

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 8 June 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

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

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

THE HONOURABLE 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.

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.

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

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

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

THE HONOURABLE HU FA-KUANG, J.P.

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

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.  
SECRETARY FOR HOUSING

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

THE HONOURABLE CHAN KAM-CHUEN, J.P.

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

THE HONOURABLE 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*)

#### **ABSENT**

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

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

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

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

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

**Papers**

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

| <i>Subject</i>  | <i>L.N. No.</i> |
|---|-----------------|
| Subsidiary Legislation:   |                 |
| Inland Revenue Ordinance.<br>Inland Revenue (Interest Tax) (Exemption) (Amendment) (No. 2) Notice<br>1983 .....   | 171             |
| Agricultural Pesticides Ordinance.<br>Agricultural Pesticides (Amendment) Regulations 1983 .....  | 172             |
| Public Health and Urban Services Ordinance.<br>Food Adulteration (Metallic Contamination) Regulations 1983 .....  | 173             |
| Public Health and Urban Services Ordinance.<br>Harmful Substances in Food Regulations 1983 .....  | 174             |
| Merchant Shipping Ordinance.<br>Merchant Shipping (Certification of Officers) (Amendment) Regulations<br>1983 .....   | 175             |
| Registration of Persons Ordinance.<br>Registration of persons (Application for New Identity Cards) (No. 2)<br>Order 1983 .....  | 177             |
| Public Health and urban Services Ordinance.<br>Cheung Chau Cemetery, Sandy Ridge Cemetery, Sandy Ridge Urn<br>Cemetery and Wo Hop Shek Cemetery (Removal and Disposal of Human<br>Remains) Order 1983 ..... | 178             |
| Merchant Shipping (Safety) Ordinance.<br>Merchant Shipping (Cargo Ship Construction and Survey) Regulations<br>1981 .....   | 179             |
| Administration of Justice (Miscellaneous Amendments) Ordinance 1981<br>Administration of Justice (Miscellaneous Amendments) Ordinance 1981<br>(Commencement) (No. 2) Notice 1983 .....                      | 180             |
| Tax Reserve Certificates (Fourth Series) Rules.<br>Tax Reserve Certificates (Rate of Interest) Notice 1983 .....  | 183             |
| Merchant Shipping (Safety) Ordinance.<br>Merchant Shipping (Safety) Ordinance (Amendment of Schedule) Order<br>1983 .....   | 184             |
| Dangerous Drugs Ordinance.<br>Dangerous Drugs (Amendment of First Schedule) Order 1983 .....  | 185             |

| <i>Subject</i>  | <i>L.N. No.</i> |
|---|-----------------|
| Legal Practitioners Ordinance.<br>Practising Certificate (Solicitors) (Grounds for Refusal) Rules 1983 .....                      | 186             |
| Antiquities and Monuments Ordinance.<br>Antiquities and Monuments (Declaration of Proposed Monument) (No. 2)<br>Notice 1983 ..... | 187             |
| Antiquities and Monuments Ordinance.<br>Antiquities and Monuments (Declaration of Proposed Monument) (No. 2)<br>Notice 1983 ..... | 188             |
| Revised Edition of the Laws Ordinance 1965.<br>Annual Revision 1982 .....   | 189             |
| Sessional Paper 1982-83:  |                 |
| No. 57—Supplementary Provisions approved by the Urban Council during the fourth quarter of the financial year 1982-83.            |                 |

### **Oral answers to questions**

#### **Imprisonment of civil debtors**

1. MR. PETER C. WONG asked:—*With reference to the Attorney General's reply to my question in this Council on 2 June 1982, what is the present position regarding the review of the enforcement procedures relating to civil debts?*

THE ATTORNEY GENERAL:—Sir, I received at the end of May the report of the Working Group comprising representatives of the Chief Justice, the Hong Kong Bar Association, the Law Society, the Director of Legal Aid, the Commissioner of Correctional Services and the Inland Revenue Department. Sir, it has not been possible due to pressure of other business in the ensuing fortnight to consider it in detail but I am sure my successor will. The intention is that, after that has been looked into and after the United Nations Commission Covenant on Civil and Political Rights Article 11 has been assessed in its relationship to the problem, the matter should be drawn to the attention of Executive Council for them to take a view upon it. That Article provides that no-one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Sir, speaking personally if I may be permitted so to do, it seems to me that the way ahead is to retain imprisonment for debt in circumstances where the debtor has concealed his assets or in circumstances where by profligate living he has put his assets beyond the reach of his creditors, but it does seem to me that it is just that those two matters should be shown to be the case before and not after he is

imprisoned. The present position is that it is for any debtor to make application to be released and he will be released unless the creditor can show one or other of those two grounds. It does seem to me, again speaking personally, that it would be a much fairer procedure if *prior* to imprisonment, for this must apply to many thousands of people potentially in Hong Kong, the situation was that it had to be shown that one or other of those grounds was concerned. But no doubt these are matters which the Executive Council will consider in due course.

### **Treatment of prisoners**

2. MR. SWAINE asked:—*Are different standards of treatment applied to prisoners (both criminal offenders and civil judgement debtors) depending on race, and if so, in what respects and why?*

SECRETARY FOR SECURITY:—No, Sir.

MR. SWAINE:—*Sir, does the Secretary's answer apply to matters of diet and, if not, how are different standards of diet justified?*

SECRETARY FOR SECURITY:—Yes, Sir, my answer does apply to matters of diet. How diets for prisoners are determined depends on their traditional means of living and the customs to which they are used.

MR. SWAINE:—*Sir, diet aside, on the grounds of custom or tradition are different standards of treatment applied to different classes of prisoner?*

SECRETARY FOR SECURITY:—Apart from diet, yes, Sir, there are different treatment of prisoners on the basis of religion, and there is different treatment of prisoners on other aspects of the way in which they are accustomed to live. For example, some prisoners who are used to using mattresses are given mattresses in prisons and those that are not accustomed to sleeping on mattresses would not be given mattresses in prison.

MR. PETER C. WONG:—*Sir, if the prisoner is a Buddhist, would vegetarian food be provided?*

SECRETARY FOR SECURITY:—Sir, I came here prepared to deliver answers in respect of race. I think we are going a little bit too far from the original question.

MR. PETER C. WONG:—*I think my question is perfectly legitimate. It is connected with 'different standards'. The Secretary just said that because of religion and so on different treatment would be meted out—so my question follows on the Secretary's answer. If he cannot answer me now I would be happy with a written reply.*

SECRETARY FOR SECURITY:—I would like to say that I consider my honourable Friend's question to be out of order because it is inconsistent with the original question asked.

HIS EXCELLENCY THE PRESIDENT:—I think whether or not the question is not of order is a matter for the President. Would you like to answer Mr. WONG's question or offer him a written reply?

SECRETARY FOR SECURITY:—I will offer him a written reply, Sir.

(The following written reply was provided subsequently.)

If a practising Buddhist requests vegetarian food and he is able to show to the satisfaction of the Superintendent of the Institution in which he is serving his sentence that this is his normal diet, his request will be approved.

### **Overhead traffic lights**

3. MR. WONG LAM asked in Cantonese:—

有關在交通繁忙路口裝設高架交通燈號之試驗計劃，政府可否說明其成績如何？

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

*Will Government make a statement on the results of its experimental programme for installing overhead traffic lights at congested traffic junctions?*

SECRETARY FOR TRANSPORT:—Sir, a report on a test of overhead traffic light signals was completed by the Traffic Control and Surveillance Division in December 1982. Signals were installed on cantilever masts at the junctions of Fenwick Street/Hennessy Road and Ferry Street/Jordan Road.

The report concluded that overhead signals used with a dark backing board had some advantage over pole mounted signals in terms of visibility, and could be useful on roads where the speed of vehicles is relatively high. However, in accordance with general practice elsewhere, it recommended that overhead signals should be used to complement rather than replace the pole mounted signals which motorists expect to see.

The Traffic Control and Surveillance Division is in the course of its normal work identifying possible locations for overhead signals. The cost of installing a signal is estimated at HK\$25,000. The mast must be sufficiently strong to withstand typhoons. This cost must be justified on environmental and traffic grounds.

Sir, I have pleasure in providing a copy of the report for Mr. WONG Lam.

### **Married women for training in the nursing and teaching professions and the Police**

4. MISS TAM asked:—*Will Government state its policy vis-a-vis the acceptance of married women for training in the nursing and teaching professions and the Police?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, employment opportunities for women in the civil service are expanding all the time. We now employ some 46 000 women altogether, of whom 21 400 are married. There are for example 3 000 married women in the nursing service, 1 500 in the teaching grades and 1 600 married women in the Royal Hong Kong Police Force.

Generally speaking it is our policy to place no bar on the appointment of either men or women to posts in the civil service, and we have now reached a point where the only substantial bar still remains is one that affects men. I refer here to the bar against the appointment of men to the secretarial and typing grades. Although Miss TAM's question did not concern the male side of the coin, she may like to know that I am proposing to lift this particular bar now. While I would not expect this to change significantly the pattern of recruitment to the secretarial and typing grades, I do recognize that there a point of logic.

Turning now to the position of married women as compared with single women, we have up until now restricted the entry of women for training in the nursing and teaching professions to women who are single. Following Miss TAM's question I have reviewed our policy in this regard together with the Director of Medical and Health Services and the Director of Education. I am glad to tell Miss TAM that we have agreed between us that henceforth a woman's marital status should no longer be a consideration in selection for entry to training courses for the nursing and teaching professions.

The position with regard to the Police is rather different. Because of the intensive training requirements of the Force, it has been the policy of the Commissioner of Police not to appoint married men or married women for training as Inspectors. For the same reason it is Force policy not to recruit married women for training as Constables.

REVD. JOYCE M. BENNETT:—*Will the Government confirm that raising the bar to men in the secretarial and typing grades should be an encouragement to disabled men who are able to do sedentary jobs?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, yes, I think that could well be the result.

### **Local Employment Service**

5. REVD. JOYCE M. BENNETT asked:—*With the large number of students graduating from their secondary schools, has the number of young people seeking*

*the assistance of the Local Employment Service of the Labour Department increased significantly in recent months and, if so, what arrangements have been made to deploy extra staff to cope with the additional work and to assist the students in finding suitable jobs?*

COMMISSIONER FOR LABOUR:—Sir, every year, after the completion of the Certificate of Education Examination, usually in the latter half of May, there is a sharp increase in the number of people registering with the Local Employment Service (L.E.S.) of the Labour Department for employment assistance for about four months of the order of 50%. Not unexpectedly, the majority of these registrants are fresh school leavers looking for jobs, either permanent or temporary ones.

Following the usual patterns of the past few years, the number of registration in May this year was 56% more than the figure of April but showed a slight decrease of 5% when compared with the same month last year, that is May 1982.

As in previous years, to cope with the seasonal increase of job-seekers, the L.E.S. will employ between mid-May to mid-September post-secondary students as temporary clerical officers. This year a total of 26 temporary clerks will be employed of whom 18 are already in post and a further eight will start in July.

