first, that child abuse cases are not always notified to the Social Welfare Department as early as they could be. This particular case was first handled by a voluntary agency in early 1980, but was only brought to the attention of the Social Welfare Department in January 1981. In the intervening period the child sustained physical injuries which resulted in her having to be taken to hospital for treatment on two occasions. The importance of early notification to the Social Welfare Department cannot be over emphasized, and procedures have been devised for the Police, hospitals and voluntary agencies to bring immediately to the notice of the Social Welfare Department cases where the child is at risk, even if not in immediate danger, or where the parents are unco-operative.

Secondly, Sir, the review has reaffirmed the important principle that in deciding any course of action the interests of the child *must* be given precedence. However, it is the social worker dealing with the particular case who is best placed to decide which course of action is in the child's interest and it is he who must exercise his professional judgement. That is not to say that the social worker should not be given every assistance and guidance possible particularly in difficult cases. Supervisors are available to give advice, and this should be augmented wherever possible, particularly in difficult cases, by case conferences which are attended by all the professional workers involved in the case: the case worker, his supervisor, the medical social worker, doctors, Police, clinical psychologists and so on.

Thirdly, the review has shown that social case workers must be given as much training as possible. Two measures have already been taken. Firstly, a special Child Protective Service Unit has been established in the Social Welfare

Department, staffed by officers experienced in child abuse work. This Unit will take on cases which require more intensive care and attention, including those where an application for a care and protection order is being processed or where a care and protection order has been made. This Unit will provide a core of trained staff able to give advice to other social workers. Secondly, the need for additional training has been recognized. As a start and a start only, nine staff from the Social Welfare Department attended the Hong Kong University Extra-mural course on child abuse in September last year, and the training section of the Department is currently organizing a series of seminars and discussions which will be attended by 54 officers of the Department. Others involved, such as psychiatrists, magistrates, paediatricians and Police will also be invited to take part.

There are still some outstanding matters that need to be resolved. For example, I feel that the way in which care and protection orders are applied for, the time taken for them to be obtained, and the legal standing of the orders themselves require further attention. I believe that the reporting and recording of information about child abuse cases, and perhaps the need for a central registry of such cases, requires examination. I also wish to assure myself that the decision on whether an abused child should remain with his parents is taken only after the best available advice has been obtained and fully considered.

Unconnected with the CHAU Pui-man case, an *ad hoc* working group has been reviewing and clarifying the guidelines for inter-departmental use in handling child abuse cases. These have recently been revised and they set out the step-by-step procedures which Government departments, hospitals/clinics and schools are expected to follow. The need for case conferences is stressed, and the need for frequent home visits and physical contact with the child is emphasized. I consider that it would be timely to give this working group a more formal status, with the task of conducting a general review of the procedures for handling child abuse cases, and making recommendations for improvement, including the need for any additional resources and legislative amendments that might be required.

Sir, I wish it were possible to offer a comprehensive solution to the problems of child abuse. But I am afraid I cannot. The causes are complex and often beyond our control. But what I do say is that if cases are brought to the early attention of the Social Welfare Department, and providing we get our procedures, training and staffing right, and all involved act intelligently and sensitively, we stand a good chance of being able to minimize the risk of future tragedies.

REVD. JOYCE M. BENNETT:—*Sir, in thanking the Secretary for his long helpful answer to my question, I do have just one clarification I would like. What would be the case load of the social workers in this special Child Protective Service Unit dealing with child abuse in the Social Welfare Department?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, as I have said the central unit has only just been established. It has one Social Work Officer and four Assistant Social Work Officers all of whom are experienced in child abuse work. This unit will only take on cases which require the more intensive care and attention. The already existing 20 family service centres throughout the territory will still remain the front line contact in the handling of all cases initially. As the central unit has only recently been established I am afraid I cannot say what the case load is.

REVD. JOYCE M. BENNETT:—*I do have one more question: how will this unit relate to the voluntary agencies?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, again as I said in my reply I do think we will need to consider very carefully the setting up of a central registry and I would hope that that registry would include cases handled by the voluntary agencies, and that being so this central unit will be in a position to monitor those cases as well.

MISS DUNN:—*Sir, may I ask Mr. CHING to clarify the procedures to which he refers about notification to the Social Welfare Department when the child is at risk. Shouldn't doctors who are presumably the first point of contact be trained and advised to identify signs of abuse and report them at an early stage?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, if I understand Miss DUNN's question correctly I think that we might be in danger of getting involved in the conduct by a doctor of his profession.

What I can say is that where any child is taken to a hospital or a clinic and who evidently has been abused by his parents, the case would be reported now to the Social Welfare Department.

MISS DUNN:—*Sir, Mr. CHING has half answered my question. What about cases which are not evidently child abuse cases. In other words, are doctors encouraged to identify signs of possible cases of abuse or suspected abuse?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, I think it would be normal if a child turns up at a clinic or at a hospital with physical injuries—it would be normal for the doctor attending the child to enquire as to the cause of those injuries. If the truth is not told to the doctor then I can't see myself how he would be able to ascertain the truth.

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, if I may reply to that question, I think I can say that doctors *are* trained to report such cases.

‘Certificate of No Criminal Conviction’

9. MR. SO asked in Cantonese:—

- (甲) 根據警方紀錄，香港有犯罪紀錄的人士有多少，其中有多少人獲法庭命令「不留案底」？
- (乙) 在過去三年內，每年申請「無犯罪紀錄證明書」的香港人有多少？而期內共發出了多少張證明書？
- (丙) 獲法庭頒令「不留案底」者可否獲發給無犯罪紀錄證明書？

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

- (a) *From records kept by the Police, how many persons in Hong Kong have ‘criminal convictions’ and how many have had ‘no conviction recorded’ orders made against them?*
- (b) *How many persons in Hong Kong applied for Certificates of No Criminal Conviction, annually, during the past three years and how many such Certificates have been issued during this period?*
- (c) *Are persons who are the subject of ‘no conviction recorded’ orders eligible for ‘No Criminal Conviction’ certificates?*

SECRETARY FOR SECURITY:—

- (a) Sir, the Police maintain records of 481 271 persons who have been found guilty of an offence by the courts of Hong Kong for a variety of criminal offences. In the absence of a detailed examination of each record, I am afraid I can not say how many of these cases have been subject to ‘no conviction recorded’ orders. But I can say that in respect of cases before the courts in the last couple of years, the proportion with ‘no conviction recorded’ is very small. This is the consequence of guidelines recently set out in appeal cases regarding the use of this procedure.
- (b) During 1980, 16 273 persons applied for ‘Certificates of No Criminal Conviction’ and 15 917 (98%) were issued; in 1981 there were 17 521 applications and 17 082 (97.5%) were issued; in 1982 there were 20 638 applications and 20 111 (97.2%) were issued.
- (c) No, Sir, they are not. In cases where ‘no conviction recorded’ has been ordered, the Commissioner of Police provides a letter advising that although the subject has been found guilty of an offence in Hong Kong, the court has ordered ‘no conviction recorded’. He provided 95 such letters in 1982. This procedure follows and is sanctioned by the High Court decision in *MOY Chung-man v. the Attorney General* in 1981.

MR. SO asked in Cantonese:—

閣下，四十八萬一千幾人有犯罪紀錄，似乎很大。這些是否自香港開埠以來的數字，而且其中有些人已經作古呢？

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

Sir, over 481 000 people is rather a big figure. Is that since the start of the Colony and some of those have already passed away?

SECRETARY FOR SECURITY:—Sir, it is not a list of all people convicted of a criminal offence since Hong Kong started as a Colony. But it does include a lot of people who by now would have passed away or left Hong Kong. In other words, it is not an accurate figure of the number of people now in Hong Kong who have committed criminal offences and have been convicted for them.

MISS TAM:—*In respect of the Police practice of issuing just the letter described in paragraph (c) of the reply, may I ask the Secretary for Security as to the Court's sanction given in the mentioned case, whether the Court endorsed the procedure as a recommendable one, or merely expressed a view that the Court felt it could not give direction on matters of internal Police departmental procedure?*

SECRETARY FOR SECURITY:—Sir, I will try. The judge said, 'If the Commissioner (that is, Commissioner of Police) had issued a Certificate of No Criminal Conviction in the usual form intended for production to the U.S. Consulate, I consider he would be guilty of suppressing the whole truth and therefore would not have exercised his discretion fairly and properly'.

Vehicles illegally soliciting for hire

10. MR. F. K. HU asked:—*Will the Government give publicity to the fact that vehicle drivers fined for 'soliciting passenger for hire' are also liable to have the licence of the vehicle involved suspended as a further penalty?*

SECRETARY FOR TRANSPORT:—Sir, holders of contract hire car permits, in the course of obtaining their permits, are provided with information about the penalties for illegally soliciting for hire and the possible suspension of vehicle licences.

There remain for consideration illegal 'pak pai' operators, who are liable to suspension of their vehicle licences in addition to the imposition of a fine by way of fixed penalty, or by way of conviction by a court after the issue of a summons.

There have been 134 such suspensions of vehicle licences since 1 April 1982. Of these, four followed upon the issue of fixed penalty tickets; the remainder followed upon summons and conviction.

Representations following suspension are usually based on grounds of hardship, or are made by companies whose employees have been using company vehicles illegally. Ignorance of the law is rarely brought forward as a complaint.

The Commissioner of Police is considering including a note on the fixed penalty ticket warning a vehicle owner whose vehicle is involved in the offence of soliciting passengers that his vehicle licence may be suspended. The small number of cases, however, may not justify this.

On the larger issue of general publicity there are many more important matters which rate priority in terms of limited resources and the absorption capacity of the public.

Mosquito-breeding offences

11. MR. CHEUNG YAN-LUNG asked:—

- (a) *How many cases of mosquito-bred diseases, contracted locally, have been detected in Hong Kong so far this year?*
- (b) *How many prosecutions have been brought this year under the Public Health and Urban Services Ordinance against offenders whose negligence caused mosquitoes to breed on premises or land under their control?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the two most common mosquito-borne diseases in Hong Kong are Japanese Encephalitis and malaria, and so far this year, there has been no case reported of anyone contracting either of these two diseases locally.

Since 1 January 1983 some 220 prosecutions have been brought for mosquito-breeding offences. Applications were made for 93 summonses to be served on new offenders, who will in due course be brought to court. The majority of these offences related to building sites, and this has been the pattern for the past five years.

MR. CHEUNG YAN-LUNG:—*Sir, under the Public Health and Urban Services Ordinance, does Government consider the existing \$500 fine for mosquito-breeding offences sufficient to discourage offenders?*

SECRETARY FOR HEALTH AND WELFARE:—No. Sir, the level of fine is being considered at this time.

REVD. JOYCE M. BENNETT:—*We are told here that there are 93 summonses currently being served and some 220 prosecutions are being brought this year since 1 January. Does that compare with previous years more or less or about the same?*

SECRETARY FOR HEALTH AND WELFARE:—About the same, Sir.

MR. PETER C. WONG:—*May I ask the Secretary: of the 220 prosecutions how many have been successful?*

SECRETARY FOR HEALTH AND WELFARE:—All, Sir.

Security measures at border checkpoints

12. MISS TAM asked:—Will Government state:

- (a) *How many cases there were in the last 24 months in which fire arms or dangerous drugs were found being smuggled in by persons entering or reentering Hong Kong from China, and*
- (b) *what are the security measures enforced at border checkpoints to prevent such criminal activities?*

SECRETARY FOR SECURITY:—Sir,

- (a) (i) In the last 24 months, no-one entering Hong Kong legally from China has been caught trying to smuggle in fire arms.
Eight people carrying fire arms were arrested trying to enter Hong Kong illegally from China.
- (ii) There were five cases involving attempts to smuggle drugs from China. Only one was concerned with a significant quantity of drugs.
- (b) The answer to the second part of Miss TAM'S question is that Customs Officers check persons and their baggage entering Hong Kong through the two border check points at Lo Wu and Man Kam To. They use X-ray machines, metal detectors and, from time to time, dogs trained to detect narcotics. As a result of recently agreed arrangements, they liaise with their counterparts on the other side of the border, with the result that the passing of intelligence on customs matters has been greatly improved.

MISS TAM:—*Sir, in respect of part (b) of the answer, it mentions here that there are persons checked at the border points. Can I ask what in fact is the percentage of persons entering at the border points checked by the security measures?*

SECRETARY FOR SECURITY:—Sir, I do not know the exact percentage but I will concede that it is in fact a selective check. This has to be, not because the Customs and Excise Department want it to be that way, but because there simply is not the space at Lo Wu for all passengers and baggage to be checked.

Admission of children into hospitals

13. DR. IP asked:—*Of the children under the age of 12 treated at casualty departments in the Queen Mary, Queen Elizabeth and Princess Margaret Hospitals, how many, in percentage terms, had subsequently been admitted into the respective hospitals, say, for the separate months of September, October and November 1982?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, in answer to Dr. IP's question and for ease of reference, I have attached a table showing the total number of cases seen, the total number of children under 12 attended to, and the number and percentages of such cases being admitted into the three hospitals.

Queen Mary Hospital				
	<i>Total attendance</i>	<i>No. of patients below 12 seen</i>	<i>No. of patients below 12 admitted</i>	<i>% admitted</i>
September	9 933	2 617	694	27
October	10 315	2 901	700	24
November	9 059	2 455	675	27
Queen Elizabeth Hospital				
	<i>Total Attendance</i>	<i>No. of patients below 12 seen</i>	<i>No. of patients below 12 admitted</i>	<i>% admitted</i>
September	23 834	5 090	2 242	44
October	24 100	6 021	2 462	41
November	21 368	4 847	2 249	46
Princess Margaret Hospital				
	<i>Total Attendance</i>	<i>No. of patients below 12 seen</i>	<i>No. of patients below 12 admitted</i>	<i>% admitted</i>
September	14 224	3 602	1 799	50
October	13 816	3 474	1 696	49
November	12 922	3 118	1 573	50

Thus, with reference to the table, for the months of September, October and November 1982, the percentages of children under 12 admitted through the Accident and Emergency Department of the Queen Mary Hospital are 27%, 24% and 27% respectively. The corresponding figures for Queen Elizabeth Hospital are 44%; 41% and 46% while those for the Princess Margaret Hospital are 50%; 49% and 50%.

DR. IP:—Sir, is this significant difference between the admission rates of Queen Mary and the other two hospitals, namely, by 20% or more, be even greater if we consider just the paediatric medical admissions?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir.

DR. IP:—*Sir, as it is expensive for the Government to admit a patient into hospital; as hospital beds in Hong Kong are in great demand; as it has been shown that the Queen Mary Hospital has succeeded better in keeping down paediatric admission rates; and as a high occupancy rate which we know exists in Government hospitals means that less attention is given to the more critically ill, would Government investigate into the possibility of reducing paediatric admission rates in Queen Elizabeth and Princess Margaret Hospitals by strategically placing additional medical officers with paediatric experience at the critical point where decision is made for hospital admissions?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, actually the measure of sending medical officers from the clinical units to assist in the Accidents and Emergencies (A. & E.) Departments of hospitals have been tried from time and time with a varying degree of success depending on the particular hospital, and the preference of the unit heads and the doctors working in that particular unit. Normally, an appropriate and adequate number of staff is assigned to a clinical unit, say, the paediatric unit, to be re-deployed at the entire discretion of the unit head; and if it is the opinion of the head of that unit that sending medical officers with certain experience to help in the A. & E. Department would be helpful to the work of his unit, he is of course, free to do so, while other unit heads may not prefer such arrangements. This in fact is a local decision which has to be made by the man on the spot, that is, the unit head and it would be quite unreasonable and inappropriate for anyone outside the unit to impose such a decision on the unit itself. I am given to understand that similar arrangements have already been considered and practised in fact in both the Q.E. and P.M.H., and it is considered by itself not a very significant measure as far as limiting admissions are concerned.

DR. IP:—*Would Government look into the success in which Queen Mary Hospital is able to reduce its paediatric admission rates? I believe that of every three patients that have been referred for admission by the casualty department, only one required admission after screening further by paediatric medical officers.*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, as I have said just now, this is a measure which is well known to all units and, in fact, it has been looked into and I would prefer to leave it to the head of the unit to decide as to what to do.

REVD. JOYCE M. BENNETT:—*Sir, would an increase in the community nursing service at the Queen Elizabeth Hospital and the Princess Margaret Hospital enable the cutting down of admissions?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, this is not relevant to the services at the A. & E. Departments.

Small house grants in the New Territories

14. DR. FANG asked:—*Will Government inform this Council:*

- (a) *how the premium for modification of non-assignment clause in Small House Grants in the New Territories are calculated; and*
- (b) *why the premium was reduced by only 10% since November 1982 when the reduction during the previous half year was 30%?*

SECRETARY FOR LANDS AND WORKS:—Sir, the premium for modification of the non-assignment clause in small house grants in the New Territories is calculated by taking the difference in land value between a lot which is permitted to be assigned and a lot which is not permitted to be assigned. To enable premia in individual cases to be readily assessed, a schedule of standard premium rates for different locations is issued by the Lands Department and revised periodically to take account of changes in land value.