While I can assure honourable Members that the L.E.S. will try its best to help registrants find suitable employment, I must stress that the L.E.S. only acts as a middleman and that it cannot create jobs by itself. It relies heavily on employers to notify their vacancies and the efforts of L.E.S. officers to seek out these vacancies. I would therefore like to take this opportunity to appeal to employers that they make more use of the free service provided by the L.E.S. by informing us their vacancies so that the L.E.S. may be able to help place more people into jobs.

Speaking of vacancies, I am pleased to say that in May this year, the L.E.S. received more than 12 000 vacancies (including 4 530 temporary summer jobs) from employers, a rise of 80% over that for April and a 63% increase over the figure for May 1982.

### **Use of growth-promoting chemical compounds in the poultry industry**

6. DR. HO asked:—*Will Government make a statement in this Council on the use of growth-promoting chemical compounds in the local poultry industry and on any control safeguards it has introduced to reduce health risks to consumers?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, the growth-promoting chemical compound generally used in the local poultry industry is hexoestrol, a synthetic hormone. This compound in pellet form is implanted below the skin of the neck



just behind the bird's head. The implant causes caponization, higher growth rate and improved feed utilization by the implanted bird. The South China breeds of chicken preferred by our community are slow growing. Implantation makes them ready for market earlier, thus reducing feed and labour costs and increasing the local supplies. Virtually all cockerels and an estimated 10% of pullets reared locally are implanted.

At present six brands of hexoestrol pellets are registered under the Pharmacy and Poisons Regulations as pharmaceutical products permitted for use in animal husbandry. With one or two exceptions, full instructions are given by the manufacturers in English and Chinese on safe dosage and the period that must elapse before the bird can be consumed.

If hexoestrol is *properly* used, there should be no hormone residue remaining in the bird at the time of consumption because the hormone will have been fully metabolized and excreted. I understand that the possible health hazard to humans could therefore be avoided.

If the correct dosage is exceeded or if the farmer puts the implanted bird on the market before the withdrawal period expires, hormone residues could remain in the meat of the whole bird, not just the head and neck. Furthermore, the residues do not decompose on cooking.

In December 1979, the Urban Services Department, as part of its regular food safety monitoring programmes, instituted a system of random sampling of freshly slaughtered and frozen chickens available on the market to test the presence of synthetic hormone residues. 38 samples have been tested over the past three years. 19 of the samples were locally bred chickens and four of those 19 showed the presence of synthetic hormone residues up to a level of 0.1 part per million of chicken flesh. Five of the samples were from China and two of those five showed similar positive results. The rest of the samples from Denmark, Holland and the U.S.A. yielded negative results. Of course, a small sample cannot reflect accurately the full extent to which hormone residues are present in chickens consumed locally.

The pattern of consumption of chickens by country of origin shows that in 1982, the estimated total weight of live chickens, frozen chickens and frozen chicken parts consumed in Hong Kong was 85 060 tonnes. Of these, Hong Kong produced 32%, China supplied 23.5% and the remaining 44.5% came from other countries, most of which have banned the use of synthetic hormones.

The Medical and Health Department has so far received no report of cases attributable to the toxic effects of synthetic hormone residues in food. But it is difficult to correlate the cause and effect in any particular case.

The evidence available so far indicates that hormone residues in meat pose potential health hazards. While there may be no conclusive proof in any particular case that cancer has been caused by the hormone residue, the laboratory evidence from test animals does give sufficient cause for concern.

To safeguard the public against the potential hazards posed by locally reared chickens, the Director of Agriculture and Fisheries has been regularly advising chicken farmers and distributing pamphlets on the *proper* use of synthetic hormones and on the health hazards arising from their misuse. The Director has increased his efforts in this direction and will continue to do so.

The substance, hexoestrol, has been used in Hong Kong for thirty years, and has only recently been banned in the United Kingdom. Nevertheless, in the light of present day knowledge, the Government's intention is to prevent the use of synthetic hormones in locally bred poultry and to prohibit the sale of meat containing hormone residues. The practical and economic implications of the possible courses of action are being urgently considered.

One of the courses of action under consideration is to apply to the Pharmacy and Poisons Board to have hexoestrol de-registered under the Pharmacy and Poisons Regulations. This will make the sale and importation of hexoestrol in Hong Kong illegal and will put an end to its use in the local poultry industry.

Banning the local use of hexoestrol will not, of course solve the problems related to imported poultry. So another measure under consideration is to amend the Harmful Substances in Food Regulations so that the sale, importation and distribution of any poultry containing detectable amounts of hormone residues would be an offence.

With these two measures, that is the banning of the use of hexoestrol and the sale of poultry meat containing hexoestrol, all possible causes for concern would be removed.

DR. HO:—*Sir, in order to effectively enforce these two measures as mentioned in paragraphs 10, 11 and 12, did Government consider whether adequate staff in these relevant departments is available?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, we have not considered staff requirements in detail as yet, but I am advised that if we had a total ban of poultry containing hormone residues this would not necessarily lead to any substantial increase in resources. It is likely that the Government Chemist would require an additional instrument or machinery to check hormone residue in imported poultry but I don't think the staff implications would be serious. I have mentioned in my answer, Sir, efforts to be made by the Director of Agriculture and Fisheries in educating and advising farmers. He will be able to step up his efforts without any increase in his present establishment.

MRS. CHOW:—*In view of the fact that the banning of the use of hexoestrol will necessarily affect the chicken farmers financially, is there any way that proper use of hexoestrol can be ensured by legislation?*

SECRETARY FOR ECONOMIC SERVICES:—No, Sir, I think not. I think the legislation would be possibly difficult to draft and almost impossible to enforce. At the last

count there were 1 881 chicken farms throughout the territory. To monitor those chicken farms and ensure that farmers were using this substance properly I think would be beyond our resources.

MISS TAM:—*Sir, before a final decision is made on the proposed courses of action described in paragraphs 10, 11 and 12, is it safe to consume poultry in Hong Kong?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, it's a difficult question to answer. I never know what's safe to eat nowadays. (laughter) Having discussed this problem with my Colleagues who perhaps are better qualified to answer than I am, we have come to the conclusion that in fact the problem is not acute. As I said in my answer, in fact 44.5% of chickens come from other countries most of which ban the use of synthetic hormones. Chickens produced locally comprise cockerels and pullets. Most of the pullets are not implanted. Again I am told by my Colleagues there is a preference for pullets in the local market so the chances of taking an excessive dose of this compound are fairly remote.*

REVD. JOYCE M. BENNETT:—*Sir, are we to understand that the level of synthetic hormone residue at 0.1 part per million of chicken flesh is a dangerous level?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, as my Colleague has just said, the level of synthetic hormones in chickens should be zero i.e. there should really be no residue if the hormone is used properly. However if there should be any residue, common sense dictates that one does not purposely ingest the pellet.*

MR. WU:—*Sir, has the Government approached the Pharmacy and Poisons Board to de-register the hormone substance with the pellet and when could a decision be expected?*

SECRETARY FOR ECONOMIC SERVICES:—*No, Sir, we have not yet approached the Board but I am conscious of people's concern and I hope to take action very swiftly.*

MRS. CHOW:—*Sir, may I ask, is there any other type of meat on the market in Hong Kong apart from poultry which is being affected by the improper use of synthetic hormones?*

SECRETARY FOR ECONOMIC SERVICES:—*Not as far as I am aware, Sir, but I would like to check that and give Mrs. CHOW a written answer.*

(The following written reply was provided subsequently.)

I have since checked and found out that the Urban Services Department has

not, apart from poultry, sampled other types of meat on the market to test the presence of synthetic hormone residues. The chances of meat other than poultry being affected by the improper use of synthetic hormones are however considered to be remote for two reasons. First, there should be no problem with meat imported from countries such as U.S.A., the E.E.C. countries and New Zealand where the use of synthetic hormones is either banned or under stringent veterinary supervision. Second, neither the Agriculture and Fisheries Department nor the Urban Services Department has received any report of synthetic hormones being used on animals other than poultry either in Hong Kong or in China, which is the major supplier of meat and animals for local consumption.

### **Security arrangements at the Kai Tak Airport**

7. MR. S. L. CHEN asked:—*In view of the recent incidence of aircraft hijacking in the area, will Government say whether it is satisfied with the security arrangements at the Kai Tak Airport?*

SECRETARY FOR SECURITY:—Yes, Sir, it is.

MR. S. L. CHEN:—*Sir, I am very grateful for the short but positive answer. However will the Secretary for Security tell this Council what measures the Government will take in dealing with, for instance, hijacking of an incoming aircraft?*

SECRETARY FOR SECURITY:—Sir, in practice it is a very complicated procedure involving a large number of departments. Could I answer my honourable Friend's question by simply stating that there are carefully prepared Standing Instructions for all concerned in devising Government's strategy in the event of a hijacking of an aircraft, the tactics to be used on the ground and also for implementing them. These instructions start to come into effect as soon as the Civil Aviation Department learns that an aircraft that has been hijacked is about to be, or possibly may be, landed at Hong Kong airport. They go right through who should react as the aircraft lands, who should react once the aircraft has become stationary and then goes right on to what you might term the end of the hijacking. I might add, Sir, in this context that the Police in particular have a highly trained and specially equipped unit to deal with hijacking. And, very important, all this machinery is exercised regularly in hypothetical circumstances to make sure that it is still working, that it is still up to date and that the people who are likely to have to use it know what it is all about. In short, Sir, my recommendation to any hijacker considering using Hong Kong is: go elsewhere. *(laughter)*

### **Undesirable Medical Advertisements Ordinance**

8. MR. CHEUNG YAN-LUNG asked:—*How many persons have been prosecuted during each of the past five years under the Undesirable Medical Advertisements Ordinance and are existing control measures adequate to deter offenders?*

THE ATTORNEY GENERAL:—Sir, the Commissioner of Police does not record details of the number of prosecutions brought under this particular Ordinance and accordingly I am unable, I regret, to provide the statistics sought. I can however indicate that prosecutions are instituted from time to time as and when complaints are received and, indeed, quite recently in February of 1983 the publisher and editor of a newspaper on the motion of a Magistrate were convicted under Cap. 231 in respect of an advertisement advertising a cure for venereal disease which advertisement was false. The answer to whether or not it is considered to be adequate is the same answer as that given by my learned and honourable predecessor in 1977 when he said ‘yes’.

### **Workers of companies in receivership**

9. DR. HO asked:—*Will Government report on the progress of the Ad Hoc Working Group to examine the problems faced by the employees affected by insolvency of their employers?*

SECRETARY FOR EDUCATION AND MANPOWER:—Sir, the *Ad Hoc* Working Group on Problems Experienced by Workers of Companies in Receivership was appointed on 18 October 1982. It held its first meeting on 17 November 1982 and it has met on nine occasions in all. It has considered representations from 42 organizations and groups as well as a large number of papers prepared especially for the Committee. The Working Group has also studied practice in some twenty countries respecting wage protection in the event of the insolvency of an employer.