Regarding the second part of the question, the reduction of 10% in the premium rates since November 1982 represented the assessed decline in that sector of the property market over the period November 1982 to April 1983. The reduction of 30% in the rates set in November 1982 showed the relatively sharp decline in the market which occurred during the previous months.

DR. FANG:—*From the reply to the second part of the question, is it the view of the Secretary that the property market in the New Territories has levelled off in the last six months; if this is the case, may this Council be supplied with some actual figures of the assessment?*

SECRETARY FOR LANDS AND WORKS:—The reduction has been 10% and that was assessed by professional valuers in the Lands Department based on the general tone of the market trend since November 1982. Of course, there has been only a very small number of transactions in small houses and of course the situation is being monitored.

MR. CHARLES YEUNG:—*Sir, does it mean Government's view is that the land in the New Territories has fallen only 40% since, say, a year ago?*

SECRETARY FOR LANDS AND WORKS:—Sir, this represents the assessment in the value of the assignment right of small houses over these two periods.

MR. CHARLES YEUNG:—*Sir, does the Secretary realize that at the moment some of the small houses are being sold at about \$200 per sq. ft. which is barely enough to cover the building costs in the majority of the places?*

SECRETARY FOR LANDS AND WORKS:—The latest assessment was made in February and made effective April 1983. The particular case referred to by Mr. YEUNG is not known to me. Of course the schedule is sent to the Heung Yee Huk and the Rural Committees, and if they do have convincing evidence that adjustments ought to be made, and of course if they make representation to the Lands Department, they will always be considered.

MR. LO:—*I am sorry. I am getting just a little confused. I thought I had understood the question, Sir. I thought the question related to the value of assignment rights, and not to the value of the land itself. Will the Government kindly confirm?*

SECRETARY FOR LANDS AND WORKS:—Mr. LO is correct, Sir.

Medical development programme

15. MR. ALEX WU asked:—*Will Government publicize the proposals contained in the current Medical Development Programme, define its obligations in medical care and inform this Council—*

- (a) whether there are sufficient medical and para-medical staff to meet present needs; and*
- (b) whether additional qualified staff in both fields shall be available to meet projected needs over the next decade?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the main principles underlying the Government's policy in the provision of medical care are set out in the 1974 White Paper on 'The Further Development of Medical and Health Services in Hong Kong'. They are to safeguard and promote the health of the community as a whole, and to ensure the provision of medical and personal health facilities for the people of Hong Kong, including particularly that large section of the community which relies on subsidized medical attention.

The medical development programme outlined in the White Paper is kept under constant review by the Medical Development Advisory Committee, under the able chairmanship of Dr. Harry FANG. This Advisory Committee monitors progress and reviews the programme on a continuing basis, so as to advise the Government on such changes to the programme as are required. These changes, when approved, are publicized separately.

As regards the first part of the specific question on manpower resources, I am informed by the Director of Medical and Health Services that there are, on the whole, sufficient medical and para-medical staff to maintain the present level of services, although the position is less satisfactory in the subvented sector than in the Government sector.

As regards the second part of the specific question, the present indications are that based on the Advisory Committee's standards there will be a projected shortfall of doctors and, to a lesser extent, nursing and para-medical staff over the next decade.

It should be borne in mind however that the Advisory Committee's planning standards are for purposes of forecasting future training needs, and include not only what is necessary to maintain the present level of services but also an element for improvement. The shortfall figures also assume completion dates for various capital projects which may need to be revised in light of actual progress nearer the time.

The Advisory Committee closely monitors the availability of manpower, and advises on appropriate measures to alleviate projected shortfalls. On the Advisory Committee's advice discussions are being held with the Universities with a view to increasing the intakes to the two medical schools. Eight new nurses training schools and four projects for the extension of existing schools are being planned, increasing the total training capacity in the public sector from 1 722 to 2 567 places by the end of the planning decade. Since September 1982, intakes have been increased, to the Nurse Tutors Course from 20 to 30, to the Medical Laboratory Technicians Course from 40 to 80 and to the Radiographers and Physiotherapists Courses from 40 to 60. Plans are in hand to further expand training capacity at the Polytechnic for Medical Laboratory Technicians and for Occupational Therapists. These measures, Sir, will serve significantly to reduce the projected shortfall of medical and para-medical staff over the next decade and, of course, the Advisory Committee will continue to keep the position under review.

MR. ALEX WU:—*Sir, referring to the increase of intake to the two medical schools mentioned in paragraph 6 of the reply, would the Secretary for Health and Welfare inform this Council what corresponding clinical training facilities have been planned to cope with the increased training needs, and where these training facilities will be available?*

SECRETARY FOR HEALTH AND WELFARE:—*Sir, in regard to the Hong Kong University, discussions are taking place with a view to the use of the projected East Kowloon Hospital for the provision of clinical training facilities there. As regards the Chinese University, much of course depends on the completion and bringing into operation of the Prince of Wales Hospital.*

MR. ALEX WU:—*In planning to provide further training facilities in hospitals, has Government in mind an ideal unit now existing in, say, the United Kingdom, in which the service and teaching elements are working in harmony and based on which the Government will formulate its plans for the training of doctors?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the most appropriate arrangements for the provision of clinical teaching facilities in hospitals is being actively considered at this time and the situation referred to by Mr. WU will certainly be taken into account.

REVD. JOYCE M. BENNETT:—*Sir, I notice that speech therapists are not mentioned in this reply. Can we be informed of the Government's policy regarding speech therapists?*

SECRETARY FOR HEALTH AND WELFARE:—I assume Miss BENNETT means policy in regard to the provision of speech therapists. Speech therapists unfortunately do represent one of the areas of greatest shortfall in the projected figures. I am told that the projected shortfall by the end of the planning decade will be something like 70% but that does not take into account the availability of overseas training scholarships which amount to about eight training places per year. 70% does seem a large percentage but in absolute terms the number is just over 100.

Uncovered playgrounds of schools in housing estates

16. DR. IP asked:—*What measures will Government take to protect children in uncovered playgrounds of schools and nurseries within housing estates, when the law cannot ensure that dangerous objects will not be thrown or fall from above?*

SECRETARY FOR HOUSING:—Sir, schools in public housing estates are generally located away from the residential blocks and the chances of objects falling onto school playgrounds are rather remote. As far as nurseries on the ground floors of domestic blocks are concerned, open play areas are usually provided with protective nettings or canopies where there is any potential danger of falling objects.

As regards other measures, estate staff constantly remind tenants of the danger of throwing objects out of windows, and we also seek the help of M.A.C.s and other tenants' associations in educating their fellow residents to refrain from such dangerous practices.

DR. IP:—*Sir, for the purpose of safety, would Government consider the policy of permitting the conversion of open playgrounds to covered ones other than using temporary measures as protective nettings or canopies, if such schools and nurseries are prepared to bear the cost of construction and maintenance?*

SECRETARY FOR HOUSING:—Sir, it would depend on the individual circumstances. Applications could be made to the Housing Department for consideration.

REVD. JOYCE M. BENNETT:—*Sir, is it not true that some schools are still operating on the ground floor of the old H blocks so these are still suffering from objects thrown from above?*

SECRETARY FOR HOUSING:—Sir, that is correct. I will take Miss BENNETT's correction on that.

Statement

1982 Annual Report by the Commissioner of the Independent Commission Against Corruption

MR. LOBO:—Sir, it gives me pleasure to introduce the Annual Report by the Commissioner of the Independent Commission Against Corruption for 1982 which is tabled today in this Council.

The report, covering the ninth year of work of the Independent Commission, highlights an increase in reports of corruption in the business and commercial sectors.

The Commissioner emphasizes that he will continue to deal actively with the situation in the private sector but, now and for the foreseeable future, he does not intend to divert resources from the primary aim of ensuring that Hong Kong has a public service which is as free as possible from corruption.

Another feature which deserves comment, was the continuing emergence of the Commission as one of the world's leading anti-corruption agencies. During the year a number of senior police officers, administrators and judicial officers from overseas visited the Commission for consultation or training attachments and to exchange views.

The Commissioner emphasizes that the I.C.A.C. is essentially a supportive and responsive organization, with the aim of promoting honesty, integrity and fair dealing. Those who offend against the provisions of the Prevention of Bribery Ordinance will be vigorously pursued and prosecuted; this is the wish of the community.

Similarly, the work of the Community Relations Department is predominantly supportive—it aids parents and schools in the field of moral education; it assists business and community groups by the programmes it organizes to explain the law and methods of combatting corruption.

The Corruption Prevention Department's work is again essentially supportive, and prior consultation on drafting legislation is an area which is of great importance and where the Commissioner foresees a growing advisory role.