The Working Group has concluded its deliberations and a report, setting out its recommendations, is being prepared. I expect the report to be submitted to you, Sir, at the end of this month.

DR. HO:—*Sir, in view of an increasing number of workers failing to receive their wage as a result of their employers becoming insolvent, can this Council be informed briefly as to whether the feasibility of setting up a fund to advance wage payment to these workers has been discussed in the course of the work of that Ad Hoc Working Group?*

SECRETARY FOR EDUCATION AND MANPOWER:—Yes, Sir.

**Government Business****First reading of bill****CORRECTIONAL SERVICES CHILDREN'S EDUCATION TRUST BILL 1983**

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

**Second reading of bills****CORRECTION SERVICES CHILDREN'S EDUCATION TRUST BILL 1983**

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to establish a trust fund for providing assistance in, and facilities for, the higher education of the children of employees below officer rank of the Correctional Services Department, for the education and training of handicapped children of such employees and for the due administration of such fund for purposes connected with the matters aforesaid’.

He said:—Sir, I move the second reading of the Correctional Services Children's Education Trust Bill 1983.

Early this year the correctional Services Department received a private donation for establishing a children's education fund. The object of this fund, which was opened for subscription in March, is to provide financial assistance for the higher education of children of junior officers in the Correctional Services Department and for the education and training of handicapped children of those officers.

This Bill prescribes conditions for the operation and administration of the fund, similar to those contained in the Police Children's Education Trust Ordinance (Chapter 1119). They are described in the Explanatory Memorandum

I should like to elaborate on two points. First, the fund will be managed by a committee, which will include a representative of the officers concerned to ensure that the views of the beneficiaries of the fund are fully taken into account. Secondly, the Bill includes provision for an Investment Advisory Board to advise on how the fund should be invested.

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.

**AIR PASSENGER DEPARTURE TAX BILL 1983****Resumption of debate on second reading (11 May 1983)**

*Question proposed.*

MR. BROWN:—Sir, the need to raise additional revenue to meet the potential budget deficit in 1983-84 is fully recognized and the Unofficial Members' Monetary Policy Group has no real argument against the principle of the Air Passenger Departure Tax Bill, which imposes a tax on passengers departing by air from Hong Kong as proposed by the Financial Secretary in his budget speech on 23 February.

I, and a number of my Unofficial Colleagues, however, have already expressed reservations in the budget debate as to the amount of this tax. We believe it unfortunate our suggestion that the tax also be levied on departures by sea, thus enabling it to be reduced, has not been accepted by the Administration. However, our worries regarding the likely effects of this Bill on the tourist industry, and on the Hong Kong economy at large, are mitigated to some extent by the awareness that under clause 3(2) of the Bill, the Legislative Council may, by resolution, amend the scale of the tax in the First Schedule as and when it deems necessary.

The Monetary Policy Group raised a number of points on which the Administration responded. Firstly, we have been given an assurance that the airlines will be required to issue a receipt when they collect the tax from departing passengers. Such receipts will be retained by the passengers for the purpose of verification and the claiming of travelling expenses from employers where appropriate. Secondly, we questioned the rationale for not granting exemption, or at least a reduced rate, to passengers who are in Hong Kong only for an overnight stop. We learn from the Secretary for Economic Services that such an arrangement would create practical difficulties in the calculation of tax returns and its therefore not viable—an answer we accept, albeit with some reluctance. Thirdly, on the inclusion of the tax in the air fare, we are advised that in these circumstances the tax could only feasibly be applied to airline tickets purchased in Hong Kong, and as such represent only about 25% of the air departure traffic. This is a convincing argument against this alternative.

I understand that the Administration is proposing to introduce two amendments at the committee stage of the Bill. Whilst the first amendment is of a technical nature, the new clause 18 seeks to remove any existing or future contractual liability of an employer (including the Government) to pay the passenger departure tax on behalf of an employee and his family, unless the employer expressly and specifically undertakes to pay it. I believe this new clause will serve a good purpose in that it clarifies the position and employers and employees will thus be in a position to negotiate afresh on whether and in what circumstances the tax should be payable by the employer.

Sir, Unofficial Members have noted the concern raised by certain airline staff unions that the large sum of money to be collected daily at the airport check-in counters could pose a serious security risk, and at the very least I would ask the Administration to give an assurance that adequate security provisions will be arranged at the airport check-in counters to alleviate such risks. Notwithstanding any such assurances, however, I for one retain the view that it would be better if this tax were to be collected at separate collection points from the airline check-in counters, for I remain sceptical as to whether the collection of tax in addition to the security checking of luggage, plus the normal check-in procedures, can be accomplished without considerable disruption to the flow of passenger traffic. I trust that events will prove me wrong, but after a few months of operation I shall be asking questions to seek confirmation that these collection procedures have not resulted in any loss of efficiency in the operation of the airport, and I trust that the Administration will be amenable to changes in procedures should such prove to be desirable in the light of experience.

Sir, with these somewhat qualified remarks I support the motion.

DR. HUANG:—Sir, in my speech in this Council in March, I spoke of my aversion to drastic measures in general, and the proposed legislation is one that falls into this category. I also indicated that as a measure to raise revenue the proposed tax might well prove counter-productive.

The Financial Secretary has carefully selected a number of airports for comparison of the rates of charges levied, but has avoided mentioning the airports in Britain—Heathrow and Gatwick—presumably because no charge is levied there.

Sir, I remain unconvinced as to the wisdom of this Bill, and will therefore abstain from voting.

THE FINANCIAL SECRETARY:—Sir, I thank Members for their contributions to the debate.

I would like to deal first with the points raised by DR. HUANG.

He is, of course, fully entitled to his opinion of the Bill. But I don't share his assessment of it as a *drastic* measure, which might well prove counterproductive.

It is a measure which will produce a reasonable contribution in revenue and so assist in balancing the 1983-84 Budget. The tax will not fall indiscriminately on the people of Hong Kong as a whole, but on those, residents and nonresidents alike, who can afford to travel by air. For the great majority of these travellers the difference between the existing passenger service charge and the proposed tax will only form a relatively small percentage of the total cost of their holiday or business trip.



I do not think the introduction of this tax will result in a significant reduction in the number of tourists visiting Hong Kong. After all it is not something that is startlingly new or unique to Hong Kong. Nor is the proposed scale pitched at such a level as to provide a positive deterrent to a visit to Hong Kong by persons from overseas or, for residents, a trip abroad.

It is true that no direct tax or passenger service charge is levied on the individual at Heathrow and Gatwick Airports. However, a passenger charge has to be paid by the airlines in respect of the passengers they land at those airports. Indirectly, of course, the passenger pays.

I now turn to the speech made by Mr. BROWN.

I am grateful to him for reporting the views of the Monetary Policy Group and also for the Group's support—at least in principle—for the introduction of the air passenger departure tax and for their understanding of the practical difficulties involved in meeting some of the points they have raised with the Administration.

I confirm that I shall be moving two amendments at the committee stage of the Bill, and I shall provide Members with further explanations of those amendments then. I mention now, however, that if the amendment to clause 1 is accepted and the Bill is enacted, the Ordinance will come into operation tomorrow, 9 June.

Finally, I come to the question of security at the Airport, and the collection arrangements.

I am happy to assure Members that all reasonable security precautions and measures will be taken to safeguard the money collected and protect airline staff responsible for collecting the tax. For very obvious reasons, I would not wish to disclose publicly what those measures are.

I can also assure Members that steps have been taken to guard against the possibility that the flow of passengers may be disrupted by collection of money at the check-in counters. The situation will be kept under review to ensure that problems are dealt with promptly and appropriately.

Sir, I beg to move.

*Question put and agreed to.*

Bill read the second time.

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

**EXCHANGE FUND (AMENDMENT) BILL 1983****Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

**WATERWORKS (AMENDMENT) BILL 1983****Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

**ROAD TRAFFIC (DRIVING-OFFENCE POINTS) BILL 1983****Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

MR. WONG LAM delivered his speech in Cantonese:—

督憲閣下，一九八三年道路交通（違例駕駛記缺點）法案，其基本精神在於減低駕駛人士妄顧他人安全的駕駛行爲，本人衷心支持。

不過，在法案內的細節方面，本人有兩點要提出討論。

首先，本人與部份議員看法相近，認為將一些與妄顧他人安全引致道路意外無直接關係的駕駛行爲（包括法案附表第七至十一及第十六項）列入附表中是值得商榷的做法。基本上，這項扣分法是一種雙重處罰。政府引用道路交通條例已將違例者判罰款或監禁，而扣分法乃加重其刑罰，以收更大的阻嚇作用而已。對於嚴重的和引致他人傷亡的鹵莽駕駛行爲施以雙重懲罰是可以理解和令人容易接受的措施，但對於一些與魯莽駕駛或引致道路意外無直接關係的行爲，是否應該加以雙重懲罰便頗有爭論的餘地。誠然，我們無意鼓勵這些不良的行爲，但這并非充份的理由以支持雙重懲罰的做法。本人認為政府應將這些項目全數從法案的附表中刪除。

另外一項要提的是這個新的扣分法例可能大為增加執法者與駕駛者（尤其是職業駕駛者）衝突的機會。當然，小心謹慎的司機照理不會隨便犯上魯莽駕駛或引致嚴重交通意外的過錯，但對於一般駕駛人（尤其是整天駕車的職業司機）而言，很容易會因小問題而被扣分，從而引致執法者與駕駛者的衝突。本人對於附表第十三項「不遵守交通燈號」及第十四項「不讓行人先過斑馬線」尤其感到擔心，因為祇要執法者稍為矯枉過正或判斷不確，駕駛者便可能因此而被扣分。一般而言，要找目擊證人來證明嚴重交通意外較易，要找證人來證明駕駛者是否衝黃燈，或有意不讓行人先過馬路反而較難，因為衝黃燈與否或行人是否真的已踏足於斑馬線上這類轉眼即無從證實的事情，根本不易找到目擊證人；所以在新法例下，駕駛者（無論職業性與否）的憂慮是很容易理解的。政府有責任對這些較易引起爭辯的項目作較清楚的界定和說明，而對執法者亦應有更明確的指引和嚴懲不公正的行為，以減輕駕駛人士的憂慮及減低執法者與駕駛衝者突的機會。

督憲閣下，本人對法案的基本精神表示支持

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

Sir, the basic spirit of the Road Traffic (Driving-Offence Points) Bill 1983 is to improve the driving habits of drivers who disregard the safety of others. I heartily support this.

First, my views are similar to those of some other honourable Members in that I am doubtful as to whether it is right to include certain aspects of driving behaviour in the Schedule which have no direct bearing on road accidents arising from disregard of the safety of other road users. (These aspects are covered by items 7-11 and 16 in the Schedule to the Bill). Basically, such offence points are a kind of doubt penalty. The Government, by invoking the Road Traffic Ordinance, is already able to punish the offender with fines or imprisonment. Offence points will only increase the penalty, and provide a greater deterrent effect.