Sir, I am sure my Unofficial Colleagues will wish to endorse the thanks expressed in the report for the very helpful manner in which heads of Government departments and their staff have worked with the I.C.A.C. during the year, and for the continuing valuable help and advice given by the unofficial members of the various advisory committees of the I.C.A.C.

Government Business

Motion

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE

THE SECRETARY FOR HOUSING moved the following motion:—That section 10(1) of the Landlord and Tenant (Consolidation) Ordinance be amended—

- (a) in paragraph (a), by deleting ‘12’ and substituting the following—
‘16’; and
- (b) in paragraph (b), by deleting ‘27’ and substituting the following—
‘40’.

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

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

This motion seeks to increase the permitted rents of:—

- (a) pre-war domestic premises—from the existing level of 12 times the standard rent (that is to say the rent passing in 1941) to 16 times that rent; and
- (b) prewar business premises—from the existing level of 27 times the standard rent to 40 times the standard rent.

subject, in accordance with section 9A of the Ordinance, to the permitted rent not exceeding the prevailing market rent for the premises.

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

Since 1978 the number of units in pre-war buildings has decreased steadily from 14 400 to about 8 500 now, at an average rate of 1 200 each year. Of the 8 500 still in existence only about 4 700 (55%) are effectively subject to the Part I controls. The balance (3 800 units) is either occupied by owners, specifically

excluded from controls or let at rents at or approaching market levels. The proposals in this resolution will have little effect on the rents payable by tenants of those premises which are not effectively subject to controls.

Despite repeated increases, the average permitted rents of business premises, subject to the Part I controls, still stand at only about 36% of prevailing market rents, and those of domestic premises at about 25%. This is due to the very low base on which rent increases are calculated. Unless further increases are allowed, the gap between these controlled rents and current market rents will widen still further.

Domestic Premises

It is recommended that the permitted rent of domestic premises should be 16 times the standard rent. For a typical upper floor tenement unit, this will result in an increase of about \$160 per month, bringing the rent to about \$650, or 38% of its prevailing market rent. About 3 250 domestic units in pre-war buildings are likely to be affected by this proposal.

Business Premises

It is recommended that the permitted rent of business premises should be 40 times the standard rent. For a typical commercial ground tenement floor, the increase will be about \$1,070 per month, bringing the rent to about \$3,280, or 52% of its prevailing market rent. About 1 400 business units are likely to be affected by this proposal. The proposed increase is necessary in order to bring permitted rents of business premises gradually up to an acceptable level to facilitate a smooth transition to decontrol in 1984. This proposed adjustment is therefore the last time increases in permitted rents of such premises are regulated under Part I of the Ordinance. There is already a provision in the existing Ordinance for the exclusion of pre-war business premises from rent controls with effect from 1 July 1984. Thereafter landlords and tenants of such premises will be in the same position as landlords and tenants of post-war business premises, that is, free to negotiate rents according to prevailing market conditions.

All together the increases are modest in relation to the great disparity between existing and market rents of these premises. Yet they represent another step in Government's policy of loosening these rigid and outdated controls which have been in force for over 35 years. In the case of public assistance recipients, any increase in rent will be offset by increases in rent allowances up to the permitted maxima.

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

Sir, I beg to move.

Question put and agreed to.

First reading of bills**EXCHANGE FUND (AMENDMENT) BILL 1983****WATERWORKS (AMENDMENT) BILL 1983****PRISONS (AMENDMENT) BILL 1983****DRUG ADDICTION TREATMENT CENTRES (AMENDMENT) BILL 1983****PUBLIC ORDER (AMENDMENT) BILL 1983**

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

Second reading of bills**EXCHANGE FUND (AMENDMENT) BILL 1983**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Exchange Fund Ordinance’.

He said:—Sir, I move that the Exchange Fund (Amendment) Bill 1983 be read the second time. The main purpose of the Bill is to modernize certain provisions in the Exchange Fund Ordinance so as to give clear legal authority for certain existing practices.

On 9 December 1981 the Financial Secretary explained in this Council a mechanism by which the Government could, through Exchange Fund intervention in the money market, exert pressure on interest rates and hence indirectly influence the exchange rate. Since then, the Fund has been used for this purpose on a number of occasions. Even though the intervention has undoubtedly succeeded at times in the objective of influencing the exchange rate, albeit indirectly, there have been doubts as to whether the operations involved fall unquestionably within the defined purpose of the Exchange Fund which is to regulate the exchange value of the currency of Hong Kong. The proposed amendment to section 3(1) of the Ordinance would put the propriety of this type of intervention beyond doubt.

I turn now to other provisions in the Bill. When bank notes are issued, a certificate of indebtedness is issued as cover for these notes and the note-issuing bank is required to pay to the Exchange Fund a sum equivalent to the face value of the certificate. At present, the Ordinance requires that these sums should be held ‘exclusively’ for the redemption of the bank notes. This would require the

assets backing the note issue to be managed separately, whereas in practice all assets of the Fund are managed as one pool. A proposal is now made to amend the Ordinance in order to give formal backing to existing practice.

Although coins and notes have a different physical form, they serve similar monetary functions. It follows that there is no substantial reason why the assets backing the coin issue should be separated from and employed in a different manner to those backing the note issue. It is proposed, therefore, to amend the Ordinance to allow all revenue and expenditure relating to the issue, maintenance, and retirement of coinage to be credited or charged to the Exchange Fund. This proposal reflects current practice and parallels the accounting treatment of revenue and expenditure arising from the note issue.

The Bill also proposes that certain powers now held by the Secretary of State should be transferred to either the Governor or the Financial Secretary. Thus, authority relating to the audit of the Fund would lie with the Governor, and authority for the appointment of staff employed in connection with the purposes of the Fund with the Financial Secretary.

Sir, the proposed amendments in the Bill have no implications for the management and control of the assets and liabilities of the Exchange Fund, which, and I would like to underline this, continue to rest entirely with the Hong Kong Government.

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

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

Question put and agreed to.

WATERWORKS (AMENDMENT) BILL 1983

THE SECRETARY FOR LANDS AND WORKS moved the second reading of:—‘A bill to amend the Waterworks Ordinance’.

He said:—Sir, I move that the Waterworks (Amendment) Bill 1983 be read a second time.

The intention of the Bill is merely to increase the level of fines which may be imposed for offences against the provisions of the Waterworks Ordinance and its Regulations.

The fines which may at present be imposed were set in 1974 and are \$10,000, under section 30 of the Ordinance, for the offence of polluting water forming part of the waterworks, and a maximum of \$2,000, under section 37, for the offence of contravening the Waterworks Regulations. In view of the inflation

which has taken place since that date it is considered reasonable to increase those fines, in line with the movement of the Consumer Price Index over the same period, to \$20,000 and \$4,000 respectively.

Sir, I move that the debate be adjourned.

Motion made. That the debate on the second reading of the Bill be adjourned—SECRETARY FOR LANDS AND WORKS.

Question put and agreed to.

PRISONS (AMENDMENT) BILL 1983

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

He said:—Sir, I move the second reading of the Prisons (Amendment) Bill 1983.

Recently an extensive review has been undertaken of existing legislation governing the functions of the Correctional Services Department. As a result, a number of amendments is now proposed to the Prisons Ordinance. These amendments, which are detailed in the Explanatory Memorandum, are mainly administrative, or are consequential upon the change of title of the Prisons Department to Correctional Services Department.

The reasons for the amendments are, I think self evident. But I would add that the changes to the disciplinary proceedings against officers of the Correctional Services Department in clauses 4 and 7 are to bring the proceedings into line with those applicable to other Disciplined Services. And the reasoning behind clause 6 is to enable the Commissioner to charge for the use of prisons’ staff and equipment for private purposes, making films for example. He will credit the proceeds to the Correctional Services Department Welfare Fund.

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—SECRETARY FOR SECURITY.

Question put and agreed to.

DRUG ADDICTION TREATMENT CENTRES (AMENDMENT) BILL 1983

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to amend the Drug Addiction Treatment Centres Ordinance’.

He said:—Sir, I move the second reading of the Drug Addiction Treatment Centres (Amendment) Bill 1983.

Section 6 of the Drug Addiction Treatment Centres Ordinance empowers the Commissioner of Correctional Services to make a recall order against a person who breaches the conditions of his supervision order. This action is not always appropriate, particularly in cases where the person in question has not started taking drugs again.

The object of the Bill now before this Council is to widen the range of action that can be taken against those who fail to comply with the requirements specified in a supervision order, by prescribing penalties of fines of up to \$5,000 and imprisonment of up to 12 months for breaches of supervision orders on conviction in a court of law.

Similar provisions are contained in the Detention Centres Ordinance and Training Centres Ordinance.

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—SECRETARY FOR SECURITY.

Question put and agreed to.