To impose a double penalty on reckless driving causing serious harm, injury or death to others is understandable and easier to accept. However it is arguable whether such a double penalty should be imposed for behaviour which has no direct connection with reckless driving or causing road accidents. Of course we have no intention of encouraging such bad behaviour, but this is not sufficient reason to support the double penalty. I think the Government should delete all such items from the Schedule of the Bill.

Another point I wish to mention is that the implementation of the new offence Points Ordinance will greatly increase the chance of friction between law enforcement officers and drivers (particularly professional drivers). Of course it would not be easy for a careful driver to commit errors of reckless driving or to cause serious traffic accidents. However, as to the general body of drivers (particularly those professional drivers who are driving all day long) they could be easily given penalty points for trivial matters, leading to confrontation between the law enforcement officer and the driver.

I am particularly concerned with item 13 in the Schedule 'Disobeying traffic signals' and item 14 'not giving precedence to pedestrians on zebra crossing', because slight over-enthusiasm or misjudgment on the part of the law enforcement

officer would result in the driver being given penalty points. Generally speaking, it is easier to find witnesses to serious traffic accidents, but it will be more difficult to find witnesses to prove whether a driver has jumped the amber light or intentionally not given precedence to pedestrians on zebra crossings. This is because it is difficult to locate an eye-witness who actually sees fleeting incidents such as a driver crossing the amber light or who notices whether the pedestrian has really set foot on the zebra crossing. It is therefore easy to understand the worries of drivers (whether professional or not) under the new Ordinance.

The Government must give clearer definitions and explanations of these items which are more likely to lead to disputes. There should also be more definite guidance to law enforcement officers and severe penalties for unfair allegations, so as to reduce the anxieties of drivers of drivers and the chances of confrontation between law enforcement officers and drivers.

Sir, I support the underlying spirit of this Bill.

MR. CHAN KAM-CHUEN—Sir, I rise to support the Road Traffic (Driving-Offence Points) Bill 1983.

This is a controversial Bill in that it may break the rice bowls of professional drivers and it narrows the options available to magistrates.

There have been many opposing views expressed both on the Road Traffic Ordinance 1982 and on this Bill, some believe that such measures should be implemented without reference to the views of pressure groups, to some the apparent opportunities for Police corruption are a reminder of GODBER and yet others view this legislation as designed to penalize further the private and professional drivers.

I only support this Bill in principle as I did with the Road Traffic Ordinance, in the belief that it may help to cut down the casualty list from traffic accidents. I also support the amendments to be introduced by my Colleague, Mr. S. L. CHEN on behalf of our *Ad Hoc* Working Group on this Bill, especially the reduction in the accumulation period from three years to two and the reduction in the demerit points for some offences. These will make the Bill less harsh on the motoring public.

However, to achieve our objective of increasing road safety without creating undue hardship to drivers much depends on the tact, educated manners, reasonable attitude and tolerance of our law enforcing officers on the beat.

As can be heard daily in the streets, when a driver commits a minor offence and apologizes for it, the better officers let him off with a warning; the indifferent ones tell the driver to speak to the magistrate and the bad ones either tell the driver that he will additionally be prosecuted for obstructing an officer in the performance of his duties, or upgrade his careless driving charge to one of dangerous driving (the old term for reckless driving). Depending on the manner in which the constable writes his report, in non-accident cases the charge could be upgraded as the driver has no say until he appears before the magistrate.

Let us take a look at the reaction of the public. The first officer has achieved his objective in clearing the blockage of the road and although no fines are added to the public coffers, he has won the respect of the public for himself and his organization.

The second officer is indifferent and passes the buck to the magistrate. The professional driver has to attend court and may lose his pay for the day and to avoid going to court again to defend his case and lose another day's pay, he simply pleads guilty if it is an offence which is likely to attract only a small fine. He leaves the court feeling 'what price justice?'. I have overheard such remarks outside courts.

The third officer is even worse, as is illustrated by the story told to me by one of the drivers I know. The charge of dangerous driving instead of careless driving might have meant the endorsement of his driving licence, so he went to the expense of hiring a lawyer and was only fined \$200. The law enforcing officer may never know that the poor driver's legal fees came to \$6,000 amounting to several months' pay.

From the above examples, one can see that professional drivers will fight tooth and nail against conviction for an offence which would result in demerit points being recorded in their record.

It is therefore recommended that the number of professional drivers who are disqualified annually and the increase in offences of driving without a valid licence should be carefully monitored and that these figures should be compared with any decrease in traffic casualties. As these are hard times of increasing unemployment, inflation, economic and political uncertainty, no additional burden should be imposed on people's livelihood and no unnecessary confrontation should be created in our community.

Another area of concern is that law enforcement officers should not be too obsessed with trivial traffic offences to the detriment of their important role in crime prevention and detection.

There have been recent reports in the press of a car abandoned after a robbery having had five fixed penalty parking tickets affixed to it before someone detected the loaded shotgun inside. The quotation from Mencius 'with eyesight sharp enough to examine the point of an autumn hair but unable to see a wagonload of firewood' (明足以察秋毫之末而不見與薪) is very apt in this case. It is not the relative sizes of the shotgun and the stolen car which are being compared but rather the importance of detecting the shotgun and obtaining evidence in a criminal case, in comparison with the issuing of five individual tickets against a stolen car. Without going into the rights and wrongs of the recent case when arms are used in a dispute arising from a minor traffic offence, I am further convinced that traffic offences should be handled by un-armed personnel and not to use or underemploy Policemen on the beat who are trained for more important jobs.

With these observations, Sir, I support the motion.

MRS. CHOW:—Sir, I rise, first of all, to support the spirit behind the Road Traffic (Driving-offence Points) Bill 1983 before us, for whether one is a driver or a pedestrian, one cannot but agree whole-heartedly that unsafe driving behaviour should be discouraged, and persistent offenders of such behaviour should be taken off the road for the sake of safety for all.

When the Secretary for Transport introduced this Bill into this Council on 13 April, he made it very clear that the significance of the Driving Offence Points system is that it tackles unsafe driving behaviour *directly*. As previously mentioned by Mr. S. L. CHEN and Dr. HO, and today by Mr. WONG and Mr. CHAN, the main concern that some of my Colleagues and I share is that items 7-11 and 16 in the Schedule have no direct bearing on unsafe driving behaviour. These items are:

- failing to stop after an accident;
- failing to give particulars after an accident;
- failing to report an accident;
- failing to stop when required by Police officer or traffic warden;
- failing to obey directions of Police officer or traffic warden;
- failing to give way to emergency vehicles.

I maintain they are not themselves unsafe driving behaviour although they are related to or consequential upon unsafe driving behaviour. The Administration has agreed since our discussions to drop items 10 and 16, but it would be wrong of me to accept this compromise for a major principle of the Bill is at stake. I suspect this was the thinking behind UMELCO's rejection of the same items in the Schedule in 1981, and I have yet to be convinced that circumstances have changed sufficiently to warrant the present move to backtrack into widening the scope of the offences to include those items which the Administration had agreed to drop at the request of Unofficials almost two years ago.

Apart from the point of principle, I echo the concern felt by many motorists, professional or otherwise, that quite a number of Police officers have a rather strange way of handling traffic offenders. Abuse of power at the level of execution is certainly not unheard of. Emotional confrontation between motorists and policemen is often the result of poor handling by the officers. There are cases where abuse of power occurs as a consequence to emotional confrontation. It cannot be denied that the relationship generally between the motorist and the Police is strained. Against such a background, it would be unwise to increase the power of the Police further. Otherwise the public will always view such authority with suspicion and resentment.

May I now proceed to specifics? In considering legislation, the special conditions of a community must be taken into account.

The Zebra Crossing is a case in point. I have no doubt that as a concept it works, provided firstly that both pedestrians and motorists using it respect each

other's right of way and, secondly, that the road conditions are such that the pedestrian and motor traffic are both light enough for the whole system to make sense. In Hong Kong, however, motorists are violating this law every day, for there is no other way they could proceed past some of the Zebra Crossings where pedestrian flow is continuous. What is going to happen to these motorists when the present Bill comes into force? Will there be a review of all Zebra Crossings before them to ensure that their existence is reasonable.

Another very real problem is the lack of provision for the loading and unloading of large numbers of passengers necessary for big institutions. For schools, for example, this is a daily problem which is compounded by the age of the passengers and the size of the vehicles. Often drivers, amongst them many professional drivers, are in the position of having to pick up and deliver school children in conditions which might well be illegal. Should they be under constant threat of being deprived of their livelihood just because our limitations—be they lack of space or lack of planning—prevent them from carrying out their work under proper and reasonable conditions?

A word about professional drivers. So far, from the representations that UMELCO has received, there is no evidence to suggest that professional drivers are being irresponsible in their reaction to the Bill. Their main worry is centred around two basic points. One is the fear of abuse in the execution of the law, and the other is the unique road conditions which we have in Hong Kong. The drivers have, in my view, been quite objective and reasonable in their approach. And we must not forget that do rely on driving for their livelihood and in that respect, are naturally more concerned than other motorists. Furthermore, they are more familiar with the actual conditions on our roads and, therefore, their views should not be altogether ignored. In fact, the Administration can only gain by consulting them on the real conditions which prevail on our roads, with which they are by the nature of their work familiar on a day-to-day basis. There are, after all, other ways than punishment to improve on bad behaviour and perhaps the professionals, with their experiences, can come up with some constructive answers. But will they be asked? And will they be heard?

Sir, much as I agree with and support the spirit of this Bill, I must abstain owing to the reservations which I have already stated. I would also urge that a review be conducted at the end of the first two-year period so that the public will have a chance to voice their reactions to the implementation of the Bill and the Administration can assess its effectiveness.

MISS TAM delivered her speech in Cantonese:—

督憲閣下：自研究本法案之小組主席陳壽霖議員，在五月二十五日辯論本法案之後，在六月一日，本小組委員又接見了代表二十五個職業司機團體之人士，並再聽取其對此法案法意見，其中要求將累積分數之時間減至一年，將吊銷駕駛執照之累積分數加至三十分，剔除與安全駕駛無關之罪項，及剔除不小心駕駛作記分罪項等之建議，本小組成員，在一向與政府部門討論此法案，均已一一為其申訴，其結果在陳壽霖議員五月二十五日之陳辭中，亦已有清楚之描述。

在該次六月一日之研究中，職業司機對警方如何公平地執行法例及提控交通罪行，極表憂慮，並舉例說出一貨車運磚，上貨時天晴，半途遇大雨，結果因浸透之磚造成超載貨物之情形而被檢控。另一例是貨櫃車轉彎，因車身長度的問題要越同方向之行車線才能辦到，而卻因此被控越線行車，則假如在扣分制度實行之後，司機之生計必受影響。雖然，該等職業司機代表列舉之罪行，均非扣分制度範圍之內，本小組委員亦深明其所受之心理壓力。

首先，扣分制度範圍內之罪項，除魯莽駕駛傷人致死及魯莽駕駛兩項之外，其餘十二項均是實行多年之法則，一般執法者應已有基本之概念，然而在執法時亦可權宜，例如貨櫃車轉彎過路中雙白線，根據本法案可扣三分，則貨櫃車司機確有為難之處，若當時路上交通情況可容許其安全過雙白線轉彎，則執法者應先考慮其解釋理由，然後警告了事。陳壽霖議員提出，檢控斑馬線上不讓路人應勿濫用，與此處提出執法時可作合理權宜措施，如出一轍。至於魯莽駕駛傷人致死及魯莽駕駛兩項扣分控罪，本議局在辯論一九八二年道路交通條例中已得律政司之承諾，律政司署會對個案加以審核方始提控，此乃對公平執法之有力保證。

督憲閣下，本人謹支持此修訂法案之動議。

*(The following is the interpretation of what Miss TAM said.)*

Sir, since the honourable S. L. CHEN, who led an *Ad Hoc* Group of Unofficials in the scrutiny of the present Bill, spoke on the Bill at the beginning of the debate on the second reading on 25 May, the *Ad Hoc* Group had a second meeting with representatives from twenty-five professional drivers' bodies on the 1 June during which we heard their submissions with regard to the Bill. The representatives reiterated their earlier suggestions that, among other things, the points accumulation period be reduced to one year, the accumulated number of points to trigger disqualification be raised to 30, and offences having no direct bearing on safe driving as well as the offence of careless driving be excluded from the operation of the points system. The *Ad Hoc* Group had previously communicated these suggestions in full to the Administration with which it was in close consultation over the matter of the Bill. The results of our endeavours were described clearly in Mr. CHEN'S speech in this Chamber on 25 May.

In the discussions conducted by the Group on 1 June, professional drivers had expressed grave concern as to how the Police could fairly enforce the law in bringing prosecutions for these traffic offences. They cited an example of a lorry driver being summonsed for overloading because a load of bricks taken on in fine weather was soaked in rain during transit which added to the laden weight of the vehicle. Another example given was that of a container truck driver being summonsed for lane-crossing simply because the length of the truck could not otherwise negotiate a turn smoothly. On implementation of the points system, they argued, the livelihood of professional drivers would be adversely affected. Though none of the examples cited are subject to the operation of the points system the *Ad Hoc Group fully understood the psychological pressure on professional drivers.*

With the exception of the two offences of Causing Death by Reckless Driving and Reckless Driving the remaining twelve offences covered in the Schedule



have been statutory offences for many years. Law enforcement officers should already have some basic concepts about them. In enforcing the law some discretionary leeway is sometimes permissible. For instance, a container truck crossing the double white lines should, according to the Bill, incur three penalty points. This would cause the truck driver some real difficulty. The law enforcement officer may, after considering the explanation offered by the driver, allow the truck to cross the double white lines in a safe manner making a turn, if traffic conditions on the road permit at that time. A warning to the driver would in the circumstances be in order. This discretion is analogous, suggested by the honourable S. L. CHEN, to the restraint in summoning motorists who fail to give precedence to pedestrians on a zebra crossing.

With regard to the two offences of Causing Death by Reckless Driving and Reckless Driving which incur penalty points, this Council has been assured by the Attorney General during a debate on the Road Traffic Ordinance 1982 that individual cases will be scrutinized by his Chambers before prosecutions are instituted. This would be a powerful guarantee for the fair enforcement of the law.

Sir, I support the motion.

DR. IP:—Sir, after mastering the technique of driving, a licence is granted only to those who *accept the responsibility for public safety*.

In 1981, there were 27 249 road traffic accident victims treated in casualty departments, of which 7 965 were hospitalized, and 514 died. It is obvious that many drivers have *forgotten their responsibility for public safety*.

The Road Traffic (Driving-offence Points) Bill 1983, finally allows Government an on-going assessment of drivers of their *continuing responsibility for public safety*.

*As prevention is better than cure*, let us hope that this Bill will serve to deter each and every driver on the road from *unsafe driving*, rather than to serve as a warning only to those who so *quickly score points*. Our public will then be safer on the roads!

While we penalize irresponsible drivers, we must ensure that responsible ones are not unnecessarily harassed. Although I was finally convinced that all the offences as listed in this Bill after amendments, *may be directly related to safety on the road*, I would like also to add that under certain circumstances, they *may not be*. And if not, such offences *should not contribute to disqualification*.

‘Failing to stop after an accident’, ‘Failing to give particulars after an accident’ and ‘Failing to report an accident’s may bear direct relationship to unsafe driving *only when someone is injured*. Therefore I suggest, that the Police officers, after consultation with their legal advisers, should prosecute only when such acts follow an accident when a human life is involved.

One may be forced to cross double white lines to overtake a broken-down car in front. One may have to pass a red light to give way to an ambulance behind. Under such circumstances, when due care is taken, such acts should impose no danger. On the contrary, danger is literally avoided. No man-made law is perfect, and we must always *allow for exceptions*. Fixed penalty tickets for such acts should therefore be issued only after due consideration is taken of all related circumstances. A few minutes of patience spent by the Police constable on the beat, in *listening to the driver's reason for such acts*, may well save hours of work by the judiciary, when innocent drivers contest their case in court.

Lastly, with the introduction of this Bill, the public must be made aware that there will in effect two types of fixed penalty tickets. One in which the *payment of a fine leads only to monetary loss*, another in which the *payment of a fine, leads to an automatic recording of Driving-Offence Points* against the driver, (namely for offences such as 'Crossing double white lines', 'Failing to comply with traffic signals', 'Failing to give precedence to pedestrians on zebra crossing', and 'Failing to stop for school crossing patrol'). to avoid any misunderstanding, on issuing such a 'double' FIXED PENALTY TICKET, the Police constable on the beat must *verbally warn the driver*, and point this fact out to him which should be clearly printed on the ticket *in red*. If the driver feels that he is unfairly charged, he might think THRICE before paying the fine to save time spent in court.

Sir, with such observations, I support this Bill before Council.

SECRETARY FOR TRANSPORT:—Sir, Unofficial Members, especially the working group under the Chairmanship of Mr. S. L. CHEN, have given this Bill close and careful scrutiny, as well as listening to the views of bodies and individuals with an interest in its proposals. Several Members have spoken clearly and forcefully, and I am grateful for the frankness with which the Bill has been discussed both within and outside Council.

The most outspoken comments have come from representatives of professional drivers and notwithstanding the amendments to the Bill and Schedule which admittedly temper the original proposals, and which the Government accepts though not wholly satisfied. But I would say that these amendments surely do show that Government has listened to them and taken account of their representations. And to professional drivers, I would re-emphasize my observation that under the proposed scheme, the proportion of professional drivers who would be liable to disqualification would be no higher than the proportion of all drivers thus likely to be affected. In both cases, it is the persistent offender, who through his bad driving habits endangers the lives of other road users, who would put his licence in jeopardy.

In any event, I must observe that apart from the professional drivers, there is little opposition to this Bill. Indeed, the media has reported no small body of opinion that the period over which points are accumulated should not be

reduced from three years, which is the most significant amendment now proposed and accepted.

The amendment reducing from three to two years the accumulation period for points means that, administratively, records of points need be kept for a shorter period: hence the amendment to clause 3(3) reducing the period from six years to five years. As there has been some confusion over this point, may I emphasize that the period of required retention of records is longer than the period of accumulation, in order to ensure that relevant offences are not deleted prematurely from a driver's record and thus not available for the consideration of a court hearing charges or appeals after the accumulation period has expired.

With some reservations, I shall propose certain amendments to the Schedule of offences. Dr. HO Kam-fai and Mrs. Selina CHOW and Mr. WONG Lam considered that a number of offences in the Schedule do not have a direct bearing on road safety, in particular items 7 to 9, which relate to failing to stop after an accident, failing to give particulars and failing to report an accident. Prima facie, these offences may seem to involve failure to comply with procedures rather than unsafe driving. However, almost without exception these offences are connected with hit-and-run offences, a very serious matter, and I believe that they should be retained. Dr. IP's suggestion that applying these penalties only to cases involving human injury would introduce an element of luck, that is, whether or not an injury resulted from the act of bad driving. It is an attractive proposition, but I do not think it is a practical one. There is, however, reason for treating the offences of failing to report an accident and failing to give particulars, as less serious for penalty points purposes than failing to stop after an accident. I shall therefore be moving that the former offences should attract three points, rather than five points, each.

The deletion of item 10 in the Schedule is accepted because it is largely encompassed by item 11. I shall at the request of Unofficial Members move the deletion of item 16 'Failing to give way to emergency vehicles', because of their very fair point that motorists in narrow or congested roads may find it difficult physically to comply with that requirement.

It is also accepted that the points weighting originally proposed for speeding is too great, in the light of the provisions in the Road Traffic Ordinance which enable a court to disqualify persistent speedy offenders. The amendment to be moved will attach three points rather than five points to the offence of exceeding the speed limit by 15 kilometres per hour.

A source of anxiety has been what one might call the shorthand which for the sake of compactness is used in the Schedule. The offence in item 10 is abbreviated as 'Failing to obey the directions of Police officer or traffic warden'. The relevant section in the Road Traffic Ordinance, however, describes the offence fully as applying 'Where a Police officer in uniform or a traffic warden in uniform is for the time being engaged in the regulation of traffic on a road' and 'any person driving any vehicle ... neglects or refuses to obey any direction of

the Police officer or traffic warden'. This, I think, should remove any fear of an off-duty, that is, an out-of-uniform Policeman or a traffic warden, charging a driver with this offence.

Mr. WONG Lam warned against the possibility of friction of confrontation between drivers and Police in the operation of the Bill. The possibility of unfair execution of the legislation was also raised by Mr. K. C. CHAN and Mrs. Selina CHOW. There are two aspects to this. First, a policeman on traffic duties or on the beat might be under some misunderstanding about the offences in the new Road Traffic Ordinance which I remind Members will not come in effect until next year. To minimize this, before the revised Road Traffic legislation is brought into effect, there will be a full training programme for Police officers, covering the offences and the circumstances in which they apply. The second aspect is allegations that Police officers on the beat would abuse their powers, and that such abuse would be more serious when a driver is faced with accumulating penalty points as well as a fine or, presumably, imprisonment.