PUBLIC ORDER (AMENDMENT) BILL 1983

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

He said:—Sir, I move the second reading of the Public Order (Amendment) Bill 1983.

Under section 38 of the Public Order Ordinance, it is an offence for any person to enter or leave a closed area without a permit. The purpose of this Bill is to provide for exceptions.

During the festivals of Ching Ming and Chung Yeung, it is customary for people to visit the graves of their ancestors in the Sandy Ridge Cemeteries at Lo Wu inside the Frontier Closed Area. The fact of the matter is that because of the large numbers involved, the Commissioner of Police has not in practice been able to issue permits for them.

The same point applies to certain other categories of persons who move in and out of the Frontier Closed Area, including members of the disciplined services and the military on duty, residents of the Frontier Closed Area under the age of 18, passengers travelling to and from China and employees of transport companies operating between Hong Kong and China.

It is now proposed first statutorily to exempt military personnel and Police officers on duty from the requirement to have a permit. Secondly, the Bill before Council will empower the Commissioner of Police to grant a general permit to specific categories of persons to enter or leave the closed area at such times and subject to such conditions as he may specify. But the Commissioner will have the power to exclude any *particular* person even though that person may belong to one of the categories covered by a general permit.

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—SECRETARY FOR SECURITY.

Question put and agreed to.

4.00 p.m.

HIS EXCELLENCY THE PRESIDENT:—At this point Council might like to take a short break.

4.12 p.m.

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

ROAD TRAFFIC (DRIVING-OFFENCE POINTS) BILL 1983

Resumption of debate on second reading (13 April 1983)

Question proposed.

MR. S. L. CHEN:—Sir, the Bill now before this Council is the product of many hours of consultation between Officials and an *Ad Hoc* Group of Unofficials. The first Driving-offence Points Bill was introduced in July 1981 and subsequently withdrawn for further consideration pending the enactment of the new Road Traffic Ordinance. During the interim period, the Bill's provisions have been revised both to relate them to those of the newly-enacted Road Traffic Ordinance and to incorporate views expressed by Unofficials in the earlier discussions.

On the present Bill's publication in early April, Unofficial Members reconvened the *Ad Hoc* Group to study the new Bill and as usual, found some further points to qualify and we hope, to improve the Bill's provisions.

While the contents of the Driving-offence Points system may be unpalatable to some members of our community, the *Ad Hoc* Group's acceptance of the Bill was based on the potential it has for re-educating drivers into good habits and improved driving standards by dangling the large stick of disqualification in front of persistent offenders. If the computer of the Secretary for Transport has not erred, the number of people who would actually risk disqualification from the system is comparatively small, but the number of those whose driving behaviour may be improved by the sheer knowledge that possible disqualification lies in wait is likely to be considerably higher. If this awareness makes for safer driving conditions, then the Bill's real educative aim will be achieved. It was on the potential educational value of the Bill that we gave weight in lending our support.

One of the major areas of Members' concern was the question of the accumulation period. Having regard to the number of offences to be covered by the system and also the number of points to be assigned to each of those offences, we unanimously considered that three years was too long a period and we believe that the two-year period which I will be proposing by means of an amendment in the committee stage offers both a long enough period to encourage awareness and improvement in driving skills and a short enough period to ensure that the threat of disqualification does not hover unjustifiably heavily over drivers' heads.

The fundamental principle behind this Bill caused Members a fair amount of heart-searching, that is, the 'double or multiple penalty' which the Driving-offence Points Bill would impose over and above any financial or custodial penalty awarded under the Road Traffic Ordinance. It has been pointed out to us that such a double penalty is not without precedent in Hong Kong Law. The Medical Registration Ordinance, for instance, provides for the removal from the Register of any Medical practitioner who is convicted of a crime punishable by a term of imprisonment, and similar provisions govern other professional bodies. For this reason, we are prepared to accept the Bill's operation alongside that of the Road Traffic Ordinance.

Here, one note of warning which must be sounded is that the points system, including, as it does, some offences which can be dealt with by fixed penalty tickets, may result in increased work for the Judiciary. People who currently pay fixed penalty tickets and thus admit guilt of an offence, may be more inclined in future to contest the case in court.

Another 'double or multiple penalty' aspect of the Bill which caused Members some concern was the possibility of a driver being charged with and convicted of several offences arising one single act. Following the example given in the Secretary for Transport's speech on the 13 April this year introducing the Bill, we were concerned at the inequity which could arise, despite the assurances given in this Chamber by the Secretary for Transport because there was nothing in the law to prevent the driver in the example from being penalized for all three

offences simultaneously. I am glad that the amendment to clause 8 now clarifies the position that when calculating points for the purposes of disqualification, the magistrate may take into account only one of those 'multiple offences'. Unless all these offences were of the same point level, only the offence carrying the highest points would be counted. This amendment answers our concern.

We again came up against the problems posed by 'Careless Driving' and spent much time clarifying our views on this thorny question especially as the penalty points proposed for this offence were set fairly high. We were assured by the Administration, however, that adequate safeguards exist to ensure that a prosecution of 'careless driving' is only brought after careful scrutiny of the facts of the case by senior Police officers and by their legal advisers, the decision to prosecute for such an offence is not left to the constable on the beat.

Sir, I shall now turn my attention to the Schedule. In his Speech on 13 April introducing the Bill, the Secretary for Transport said that the 16 offences proposed in the Schedule were all carefully selected as having *direct* bearing on road safety, I repeat the word 'direct'. Having accepted this selection criterion, Members found it a little difficult to understand the logic for including items 7-11 and 16 in the Schedule. In our opinion, they had no direct bearing on road safety. However, the Administration argued that these offences did have some relevance to safe driving practice and felt strongly that, with the exception of items 10 and 16, they should stand. One or two of my Unofficial Colleagues in the *Ad Hoc* Group may still have reservations on which they will speak later in the debate. We nevertheless have additionally sought to downgrade three offences in the Schedule which appeared to us to be relatively less serious because less related to *safe* driving behaviour. Amendment to effect these changes will be put forward during the committee stage of the Bill.

We are, however, particularly concerned by the problems one item of the Schedule may cause, namely that of giving precedence to pedestrians on a zebra crossing. Hong Kong's roads and pavements are extremely congested and in many wide and uncontrolled crossings, drivers might have to wait all day to cross pedestrian crossings in obedience with the letter of the law. In the interests of fairness, therefore, bearing in mind the special circumstances of our crowded road system, we seek an assurance that this particular offence should be treated with commonsense. Perhaps for instance, a zealous policeman dutifully noting down offenders and totting up offence points at a busy crossing could be encouraged to employ his time more usefully by shepherding the stragglers across the road in a more orderly fashion. We have not sought to remove this item because we acknowledge that it is an important element of safe driving practice, we simply seek an undertaking that the issue of fixed penalty tickets or summonses for this particular offence should be treated with circumspection.

Sir, after many hours of consultation between the Administration and the Unofficials, substantial amendments have now been proposed to the Bill. We are, however, conscious of the fact that in dealing with a piece of legislation of

this nature we cannot possibly please everyone. For some, the amended Bill will appear to have had its claws drawn; for others, it may still seem unduly harsh. In our examination of the Bill, we took pains to find an equitable balance between the apparently conflicting interests of the various groups of people who use the road. Ultimately, road safety is in everyone's interest.

Sir, with these remarks, I support the motion before Council.

DR. HO:—Sir, the spirit of the Road Traffic (Driving-offence Points) Bill 1983 is laudable and worthy of support, as it aims to promote road safety through penalizing reckless, irresponsible driving behaviour. Certain elements of driving behaviour which pose a threat to other road users, have been selected and penalty points allocated by reference to the levels of penalties under the Road Traffic Ordinance. When the driver has accumulated 15 points in a two-year period, he will be temporarily disqualified from holding a driving licence. In this way, the demerit point system is designed to serve as an effective deterrent to persistently bad driving behaviour.

However, among the sixteen driving offences which were originally selected by the Administration to carry penalty points, I personally considered that some five offences did not bear a direct relationship to unsafe driving which could cause road accidents. Although the Administration has agreed to delete two offences, namely: failing to stop when required by a Police officer or a traffic warden and failing to give way to emergency vehicles, three of them still remain in the schedule to the Bill. These are: failing to stop after an accident, failing to give particulars after an accident and failing to report an accident.