It is almost impossible categorically to deny that a few Police officers may suggest that a driver has committed an offence worse than the facts of the incident can justify. However, the facts of any such proposed charge are carefully examined by senior Police officers before it is decided to prosecute. The driver can present his side of the case to those senior policemen in the first instance. If the charge is nevertheless proceeded with, the prosecution must make its case before a court and the driver has of course full opportunity to state his defence. To pick up Mr. CHAN's phrase, the buck must end, and rightly so, in the court and, again referring to Mr. CHAN, drivers of waggonloads of wood will also be subject to the Bill. (*laughter*)

Mr. K. C. CHAN raised the specific problem of a charge of careless driving being upgraded to reckless driving by the Police officer on the beat. I have already in this Council, when the Road Traffic Ordinance 1982 was being considered, given the assurance that it will not be left to the officer on the beat to determine whether the circumstances of an offence amount to reckless driving. This will be considered first at a senior level within the Royal Hong Kong Police Force and after that, the Attorney General's Chambers will also examine fully any proposal for a reckless driving charge, before deciding whether or not to prosecute.

The question of enforcement of the offence of failing to give precedence to pedestrians on a zebra crossing concerned several Unofficial Members and, I may say, the Administration too. As a general principle, zebra crossings are not installed where there are high volumes of both pedestrians and of vehicular traffic. In Hong Kong we must increasingly look to other means of providing the pedestrian with a safe way of crossing the road. These matters are examined regularly, in particular by way of submission to the Transport Advisory Committee in the annual review of pedestrian problem spots. In reply to Mr.

S. L. CHEN's specific request for an undertaking, the Commissioner of Police has assured me that commonsense and circumspection will be applied in regard to this potential offence and that Police officers will be encouraged to make sure that both vehicles and pedestrians at zebra crossings have appropriate opportunities to use the road space involved. May I assure Miss TAM that the same commonsense review will also be applied to container lorries having difficulty in manoeuvring in narrow roads with double white lines.

Sir, even with these amendments, some Members still regard the Bill as too controversial. Mr. K. C. CHAN opened his speech by referring to this aspect and two of his colleagues have given notice that they will abstain from voting. The Bill is inevitably controversial, with the conflict of interests involved; but it is necessary, I believe, because of the hard core of bad drivers in Hong Kong who are persistently unsafe, and yet who are not being curbed by existing enforcement and judicial process. There is also a large number of drivers who must be encouraged to improve their standards in various ways including by the deterrent of accumulating penalty points. Many people, including Unofficial Members past and present of this Council, have in informal discussion and in public bemoaned the lack of consideration, of concentration, and of skill among Hong Kong's drivers, including professional drivers. I would like to refer to a point by Dr. IP which really relates to publicity—that it should be made clear to drivers being given fixed penalty tickets that there is also the possible additional penalty and of these proposals. I think that there will not be room to put this information on the tickets. I think we have to do this by general publicity campaign and, in particular, during the first two years—after which we shall review progress—by bringing to public notice the numbers of drivers being affected by this penalty process.

The driving-offence points scheme, Sir, is not a panacea; it is but one element in our strategy to promote road safety and to encourage better driving. I am confident the proposals will have the necessary impact on bad driving and on unsafe road use. It is proposed to implement them in about August 1984, coincident with the implementation of the new Road Traffic Ordinance. The impact of the driving offence points scheme will be reviewed after one year of operation and, more significantly, at the end of the second year, that is, when the first period of accumulation of penalty points has been completed.

Sir, I beg to move.

*Question put and agreed to.*

Bill read the second time.

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

**LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1983****Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

SECRETARY FOR HOUSING:—Sir, I should like to thank those Members who have spoken on the Bill and to answer the main points raised in their speeches.

Mr. Peter C. WONG and Mr. Y. L. CHEUNG suggested that the position as regards corporate tenancies should be reconsidered. Government policy in this respect is that corporate tenants *as a class* should *not* be excluded from rent increase control under Part II of the Ordinance, since the same result can effectively be achieved by the progressive exclusion of 'luxury premises'. However, the situation will continue to be closely monitored, and should there be a change in circumstances to warrant reconsideration of this position, appropriate proposals will be made.

On the subject of exemptions from Part IV of the Ordinance, the existing legislation already excludes from both Part II and Part IV tenancies of a fixed term of five years or more at a constant rent, thus providing an avenue by which a landlord is assured of repossession on the expiry of the contractual lease. Whether further exemptions should be provided for will depend on future circumstances and, indeed, on the working of the existing fixed-term tenancy provision, which was only introduced in December 1981.

On the matter of reviews, Mr. WONG suggested that the Ordinance be reviewed annually instead of biennially. In fact, the Administration does closely monitor the position at all times, and amendments are proposed whenever considered necessary. As regards control of post-war premises, no less than four Amendment Bills have been introduced into, and passed by, this Council since 1980, all making significant changes to the legislation in response to changing circumstances. Review of the situation as regards pre-war premises has been undertaken every year since 1976 and resolutions have been introduced annually into this Council to adjust the permitted rents of premises subject to control under Part I of the Ordinance. I can assure Mr. WONG that there is no intention of diminishing the constancy of this review process and it is our intention that the values of the components in the rent control system *shall* be reviewed annually in future.

I now turn to points raised by Father MCGOVERN. First, I must stress that the policy gradually to phase out rent control is embarked on *not* in order to bring up rents *but* because rent control will not solve, but rather aggravate, the housing problem. The policy adopted embodies a built-in flexibility. Relaxation is introduced only where circumstances permit, the speed and degree depending entirely on the room available for relaxation. This flexibility ensures that

adverse social consequences are avoided in pursuing the objective of a return to free market conditions.

Father MCGOVERN suggested that 'supply and demand' is a deceptive term, as evidenced by the fact that rents for medium and smaller flats have not come down. While it is true that rents for medium and smaller flats have not shown falls to the extent noted for large flats, recent evidence indicates some softening of rents for these classes. Given that there has been no measurable increase in such rents since about the middle of 1981 it can, therefore, be concluded that they have actually fallen in real terms. It does, therefore, appear an opportune moment to take a further, be it somewhat cautious, step away from the restrictive Part II controls.

As regards the large number of flats vacant at the end of 1982, it must be born in mind that many factors contribute to this, rent control being just one of them. However, of the 32 000 premises vacant at the end of 1982, it is noteworthy that some 14 000, or 44%, were in buildings completed before 19 June 1981, many of which have been vacant for some considerable time. For these premises, the existence of rent control *could* be a reason for their vacancy. The exclusion of fresh lettings from future rent increase control is designed to remove a possible disincentive to owners placing these flats on the rental market at reasonable prices.

Mr. CHEUNG Yan-lung expresses concern regarding the status of small houses in the New Territories built since 17 August 1945 on agricultural land. The position is that nearly all such dwellings now come within the ambit of either Part II or Part IV of the Ordinance. Only those dwellings where the occupants are primarily engaged on working the land for agricultural purposes are excepted. These would generally constitute business tenancies—the business of agriculture—and are thus outside the scope of this legislation.

The object of this Bill, as Mr. SO observed, is *not* to stimulate the property market, but rather to balance the legitimate rights and aspirations of both landlords and tenants. In so far as the removal of rent control legislation encourages a stable and productive private property market, it is an end which will continue to be pursued as part of our overall housing policy.

The Bill, after its publication on 15 April 1983, has been the subject of wide consultation both with my Unofficial Colleagues and with the public at large. The committee stage amendments to be proposed this afternoon are the outcome of this consultative process.

From comments made during the recent public debate on the Bill it is apparent that there still exists a number of misconceptions and misunderstandings regarding our rent controls legislation. We are therefore doing everything possible to get across to those affected by it the need to be aware of their position, and to let them know where and how advice can be obtained.

Sir, I beg to move.

(At this point, Mr. Peter C. WONG, Mr. Charles YEUNG, Mr. Francis TIEN, Mr. S. L. CHEN, Mr. Alex WU, Mr. F. K. HU, Dr. Rayson HUANG, Mr. K. C. CHAN, Mrs. S. CHOW and Miss Mr. TAM declared their interests.)

*Question put and agreed to.*

Bill read the second time.

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

### **LANDS TRIBUNAL (AMENDMENT) BILL 1983**

#### **Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

### **PRISONS (AMENDMENT) BILL 1983**

#### **Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

### **DRUG ADDICTION TREATMENT CENTRES (AMENDMENT) BILL 1983**

#### **Resumption of debate on second reading (25 May 1983)**

*Question proposed.*



*Question put and agreed to.*

Bill read the second time.

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

## **PUBLIC ORDER (AMENDMENT) BILL 1983**

### **Resumption of debate on second reading (25 May 1983)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

### **Committee stage of bills**

Council went into Committee

## **AIR PASSENGER DEPARTURE TAX BILL 1983**

Clause 1

THE FINANCIAL SECRETARY:—Sir, I move that clause 1 be amended as in the paper circulated to Members. The effect of this amendment will be that the Ordinance will come into operation on the day it is published in the *Gazette*.

*Proposed amendment*

### **Clause 1**

That clause 1 be amended by deleting ‘and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.’

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 to 17 were agreed to.

New clause 18. 'Liability of an employer'.

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

THE FINANCIAL SECRETARY:—In accordance with Standing Order 46(6), I move that new clause 18 as set out in the paper circulated to Members be read a second time.

In accordance with Standing Order 46(6), I move that new clause 18, as set out in the paper circulated to Members, be read a second time.

As Members will know, many employers in Hong Kong undertake, as part of the conditions of employment they offer, to pay passages and travelling expenses of employees and their families.

The intention of this amendment is to remove any contractual liability for the new tax on the part of employers (including the Government) in respect of employees who have the present passenger service charge paid as part of their conditions of service. The Government has therefore considered it appropriate to provide explicitly for the removal of any such liability, by the addition of new clause 18.

The reason for this is that employers do not normally pay their employees' personal taxes. However, if individual employers wish to assume such liability in respect of the air passenger departure tax, they may of course do so.

*Question put and agreed to.*

Clause read the second time.

THE FINANCIAL SECRETARY:—I move that new clause 18 be added to the Bill.

*Proposed addition*

#### **New clause**

That there be added after clause 17 the following—

'Liability of an employer.                   **18.** (1) Notwithstanding any term express or implied in any contract of employment, whether entered into before or after the commencement of this Ordinance, but subject to subsection (2), an employer shall not be liable to pay on behalf of an employee the tax payable by the employee or by any member of the employee's family departing by air from Hong Kong, nor to reimburse to the employee any such tax that has been paid, and no action shall lie against an

employer in respect of the failure by the employer to so pay or reimburse any such tax.

(2) Subsection (1) shall not apply where a contract of employment provides for payment of the tax expressly by reference to this Ordinance.

(3) In this section the term “employer” includes the Crown.’.

The addition of the new clause was agreed to.

First and Second Schedules were agreed to.

### **EXCHANGE FUND (AMENDMENT) BILL 1983**

Clauses 1 to 6 were agreed to.

### **WATERWORKS (AMENDMENT) BILL 1983**

Clauses 1 to 3 were agreed to.

### **ROAD TRAFFIC (DRIVING-OFFENCE POINTS) BILL 1983**

Clauses 1 and 2 were agreed to.

Clause 3

MR. S. L. CHEN:—I move that clause 3 be amended as set out in the paper circulated to Members.

The first amendment, to subsection (2), corrects a typographical error in the printing of the published Bill. The second amendment, to subsection (3), reduces the period of time during which the Commissioner for Transport is obliged to keep an entry in the register of points. My Unofficial Colleagues consider the six-year period to be excessive.

#### *Proposed amendment*

#### **Clause 3**

That clause 3 be amended—

- (a) in subsection (2), by deleting ‘74’ and substituting the following—  
‘75’; and

(b) in subsection (3), by deleting '6' and substituting the following—  
'5'.

The amendments were agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 and 5 were agreed to.

Clause 6

MR. S. L. CHEN:—I move that clause 6 be amended as set out in the paper circulated to Members.

The amendment to subsection (1) clarifies the fact that when a driver has accumulated a number of points in excess of 15 leading to disqualification, those excess points will also be wiped off the record on disqualification leaving the slate clean.

*Proposed amendment*

#### **Clause 6**

That clause 6(1) be amended by deleting 'specified in the summons issued under subsection (3)' and substituting the following—

'mentioned in subsection (1)'.

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7 was agreed to.

Clause 8

MR. S. L. CHEN:—Sir, I move that clause 8 be amended as set out in the paper circulated to Members.

The amendment in subsection (1) effects a change in the accumulation period for points, from three years to two years. The reasons for this have already been explained in my speech during the second reading debate.

Subsection (2) is deleted as it was included erroneously in the published Bill.

Amendments to subsections (3) and (5)(c) are consequential upon the deletion of subsection (2).

Subsection (6) is amended to ensure that where a driver has incurred points for several offences arising out of the same or substantially the same act, only one of these sets of points can be used in the calculation of 15 points for disqualification. This will remove the present doubt as to which offence should be taken into account in the case of a multiple conviction and will ensure that there can be no double penalty in these circumstances.

*Proposed amendment*

**Clause 8**

That clause 8 be amended—

- (a) in subsection (1), by deleting ‘3’ and substituting the following—  
‘2’;
- (b) by deleting subsection (2);
- (c) in subsection (3), by deleting ‘Not less than 14 days after the service of a notice under subsection (2)’ and substituting the following—  
‘Where the circumstances mentioned in subsection (1) arise in relation to any person’;
- (d) in subsection (5)(c), by deleting ‘the service of the notice’ and substituting the following—  
‘the issue of the summons’; and
- (e) by deleting subsection (6) and substituting the following—  
‘(6) Where 2 or more of the offences mentioned in subsection (1) are constituted by the same, or substantially the same, act, the magistrate shall, for the purposes of calculating whether 15 or more points have been incurred—  
—
  - (a) take into account only that offence attracting the highest number of points; or
  - (b) where those offences each attract the same number of points, take into account only one of those offences.’.

The amendments were agreed to.

Clause 8, as amended, was agreed to.

Clauses 9 to 17 were agreed to.

**Schedule**

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

Unofficial Members suggested these amendments with the object of reflecting more fairly the relativities between offences and are deleting from the Schedule two of the offences which they consider have the least direct bearing on bad driving and road safety. It is a general view which I share, and these amendments will not undermine the intention of the Bill.

*Proposed amendment*

**Schedule**

That the Schedule be amended—

(a) in item 5, by deleting ‘5’ in the column headed ‘Points’ and substituting the following—

‘3’;

(b) in item 8, by deleting ‘5’ in the column headed ‘Points’ and substituting the following—

‘3’;

(c) in item 9, by deleting ‘5’ in the column headed ‘Points’ and substituting the following—

‘3’; and

(d) by deleting items 10 and 16.

The amendments were agreed to.

The Schedule, as amended, was agreed to.

**LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1983**

Clauses 3 to 10, 12 to 14, 16 to 23, 26 to 29, 31 to 34, 38, 40, 41, 44, 46 and 47 were agreed to.

Clauses 1, 2, 35, 36, 39, 42, 45 and 48

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

The amendment to clause 1 will move forward the general commencement date of the Ordinance from 1 August 1983 to 10 June 1983. The amendments to the other clauses are legal and technical refinements to the Bill.

*Proposed amendments*

**Clause 1**

That clause 1 be amended by—

(a) in subsection (2), by deleting ‘1 August 1983’ and substituting the following—

‘10 June 1983’; and

(b) in subsection (3), by inserting, immediately after ‘20’, the following—

‘(b) and (d)’.

**Clause 2**

That clause 2(1) be amended by deleting paragraph (a) and substituting the following

—

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

“(a) any premises—

(Cap. 123.) (i) in a building in respect of which an occupation permit, including a temporary occupation permit, was first issued by the Building Authority under section 21(2) of the Buildings Ordinance after 16 August 1945; or

(ii) which were completed or substantially rebuilt after 16 August 1945;” and’.

**Clause 35**

That clause 35 be amended by deleting paragraph (a) of the new section 119FA and substituting the following—

‘(a) in a case where any tenant or sub-tenant is willing to accept such an order, make an order for the grant of a new tenancy or new tenancies in respect of such part or parts of the premises as the Tribunal thinks just and equitable having regard to those reasonable requirements and all the circumstances of the case; or’.

**Clause 36**

That clause 36 be amended in paragraph (b) by deleting ‘was satisfied the premises were required’ and substituting the following—

‘is satisfied the premises are required’.

**Clause 39**

That clause 39 be amended in paragraph (a) by deleting ‘after 31 July 1983’ and substituting the following—

‘on or after 10 June 1983’.

**Clause 42**

That clause 42 be deleted.

**Clause 43**

That clause 43 be amended by deleting ‘73’ and substituting the following— “70, 71, 73 and 74” and substituting the following—

“70, 70A, 70B, 71 and 74”.

**Clause 45**

That clause 45(2) be amended by deleting ‘1 August 1983’ and substituting the following—

‘10 June 1983’.

**Clause 48**

That clause 48 be amended—

(a) by deleting subsection (9) and substituting the following—

‘(9) Section 20(b) shall not apply to applications under section 57 of the principal Ordinance received by the Commissioner before 19 December 1983.’; and

(b) by deleting ‘1 August 1983’ where it appears in subsections (1) to (8), (10) and (11) and substituting the following—

‘10 June 1983’.

The amendments were agreed to.

Clauses 1, 2, 35, 36, 39, 42, 43, 45 and 48, as amended, were agreed to.

**Clause 11**

SECRETARY FOR HOUSING:—I move that clause 11 be amended as set out under my name in the paper circulated to Members.

This amendment to clause 11(d)(v) will have the effect of excluding from Part II of the Ordinance tenancies created on or after 10 June 1983, instead of 1 July 1983. The amendment to clause 11(f) will clarify the definition of rateable value for the purpose of excluding luxury premises from rent increase control.

*Proposed amendments*



**Clause 11**

That clause 11 be amended—

(a) in paragraph (d)—

(i) by inserting, immediately after sub-paragraph (ii), the following— ‘(iia) in paragraph (1), by deleting “in respect of which an appropriate certificate was first issued” and substituting the following—

“in a building in respect of which an appropriate certificate was first issued or which premises were completed or substantially rebuilt”;

 and

(ii) in sub-paragraph (v), by deleting ‘1 July 1983 of premises of which’ and substituting the following—

‘10 June 1983 of premises of which, or of part of which,’; and

(b) in paragraph (f), by deleting the new subsections (10) and (11) and substituting the following—

‘(10) Subject to subsection (12), for the purposes of this section, the rateable value of any premises shall be—

(a) in the case of premises being a tenement included in the valuation list declared in March 1977 under section 13 of the Rating Ordinance as amended or altered from time to time up to and including 10 June 1983, the rateable value contained in that list on 10 June 1983; and

(b) in any other case, the rateable value certified by the Commissioner for the purposes of this section and that certificate shall be final and binding.

(11) The dates mentioned in subsection (10)(a) may be amended by resolution of the Legislative Council.

(12) Any tenancy or sub-tenancy of premises excluded from this Part at any time by virtue of the operation of subsection (6)(m) shall continue to be so excluded notwithstanding any amendment of subsection (10)(a).’.

The amendments were agreed to.

MR. S. L. CHEN:—Sir, I move the amendment as set out under my name in the paper circulated to Members.

The amendment to clause 11 and the related amendments to clause 30(d) later will restore the original spirit of the principal Ordinance regarding the protection on rent increase and security of tenure to be given to dependent family members of a deceased tenant. Such protection will now be limited to

those dependent family members who were residing with the tenant at the time of his death, and the benefit will not be permitted to be passed on in perpetuity.

*Proposed amendment*

**Clause 11**

That clause 11 be amended by inserting, immediately after paragraph (c), the following

—  
(ca) in subsection (4)—

- (i) by deleting “where applicable” and substituting the following—  
“except in this subsection”;
- (ii) by lettering the existing provision as paragraph (a); and
- (iii) by adding the following—  
“(b) Only one person mentioned in paragraph (a) shall be entitled to the benefits and protection of this part at one time and, in default of agreement by those persons, the Tribunal shall nominate that person on such grounds as appears to it to be just and equitable.”.

The amendment was agreed to.

Clause 11, as amended, was agreed to.

**Clause 15**

MISS TAM:—I move that clause 15(g) be amended as set out in the paper circulated to Members.

The amendment to clause 15(g) and the insertion of a new clause 40B, which I will later move, to amend section 119P of the principal Ordinance will make sure that a sub-tenant, who has become the direct tenant in absentee principal tenant cases, will not be able to sub-let again without the landlord’s written permission, even though the sub-letting is not in breach of contractual terms of the original tenancy.

*Proposed amendment*

**Clause 15(g)**

That clause 15(g) be amended in the new subsection (6B) by inserting, immediately after paragraph (a), the following—

‘(aa) Where a sub-tenant becomes the tenant of a landlord under subsections (4A) and (4B) or subsection (6A), any subletting on or after 10 June 1983 under that tenancy by that tenant, without the written permission of the landlord, shall be in breach of the contractual tenancy.’

The amendment was agreed to.

MR. SWAINE:—Sir, I move that the clause specified be amended as set out in the paper circulated to Members, and as envisaged in my speech before this Council two weeks ago. This amendment will go hand in hand with the amendment I shall be moving to clause 37(a) later this afternoon. This amendment will have the effect of retaining the two-year restriction on the landlord’s power to deal with re-possessed premises as from the date of the order or decision of the Lands Tribunal.

This is considered to be a sufficient deterrent and avoids the uncertainty which would arise from counting the period from the date of the tenant delivering vacant possession.

*Proposed amendment*

**Clause 15(h)**

That clause 15(h) be amended by deleting ‘from the date of that order until the lapse of 24 months after the date of obtaining vacant possession’ from both places where it appears and substituting following—

‘of 24 months after the date of that order’.

The amendment was agreed to.

Clause 15, as amended, was agreed to.