As I see it, the act itself in respect of any of these three driving offences does not constitute unsafe driving on the road, causing injuries or damage to other road users. The Administration has argued that the offence of not stopping often follows some other unsafe driving act, like a hit-and-run occurrence. However, while I consider that a driver who fails to stop after an accident does commit a very serious offence, the award of demerit points in this case is inappropriate because the act of running away does not cause danger to other road users. In similar vein, the driver failing to give particulars about, or to report, an accident should not be given penalty points because it has nothing to do with irresponsible driving behaviour. I am not saying that such offences should go unpunished, I am merely pointing out that penalty points should be allocated only to the very act of unsafe driving and not to subsequent behaviour. The retention of these three driving offences on the schedule in my view undermines the stated aim of the Bill which is to promote safe, responsible and considerate driving.

Unless these three driving offences are removed from the Schedule, Sir, I am afraid I have to abstain from voting.

SECRETARY FOR TRANSPORT:—Sir, I move that the debate on this motion be further adjourned.

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

Question put and agreed to.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1983

Resumption of debate on second reading (27 April 1983)

Question proposed.

MR. PETER C. WONG:—Sir, I fully endorse the statement by the Secretary for Housing that rent control is a dynamic entity which must be adjusted in response to social and market conditions while keeping in view the overall objective of an eventual return to free market conditions. With 32 000 domestic flats standing vacant at the end of 1982—an all-time record, the consensus of opinion is that something should be done to induce empty flat owners to put their flats on the market.

The Bill now before Council represents, *inter alia*, an attempt to correct this situation. The extent of the effectiveness of the proposed measures, however, remains to be seen.

An *ad hoc* group of 12 Unofficial Members examining this Bill received 34 representations. These have all been carefully considered and discussed with the Administration, although the majority of these representations relate to points which have already been raised and considered on previous occasions. It is interesting to note that all the representations received are from individuals, mostly landlords and none at all from associations or corporations. To be exact, we have received only three representations from tenants.

As a result of the group's deliberation, the Administration has agreed to a number of amendments, the more important of which are—

1. Clause 11 will be amended to ensure that the benefit of the transmission of the protected tenancy as a result of the death of the tenant will be available only to those members of the tenant's family who were residing with the tenant at the time of his death. This will *prevent the perpetual transmission* of protected tenancies.
2. Clause 15(g) will also be amended to ensure that a sub-tenant who becomes the tenant of a landlord under the new subsections (4A) and (4B) or subsection (6A) may not sublet without the written permission of the landlord. This is to *prevent abuse* of the proposed new subsections.

3. Clauses 15(*h*) and 37(*a*) will be amended to preserve the *status quo* in respect of the period of prohibition on alienation of repossessed premises. This will continue to be *24 months from the date of the order for possession* and not 24 months from the date of obtaining vacant possession as proposed in the Bill.
4. Clauses 24(*b*) and 25 will be amended so that the Commissioner of Rating and Valuation may require from landlords and tenants only such particulars which are *reasonably* required, and a person will only commit an offence if he refuses *without reasonable excuse* to furnish such particulars.

In addition, the Administration has agreed to examine the following issues when the Ordinance is next reviewed—

1. The exclusion of corporate tenants from Part II of the Ordinance.
2. The provision of suitable exemptions to Part IV of the Ordinance. Part IV relates to security of tenure.

A number of my Unofficial Colleagues will be speaking this afternoon. No doubt, they will deal more fully with the agreed amendments and other points of interest or concern.

The Secretary for Housing will be moving a number of amendments at the committee stage. Most of these are of a technical nature or for clarification.

Subject to the agreed amendments, the group is generally satisfied that the proposals contained in the Bill are fair and reasonable. As pointed out by the Committee of Review, it would be virtually impossible to reconcile completely the interests of the landlords and the tenants. However, the Bill does represent a further step forward in balancing these interests under prevailing conditions.

As events in Hong Kong move very rapidly, may I suggest that the Ordinance be reviewed annually instead of biannually. This may entail more work but it will enable Government to respond more swiftly to changing circumstances. In this way, the interests of both landlords and tenants will be better served.

Sir, with these brief remarks, I support the motion.

MR. S. L. CHEN:—Sir, the current provision in section 50(4) of the principal Ordinance allows dependents of a deceased tenant, who were residing with him at the time of his death, to be given the same benefits and protection on rent increase and security of tenure in respect of the premises they occupied. The objective of this provision is correct in spirit for it removes the hardship of those dependent family members who may otherwise have to leave the protected premises and to shoulder higher rents for their new accommodation when they have already faced the calamity of losing one of their closest kin.

However, in Unofficial Members' examination of the Bill and the public representations, we discovered that section 50(4), as at present worded, goes much further than the intended purpose. In extreme cases, it may allow tenancies to be transmitted perpetually, in fact through endless generations, by granting protection in repeated successions among family members. This we considered is against the spirit of the law. Accordingly I shall move amendments to clauses 11 and 30(d) during committee stage to ensure that the protection intended only for those family members residing with a deceased tenant at the time of his death, and will not be transferred to other persons.

Sir, with these remarks, I support the motion.

REVD. P. T. MCGOVERN:—Sir, my views on rent control can be found extensively in Hansard whenever the subject came up over the past seven years. If you find Hansard too dull you will also find my views quoted—approvingly I might point out—in more than a couple of editorials in the English language press. And if that is too time consuming you can even find approval of my views in a cartoon strip. The fact that the cartoon strip shortly after that folded up should not be taken as a reflection on my views. Today I will merely update and summarize my reasons for opposing and voting against this Bill.

As a preface I would remark that I agree with the proposal to extend rent control for another two years. I also agree with those who point out that there are some good clauses in the Bill and that other clauses are moderate and do not affect a very large number of flats. But I do not agree with those who say that therefore the Bill should not be opposed. In the present state of our economy any extra burden which can be avoided should be avoided even if for only a relatively small number of families. We are in a time of higher than usual unemployment, underemployment, continuing rises in the cost of living and continuing near stagnation of real wages in manufacturing and other sectors. I have no big quarrel with most of this Bill and confine my remarks to it in so far as it relaxes rent control under Part II of the Ordinance.

I oppose any relaxation of rent control at the present time for the following four reasons. One is about policy and three about suppositions which could be wrong.

The Bill is in furtherance of a policy which I believe to have set a wrong objective. The objective of Government policy has often been stated in different words at different times. I think I can fairly summarize that policy as being to gradually phase out rent control in order to bring actual rents up to the level of the fair market rent. That policy should, of course, be the opposite. It should be to bring down the exorbitant, speculation-fed unfair market rent to a level which people can afford to pay. Due to speculation and other reasons our rents are on the whole unfair. I am glad to note that at long last Government indirectly admits that fact by proposing to remove the words 'fair market rent' from the law. Unfortunately in admitting to the need for a change of words

there would appear to be no admission of the need for a change of policy. Policy is still based on the unchanged fact. That fact is, what becomes 'prevailing' remains 'unfair'.

I turn to the first possibly wrong presumption: We have frequently been told that the only real solution to the housing problem is the sacred law of supply and demand. I hope I do not shock anyone unduly in this last bastion of laissez faire capitalism if I announce that the law of supply and demand, in itself, does not work. I would go so far as to say that, worldwide, it never did work. Over the decades as long as I can remember there have always been at intervals news items about people burning wheat in North America, burning coffee in South America, and only last week destroying British meat in France—all to keep the price up and prevent the consumers getting the benefit of sufficient supply. Even in wartime when one would expect patriotic feeling to run high, there are always some who will attempt to run a black market, even in essential foodstuffs. In other words, supply and demand can only work in a free market, and a free market can only exist when it is protected against human greed. I'd better translate that word. It means 'maximization of profits'—with no account taken of the social costs.

On a more practical level, among the mass of very interesting statistics provided by Government I can find no evidence that rents for medium and smaller flats are coming down as it was claimed they would as a result of supply and demand coming into balance. While I entirely agree that the more flats we can build the better, I would point out again that supply and demand is a deceptive term. Our real problem is to balance supply and *need*. The needy are often in no position to take part in the demand. They have not enough money to demand anything.

The second possibly wrong presumption is the frequently made statement that the large number of vacant residential flats is due to the fact that they are being deliberately held off the market by speculators who want to create a shortage and thus get the price up. This may be partly true and in so far as it is it re-inforces my argument about supply and demand not working. But it could reasonably be argued that there is another more important cause for the empty residential flats. That cause could simply be that people cannot afford to pay the high rents being demanded for such flats—I am still talking about medium and small flats. Have I any proof that this may be so? I refer you again to the statistics produced by Government. All the statistics I am quoting, by the way, are up to 31 December 1982. Of the, in round numbers, thirty-one and a half thousand wholly vacant flats in the private residential sector, more than half, that is seventeen thousand, were completed after June 1981. Or to put it another way, of the, again in round numbers, forty-two and a half thousand flats completed after 19 June 1981, seventeen thousand are wholly vacant, that is about 40%. As you know flats completed after 19 June 1981 are not controlled under Part II. Rent control cannot be the reason for the vacancy rate simply because there is no rent control. There must be another reason. It could be the

one I suggested above: that people cannot afford the high rents. I do not think landlords have anything to fear from sitting tenants under Part IV in a community where only 9% of the employed population earns more than \$5,000 per month. Most tenants simply could not pay the unfair prevailing market rent, and therefore will have no legal option but to get out.

The third possibly wrong presumption is one that we are sure to be told. It will be said that if rent control is extended developers will lose interest in property and there will be fewer new starts to buildings now, and thus fewer new flats for occupation in a couple of years time. This trend is already showing in the statistics, but is rent control the cause? Another possible cause is that in the present political uncertainty investment in anything long term in Hong Kong is slowing down in the shadow of 1997. I would suggest, therefore, that the time and energy being spent on reducing rent control could more profitably be spent in even greater efforts than the present very strenuous ones, to persuade London and Beijing to get on with reaching an acceptable settlement of the future of Hong Kong. By acceptable I mean such that investors will have confidence to invest in long term projects especially those involving leases. One can indeed heed Your Excellency's sound advice to be patient and to get on with our day-to-day work. I think most people are heeding that advice. but to invest money in an uncertain future is a different matter.

With these observations on objectives and suppositions I will vote against the second and third reading of the Bill in general, because it contains a relaxation of rent control, and I will not waste the time of Members by my voting on individual clauses, some good and some bad. In case my position is not clear, Sir, I oppose the motion.

MR. SO delivered his speech in Cantonese:—

督憲閣下：辯論一九八一年業主與租客（綜合）（修訂）法案時，本人以租客的身份發言。今番辯論一九八三年業主與租客（綜合）（修訂）法案，本人已購得樓宇一所自住，並快將擇吉入伙，擠身業主的行列。

兩年前的地產投機活動不但熾烈，且近瘋狂，樓宇的價格和一般市民的購買力大大脫節。私人樓宇租金上升，租客在租約期滿前，心情惶恐，不是受加租之苦便是不獲續約，迫得另覓居所。目前因為物業市道呆滯，樓宇價格和租值已變得較為合理。有人把地產市場陷入低潮，完全歸咎於本港的不明朗前景，本人則認為物極必反，就算是前景明朗如水晶球，瘋狂的樓價和租值亦應回順。

本法案提出後，政府會呼籲市民積極發表意見，以供研究，始行立法。行政立法兩局非官守議員辦事處所得數十份的意見書，絕大部份都是來自業主，他們認為本法案的放寬管制項目，似嫌太少，不夠徹底。本人認為法案目的並非純為刺激市道，而是使「有關階層的利益獲得較合理的均勢」，配合政府繼續提供土地和樓宇的努力和好意之下，值得支持。

督憲閣下，本人謹此陳辭，支持該項動議。

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

Sir, when the Landlord and Tenant (Consolidation) (Amendment) Bill was debated in 1981, I spoke as a tenant. When the Landlord and Tenant (Consolidation) (Amendment) Bill 1983 is debated now, I have bought a flat for my own residence, and shall move in on a propitious date, thus becoming a property owner myself.

When property speculation was at its almost crazy height two years ago, property prices simply were beyond the reach of the ordinary people. Rents of private property were soaring. Tenants would become very apprehensive towards the expiration of the lease, because either he had to pay increased rent or his lease would not be renewed. Now as the property market is static, property prices and rents have come down to a more reasonable level. Some people blame the ebb tide of the property market entirely on Hong Kong's uncertain future. However, I think that 'as soon as a thing reaches its extremity, it is bound to reverse its course'. So even the future is crystal-clear, the maddening property prices and rents must fall.

The Government has appealed to the people to express their views after this Bill was introduced, so that enactment would only follow careful consideration of public opinion. The scores of representations received by UMELCO came mostly from landlords. They thought that the items to be excluded from control were too few and did not go far enough. I hold the view that the object of this Bill is not to stimulate the property market, but to 'reasonably balance the benefits of the relevant classes', and to match Government's continuous efforts and good intentions in encouraging supply of land and houses to meet the people's housing need.

Sir, with these remarks, I support the motion.

MR. CHAN KAM-CHUEN:—Sir, I rise to support the Landlord and Tenant (Consolidation) (Amendment) Bill 1983, but before that I wish to declare my interest as a tenant of a controlled domestic premises.

Rent control is positive intervention and is contrary to our belief in the free economic system which makes Hong Kong prosper. It disrupts the smooth flow of the demand-and-supply cycle, discourages long term property investment and encourages short term speculation. It also perpetuates shortage as the increase in the number of vacant domestic flats from some 17 000 at the end of 1980 to some 32 000 by the end of 1982 can show. If these flats are not let the middle and lower income groups would derive no benefit from them in terms of lower rental and greater supply. In my last speech on this subject in this Council on 9 December 1981, I mentioned that rent control is like drug addiction. This drug has now blinded the eyes of even experienced investors and speculators alike in that the limit of the earning and purchasing power of the sandwich class were disregarded resulting in property prices out of purchasers' reach. Huge

resources (\$16 billion even at a conservative average of half a million dollars per flat) are frozen and not recycled into the economy as rent, property tax, opportunities for employment, etc. which is counter-productive to the economy.

The security of tenure offered by the law has made property investment unattractive in that once invested the capital cannot be withdrawn easily as very few purchasers would buy a flat with a sitting tenant even at a greatly reduced price.

The control of rent increase below the rate of inflation would gradually erode that loaf of bread to slices and then to crumbs. I read in the press that there is a 2 500 sq. ft. domestic premises in the choice residential area of Kowloon Tong let at a monthly rental of 60¢ per square foot. This return would shock any fair-minded person and no one would like to put oneself in that landlord's shoes. If that landlord has no other income, he could get a better monthly income than the \$1,500 rent by applying to his tenant to work as landlord cum chauffeur provided he has a driving licence. (*laughter*)

With property tax now computed at 15% on actual rental received, revenue from this source is very much deflated. It can therefore be said that not only the landlord who is now subsidizing this lucky tenant but also the public coffers because it is the taxpayers who will foot the bill when there is a deficit in our budget. If times are hard, we should spread the load evenly and this tenant should pay more. The working class owners of the first batch of flats which could be purchased by instalment payments in the 1950s should by now be near retirement age, and pleased to note that with effect from 1 July 1983 fresh lettings are not subject to rent control. There are some 285 000 such owner occupied flats and if they wish to let part of their flats to provide for an income for old age and for their dependents, this Bill will go a long way to solving the lack of pension after retirement.

There is now about half a million tenants and their families in rent controlled premises against an estimate of 1.2 million tenants as at March 1980 (source: Annex 7 of the Report of the Committee of Review). To achieve total rent decontrol we should first look into their housing need. We should get all those well-off tenants or absentee tenants out of public housing into home ownership or private housing and let the people in the queue of under-privileged applicants who cannot afford private housing to take up the vacancy thus created. We should not make life tenancy in public housing or enable them to be passed to their heirs and successors as of right New tenancies in public housing should be of ten years duration and terminated or extended according to the then prevailing financial circumstances of the tenant. Let more under-privileged people have that ten year relief in subsidized rent and have some savings to create wealth and foster their sense of belonging to Hong Kong. This is a more pleasant way of re-distribution of wealth within our community.

With these observations, Sir, I support the motion.

MR. SWAINE:—Sir, I shall confine my remarks to two specific areas of the Bill which the Administration has agreed to revise after discussions with the *ad hoc* group of Unofficials. I shall accordingly be moving two sets of amendment at the committee stage.

The first relates to clauses 15(*h*) and 37(*a*) under Part II and Part IV respectively. These contain restrictions on the landlord's power to deal with the premises after he has obtained an order for possession on the grounds of user for himself or his immediate family or for the purpose of re-building (under section 53 of Part II), or after he has successfully opposed the grant of a new tenancy for the same reasons (under section 119E of Part IV).

The restrictions at present contained in section 53(7) and 119H(1) run for a period of two years from the date of the order or decision of the Tribunal. It was originally proposed in the Bill that this period run instead from the date of the landlord obtaining vacant possession. However this proposal would have led to an undesirable degree of uncertainty as the tenant might hold over long after he had ceased to be entitled. Further it was felt that the present restriction of two years from the date of the order or decision of the Tribunal was a sufficient deterrent. Accordingly this formula will be retained.

The second area of revision relates to the enforcement powers of the Commissioner of Rating and Valuation under section 70 of Part II. The proposed clause 24 spells out these powers in detail and they include power to require the furnishing of information and the supply of tenancy documents, as well as powers of inspection of the premises. Failure to comply with the Commissioner's requisitions or obstruction of the exercise of his powers of inspection are punishable under clause 25.