**Clauses 24 and 25**

MR. SWAINE:—Sir, I move that the clauses specified be amended as set out in the paper circulated to Members, and as anticipated in my speech two weeks ago. The amendment to clause 24(b) will limit the Commissioner’s power to require the supply of information to such as is reasonably required for the purpose of enforcing Part II. The amendment to clause 25 will ensure that an offence is committed only if there is no reasonable excuse for the withholding of information or for other obstruction of the Commissioner in the exercise of his powers.

*Proposed amendments*

**Clause 24(b)**

That clause 24(b) be amended in the new section 70(1)(a) by deleting ‘required’ and substituting the following—

‘reasonably required by the Commissioner’.

**Clause 25**

That clause 25 be amended in the new section 70A by inserting, immediately after ‘person who’, the following—

‘,without reasonable excuse’.

The amendments were agreed to.

Clauses 24 and 25, as amended, were agreed to.

**Clause 30**

MR. S. L. CHEN:—Sir, I move that clause 30 be amended as set out in the paper circulated to Members for the reasons I have explained earlier.

*Proposed amendments***Clause 30(d)**

That clause 30(d) be amended in the new subsection (5)—

(a) by inserting, immediately after ‘references to a tenant shall’, the following—

‘except in this subsection’;

(b) by lettering the existing provision as paragraph (a); and

(c) by adding the following—

‘(b) Only one person mentioned in paragraph (a) shall be entitled to the benefits and protection of this Part at one time and, in default of agreement by those persons, the Tribunal shall nominate that person on such grounds as appears to it to be just and equitable.’.

The amendments were agreed to.

Clause 30, as amended, was agreed to.

**Clause 37**

MR. SWAINE:—Sir, I move that clause 37(a) be amended as set out in the paper circulated to Members. This goes hand in hand with the amendment to clause 15(h) on which I have already spoken.

*Proposed amendment*

**Clause 37(a)**

That clause 37(a) be amended by deleting ‘from the date of the decision of the Tribunal declining to make an order for the grant of a new tenancy until the lapse of 24 months after the date of obtaining vacant possession’ from both places where it appears and substituting the following—

‘for a period of 24 months after the decision of the Tribunal declining to make an order for the grant of a new tenancy’.

The amendment was agreed to.

SECRETARY FOR HOUSING:—I move that clause 37 be amended as set out under my name in the paper circulated to Members.

The most important amendment to clause 37 will be to delete the time limit under Part IV of the principal Ordinance for prosecution of cases of contravention of the restriction on alienation following repossession for self-occupation or rebuilding. Such offences are indictable, and as such should not be subject to any time limit for prosecution.

*Proposed amendments*

**Clause 37**

That clause 37 be amended—

- (a) in paragraph (b), by deleting ‘and’ at the end;
- (b) in paragraph (c), by deleting the full stop and substituting the following—  
‘;and’; and
- (c) by adding the following—  
‘(d) by deleting subsection (5).’.

The amendments were agreed to.

Clause 37, as amended, was agreed to.

New clause 40A. ‘Addition of new section 119NA’.

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

SECRETARY FOR HOUSING:—Sir, in accordance with Standing Order 46(6) I move that new clause 40A as set out in the paper circulated to Members be read a second time.

This will add a new section 119NA to the principal Ordinance. This new section will specify that where the Lands Tribunal does not make an order for the grant of a new tenancy under Part IV, the tenant will still be liable to pay the market rent of the subject premises for the period during which he remains in possession.

*Question put and agreed to.*

Clause read the second time.

SECRETARY FOR HOUSING:—I move that new clause 40A be added to the Bill.

*Proposed addition*

#### **New clause**

That the Bill be amended by inserting, immediately after clause 40, the following—

|  |  |  |
|--|--|--|
| ‘Addition<br>of new<br>section<br>119NA. | <b>40A.</b> The principal Ordinance is amended by adding, immediately after section 119N, the following—<br>“Rent where<br>new tenancy<br>refused etc. | <b>119NA.</b> (1) Where a tenant remains in possession of any premises after the date on which the current tenancy |
|--|--|--|

would, apart from section 119N, have come to an end by virtue of a notice given under section 119(1) or under section 119A(5) and the Tribunal does not, for any reason, make an order for the grant of a new tenancy, the tenant shall be liable to pay rent, as determined by the Tribunal under subsection (2), for the period from that date until the tenant delivers up vacant possession to the landlord.

(2) The Tribunal may, on the application of the landlord or the tenant, determine the rent payable by the tenant under subsection (1) and the Tribunal shall determine that rent as the rent it would have determined if it had ordered the grant of a new tenancy of the premises for a term of 2 years and otherwise on the same terms as the terms of the current tenancy.

(3) This section shall have effect in any proceedings pending in the Tribunal on 10 June 1983.”.

The addition of the new clause was agreed to.

New clause 40B. ‘Amendment of section 119P’.

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

MISS TAM:—Sir, I move that new clause 40B as set out in the paper circulated to Members be read a second time. Any tenant who sub-lets premises, under the conditions I have earlier on described when moving the amendment to clause 15(g), would now give rise to forfeiture of the lease.

*Question put and agreed to.*

Clause read the second time.

MISS TAM:—I move that new clause 40B be added to the Bill.

*Proposed addition*

### **New clause**

That the Bill be amended by inserting, immediately before clause 41, the following—

- ‘Amendment of section 119P.      **40B.** Section 119P of the principal Ordinance is amended—
- (a) in subsection (8), by deleting “without breach of the tenancy” and substituting the following—  
    ”without breach of the current tenancy”; and
  - (b) by inserting, immediately after subsection (8), the following—  
    “(8A) Where a sub-tenant becomes the tenant immediately from the landlord, either under a new tenancy or under subsection (8), any subletting on or after 10 June 1983 under that tenancy by that tenant, without the written permission of the landlord, shall be a breach of a condition of the tenancy which is a cause of forfeiture.”.’.

The addition of the new clause was agreed to.

### **LANDS TRIBUNAL (AMENDMENT) BILL 1983**

Clause 1

SECRETARY FOR HOUSING:—Sir, I move that clause 1 be amended as set out in the paper circulated to Members.

This amendment will move forward the commencement date of the Ordinance from 1 August 1983 to 10 June 1983 in line with that of the Landlord and Tenant (Consolidation) (Amendment) Bill 1983.

*Proposed amendment*

**Clause 1**

That clause 1(2) be amended by deleting ‘1 August 1983’ and substituting the following—

‘10 June 1983’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2

SECRETARY FOR HOUSING:—Sir, I move that clause 2 be amended as set out in the paper circulated to Members. This amendment will enable the Lands Tribunal to grant remedies and reliefs similar to those of the District Court.

*Proposed amendment*

**Clause 2**

That clause 2(b) be amended by adding the following—

‘(9) In the exercise of its jurisdiction, the Tribunal shall have the same jurisdiction to grant remedies and reliefs, equitable or legal, as the District Court.’.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 to 8 were agreed to.

Clause 9

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

*Proposed amendment*

**Clause 9**

That clause 9 be amended by deleting ‘1 August 1983’ and substituting the following—

‘10 June 1983’.



The amendment was agreed to.

Clause 9, as amended, was agreed to.

New clause 6A. ‘Amendment of rule 18 of Lands Tribunal Rules’.

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

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

*Question put and agreed to.*

Clause read the second time.

*Proposed addition*

#### **New clause**

That the Bill be amended by inserting, immediately after clause 6, the following—

‘Amendment of rule 18 of Lands Tribunal Rules.      **6A.** Rule 18(1A) of the Lands Tribunal Rules is amended by inserting, immediately after “or any copy thereof”, the following—  
‘and if required by him’.’.

The addition of the new clause was agreed to.

#### **PRISONS (AMENDMENT) BILL 1983**

Clauses 1 to 8 were agreed to.

#### **DRUG ADDICTION TREATMENT CENTRES (AMENDMENT) BILL 1983**

Clauses 1 and 2 were agreed to.

#### **PUBLIC ORDER (AMENDMENT) BILL 1983**

Clauses 1 to 5 were agreed to.

Council then resumed.

**Third reading of bills**

THE ATTORNEY GENERAL reported that the

EXCHANGE FUND (AMENDMENT) BILL

WATERWORKS (AMENDMENT) BILL

PRISONS (AMENDMENT) BILL

DRUG ADDICTION TREATMENT CENTRES (AMENDMENT) BILL and the

PUBLIC ORDER (AMENDMENT) BILL

had passed through Committee without amendment and the

AIR PASSENGER DEPARTURE TAX BILL

ROAD TRAFFIC (DRIVING-OFFENCE POINTS) BILL

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL and the

LANDS TRIBUNAL (AMENDMENT) BILL

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

*Question put on the Bills and agreed to.*

Bill read the third time and passed.

**VALEDICTORY**

HIS EXCELLENCY THE PRESIDENT:—Honourable Members, before adjourning this Council I would like to pay tribute to Attorney General Mr. John GRIFFITHS who will be retiring from the Council and leaving the service of the Hong Kong Government very shortly.

John GRIFFITHS has been Attorney General since May 1979 and I would like to record my appreciation, as I am sure my predecessor would have wished to record his, of the valuable services which John GRIFFITHS has rendered both inside and outside this Chamber. He has acted as the Government's chief legal adviser, the head of the Hong Kong Bar and representative of the Crown in all its legal actions in Hong Kong. I am sure we are also all grateful to him for the way in which he has so often enriched and, I may say, enlivened our proceedings with his style and wit. I think he will be long remembered as having been, in all senses, one of the best advocates in this Council.

He is now resuming his practice at the Bar and I am sure that we would all wish to wish him, and wish Mrs. GRIFFITHS as well, a happy and successful future.

MR. LOBO:—Sir, the Unofficial Members of this Council would wish to be associated with the (warm) tribute which Your Excellency has (deservedly) paid to Mr. GRIFFITHS.

As Attorney General, Mr. GRIFFITHS has always been accessible to us. He has shown great patience in his discussions with us in the UMELCO Office, and his term of office has seen the passage of some highly controversial and complex legislation.

With his ready appreciation and understanding of the Unofficials' constitutional role, which he described so succinctly in the opening chapter to this year's Hong Kong Annual Report, he brought to our meetings unfailing good humour, as Your Excellency said, and negotiating skills, and frequently succeeded in reconciling widely different views with those of the official-side.

The result has been the passing of legislation which has largely enjoyed the unanimous support of this Council, and we are much indebted to him for helping to achieve such a healthy and constructive consensus.

I should also like to acknowledge and place on record our appreciation of the role played by Mr. GRIFFITHS in restoring to Hong Kong's British subjects the right to describe themselves as British nationals.

In large measure the reversal of H.M.G.'s decision on this point was attributable to the cogent advocacy of our position by the Attorney General. We are deeply indebted to him for this.

We will miss the wit and the repartee with which he has so frequently enlivened the proceedings in this Chamber and I should like, on behalf of my Colleagues, to extend to Mr. GRIFFITHS and Mrs. GRIFFITHS every good fortune in their future endeavours.

### **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, 29 June 1983.

*Adjourned accordingly at forty-four minutes past four o'clock.*