These powers are now to be tempered by the provision that the information requisitioned by the Commissioner must be reasonably required and by the further provision that an offence is committed only if there is no reasonable excuse for the refusal, neglect or obstruction.

Sir, with these remarks I support the Motion.

MR. CHEUNG YAN-LUNG:—Sir, I wish to declare my interest as a director of a few companies which own premises under control by Part II of the principal Ordinance.

When considering the merits of the Bill before the Council, I was impressed by the simplicity and brevity of its Explanatory Memorandum. But I was awed by the complexity and verbosity of the textual provisions in the amending Bill itself. After making great efforts to read them through, my immediate reaction was that these new legislative provisions would surely add to the lucrative practices of many solicitors, if not also barristers. I note with consolation, that it is not the intention to increase elaborately the establishments of the Judiciary, the Rating and Valuation Department or the Legal Aid Department to cope with the envisaged increased workload.

I wish to place on record my personal appreciation of the efforts which have obviously been put in by the Committee of Review, to have thought out solutions to the complicated and inter-related problems, and succeeded in reducing them into chapters and verses to be incorporated in our already formidable set of statute books. It is indeed ingenious to have devised workable formula to tackle the emotive question of rent control.

However, Sir, I am not entirely happy with the Bill as it stands. For I have noted with concern the effect of clause 2 which reaffirms that the Landlord and Tenant (Consolidation) Ordinance, with or without the amending Bill, is never intended to apply and is not going to apply, to the literally tens of thousands of small houses—licensed, tolerated or otherwise—erected after the 17th day of August 1945 on agricultural land in the New Territories. I would like to question whether such a policy, apparently formulated some 30 years ago in 1953, should not now be reviewed.

Since 1953, my home-town, Shek Wu Hui, which had once been gutted by fire, has been completely rebuilt and is now undergoing the processes of further redevelopment into a modern city. The neighbouring rural township of Luen Wo Hui is also being redeveloped into a twin-city parallel with Shek Wu Hui. Sha Tin, Yuen Long and Tai Po have completely changed, so have Tsuen Wan and Tuen Mun. I need to be convinced that a policy formulated for the New Territories in 1953 is still suited to the circumstances of today, even though it was intended then only to apply to the agricultural usages of our ancestral land.

There is hardly today a patch of agricultural land in the New Territories which is still being used for paddy cultivation. However rentals for tenancies in respect of these lots are still reckoned in terms of piculs of unhusked rice or 'kuk', which is no longer produced! The land has been sublet and resublet. Many have since been converted into homesteads of a variety of sizes and shapes—with or without the consent of the registered land owners. The usual problems associated with landlord and tenant relations arise. The situation was made worse by the transfer of judicial authority of determining disputes over interests in 'agricultural land' from the offices of the old-fashioned District Officers to that of the District Courts. The unfamiliar procedures in a District Court simply deter unsophisticated villagers from bringing their grievances or disputes for settlement. The fatherly figure of an old-fashioned District Officer—so vividly and charmingly described in Mr. Austin COATES' Book 'Myself a Mandarin', is no longer available to help. Disputes have been allowed to stale-mate in deadlocks, relationships deteriorated, and differences remain unresolved. Neither the landlord nor the tenant was happy. Over the years, there could well be a third party of a sub-tenant, or perhaps a fourth party of an unregistered assignee of an unauthorized structure, or even a fifth party of a sub-sub-tenant, who had become the actual occupant of the land and the structure erected thereon. The landlord or the registered owner have lost their traditional resort to assert their ownership rights and to discipline the unwelcomed occupant in a proper way.

I am not saying which of these several parties is to blame; but I am advocating that the situation has been allowed to deteriorate for too long a time and is in grave need to examination of determine what, if anything, can be done to resolve these problems.

Sir, neither was the Bill satisfactory in one other aspect, Mr. S. L. CHEN has spoken earlier of stopping tenancies to be transferred perpetually among family members. Miss Maria TAM will soon speak on an amendment to prevent tenancies to be transferred ad infinitum by sub-tenants who have become direct tenants themselves. But as far as corporate tenancies are concerned, the law is still allowing the protection to be transferred despite changes in occupier. I was glad to note during a meeting of Unofficial Members with the Administration that the Administration agreed to examine the position of corporate tenants when the Landlord and Tenant (Consolidation) Ordinance is next reviewed. I hope consistency in the underlying principle can then be reached.

Sir, with these remarks, I support the motion.

MISS TAM:—Sir, subletting is an essential feature of the tenancy structure we find in Hong Kong as housing remains in great demand and rental remains high. Here it is not unusual to find several households living in different cubicles in one flat in which they share the common facilities as well as the emotional problems arising out of living in a crowded environment. In order to ease the pressure on the minds of these tenants and sub-tenants, and to define their security of tenure this Bill now provides, for example, under clause 25 protection from harassment of a tenant or sub-tenant by any person including the landlord; and under clauses 15(f) and (g) allowing the sub-tenant to remain in possession of part of the premises even though the landlord has recovered possession of the other parts from the principle tenant for the landlord's own occupation.

However, there are circumstances where the principal tenant makes a handsome profit out of the rentals paid by the sub-tenants, and particularly in cases where he does not in fact reside at the premises that it becomes necessary for us to think of protecting the interest of the landlord. Thus clause 15(b)(vi) now provides an additional ground for the landlord to recover possession of the premises where 'the tenant has sublet the whole or any part of the premises' which he does not in fact use 'as his dwelling'.

But the story of the landlord's problem does not end there. Where the subletting is not in breach of the contractual tenancy the sub-tenant becomes the principal tenant and he can in turn sublet the whole premises to his subtenant and this sub-sub-tenant will also be protected under our 'rent control' legislations. The landlord, in effect, never recovers possession of his premises.

Hence the *Ad Hoc* study group of Unofficial Members on this amendment Bill proposed, and after careful consideration the Administration accepted, that the immediate sub-tenant should enjoy protection of 'rental control' measures

and security of tenure, but it would be unjust if the landlord should be burdened with a sub-tenant whose existence was not contemplated by the contract. In order to remedy this situation clause 15(g) is now amended in the new subsection 6B after paragraph (a) to the effect that:—

‘(aa) where a sub-tenant becomes the tenant of a landlord under subsection 4A (i.e. where the landlord has recovered part of the premises for his own occupation) and 4B (i.e. where the Tribunal has apportioned the remainder of that premises for occupation of the sub-tenant) or subsection 6A (i.e. where the sub-tenant replaces the principal tenant against whom the landlord has recovered possession), any sub-letting under that tenancy by that tenant, without the written permission of the landlord shall be in breach of the contractual tenancy.’

This amendment will give the landlord a choice as to whether he wishes to recognize and accept the second generation of sub-tenant in spite of the fact that in the original tenancy agreement made between him and the first tenant there was no prohibition on sub-letting.

Following the same rationale section 119P of the principal Ordinance will also be amended to the effect that where a sub-tenant becomes a tenant, without breach of the contractual tenancy, and he in turn sub-lets without obtaining the written permission of the landlord he commits a breach of a condition of the tenancy and that tenancy will then be subject to forfeiture.

Sir, these amendments curtail any unfair succession of subtenancies and I shall be moving two amendments at the committee stage. I also support this Bill with the other amendments and I declare my interest both as a landlord and a tenant of protected premises.

SECRETARY FOR HOUSING:—Sir, I move that the debate on this motion be further adjourned.

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

Question put and agreed to.

LANDS TRIBUNAL (AMENDMENT) BILL 1983

Resumption of debate on second reading (27 April 1983)

Question proposed.

MR. PETER C. WONG:—Sir, the *ad hoc* group of 12 Unofficial Members who examined the Landlord and Tenant (Consolidation) (Amendment) Bill 1983 also studied the Bill now before Council.

Since 1982, the Lands Tribunal has been the judicial body empowered to hear tenancy cases in the first instance. When the legislative provisions for this purpose were introduced last year, the Tribunal was not vested with jurisdiction to deal with applications for possession during the contractual period. This has given rise to practical problems and clause 2 of the Bill now seeks to vest such jurisdiction in the Tribunal.

Other amendments are technical, such as the provision of a uniform basis for appeals. This particular provision will be widely welcomed by legal practitioners.

Clauses 6, 7 and 8 of the Bill amend Lands Tribunal Rules. Normally, subsidiary legislation and amendments thereto are tabled in this Council by way of resolution. The present departure from normal practice is purely a matter of convenience. The Chief Justice has been fully consulted and has approved the amendments.

Sir, I support the motion.

SECRETARY FOR HOUSING:—Sir, I move that the debate on this motion be further adjourned.

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

Question put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday, 8 June 1983.

Adjourned accordingly at seven minutes past five o'clock.