

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 27 July 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.

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

THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN HENRY BREMRIDGE, K.B.E.

THE HONOURABLE THE ATTORNEY GENERAL
MR. MICHAEL DAVID THOMAS, Q.C.

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

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

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

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

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

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

THE HONOURABLE LYDIA DUNN, C.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.

THE HONOURABLE ERIC PETER HO, C.B.E., J.P.
SECRETARY FOR TRADE AND INDUSTRY

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

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, O.B.E., J.P.

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

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

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

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

THE HONOURABLE CHAN KAM-CHUEN, J.P.

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

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

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

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING

THE HONOURABLE 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 CHAN NAI-KEONG, J.P.
SECRETARY FOR LANDS AND WORKS

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

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

THE HONOURABLE YEUNG KAI-YIN, J.P.
SECRETARY FOR ECONOMIC SERVICES (*Acting*)

THE HONOURABLE PATRICK JOHN WILLIAMSON, J.P.
SECRETARY FOR SECURITY (*Acting*)

THE HONOURABLE JAMES KERR FINDLAY
LAW DRAFTSMAN (*Acting*)

THE HONOURABLE HARNAM SINGH GREWAL, E.D., J.P.
SECRETARY FOR THE CIVIL SERVICE (*Acting*)

THE HONOURABLE DAVID ROBERT FORD, M.V.O., O.B.E., J.P.
SECRETARY FOR HOUSING (*Acting*)

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

ABSENT

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

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

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

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

THE HONOURABLE HU FA-KUANG, J.P.

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

IN ATTENDANCE

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

Papers

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

Subject *L.N. No.*

Subsidiary Legislation:

Road Traffic Ordinance.	
Road Traffic (Parking and Waiting) (Amendment) (No. 3) Regulations 1983	233
Shipping and Port Control Ordinance.	
Shipping and Port Control (Hong Kong—China and Macau Ferry Terminals) (Amendment) Regulations 1983	234
Evidence Ordinance.	
Evidence (Authorized Persons) (No.7) Order 1983	239
Road Traffic (Parking and Waiting) Regulations.	
Designation of Car Parks (Amendment) Notice 1983	240
Hong Kong Airport (Control of Obstructions) Ordinance.	
Hong Kong Airport (Control of Obstructions) (Consolidation) (Amendment) Order 1983	241
Prisons Ordinance.	
Prison (Amendment) Rules 1983	242
Public Health and Urban Services Ordinance.	
Public Health and Urban Services (Designation of Libraries) (No. 3) Order 1983	243
Interpretation and General Clauses Ordinance.	
Fees for Official Signatures and Miscellaneous Services (Amendment) Notice 1983	244
Inland Revenue Ordinance.	
Inland Revenue (Interest Tax) (Exemption) (Amendment) (No.4) Notice 1983	245

Sessional Papers 1982/83:

No.63—Sir Robert Black Trust Fund—Annual Report for the year 1 April 1982 to 31 March 1983.

No.64—Sir David Trench Fund for Recreation—Trustee's Report 1982-83.

No.66—Kadoorie Agricultural Aid Loan Fund—Report for the year 1982-83.

No. 67—J. E. Joseph Trust Fund Report for the period 1 April 1982 to 31 March 1983.

No. 68—Report on the Administration of the Immigration Service Welfare Fund for the period from 1 April 1982 to 31 March 1983.

Oral answers to questions

Music education

1. REVD. JOYCE M. BENNETT asked:—*Will Government inform this Council whether it has any policy regarding the encouragement of music education in Advanced Level and post-secondary classes?*

DIRECTOR OF EDUCATION:—Sir, it is our policy to encourage the broadening of the senior secondary school curriculum, and this includes music education at Certificate of Education, Higher and Advanced Levels.

As I told this Council in April this year, for Forms 4-5 students whose schools cannot offer Music as a Hong Kong Certificate of Education subject, a centralized scheme of music teaching was started in September 1982. Policy approval has now been given to expand this scheme to include a fresh intake at Form 4 level in September 1983 and to enrol Form 6 students in September 1984 on a one-year course leading to the Higher Level Examination in 1985. A proposal has also been made to the Hong Kong Examinations Authority to offer a local Advanced Level Examination in Music. If approved, it is hoped that the present centralized scheme will be expanded further to prepare students for this examination.

This, of course, is over and above the provision of Music in schools through Primary and Junior Secondary Years, which is virtually universal; and it does not preclude schools making their own arrangements for the study of music to Certificate of Education level and beyond.

At the post-secondary level, as Miss BENNETT is probably aware, institutions are basically autonomous. The provision of formal music education rests principally with the two universities, both of whom have departments of music which are supported from public funds. There are also a Music Department in the Hong Kong Baptist College and a Music Faculty in Lingnan College. However, Lingnan has decided to phase out its Music because the College is unable to establish a viable financial basis for the Faculty to continue. I respect the College's decision in this matter and have been assured that satisfactory arrangements are being made by the College to protect the interests of the 25 students already enrolled in Years 1-4. While I regret that under the terms of the scheme for financial assistance to Approved Post-Secondary Colleges, I am

unable to provide more funds to ensure the continuation of the Music Faculty at the College, I have had discussion with the Lingnan authorities and plans are now in hand for an Advanced Level course in music to be opened in Lingnan Middle School.

Outside the formal education system there has been a steady increase in entries to the Royal Schools of Music examinations. In the academic year 1982-83 there were nearly 21 000 entries for practical examinations and almost 5 000 for theory. Of these nearly 1 200 were for Grade 8 practical and over 600 for Grade 8 theory.

In this general context I must of course also mention the annual Hong Kong Schools' Music Festival and the phenomenal success of the Music Office of the Recreation and Culture Department in promoting instrumental music and District Youth Orchestras. The Schools' Festival with about 57 000 competitors in 70 categories is the biggest thing of its kind in the world, and the Jing Ying Youth Orchestra, selected by open competition, has just taken third place in the 1983 International Music Eisteddfod in Wales. Both the Schools' Music Festival and the Music Office were initiatives of the Education Department.

As might be expected, and I am happy to say so, my Department has played and is playing an active role in the planning of the Academy for Performing Arts. The encouragement of music education both in and out of school has found logical expression in the decision to establish the Academy, and this must augur well for the future.

In the somewhat inward looking world of specialism, it is important to preserve some sort of balance and perspective. Music education is more than preparation for Advanced Level examinations in the classrooms of schools and post-secondary institutions, where numbers are small and perhaps reflective of pupil choice in a competitive career world. In dramatic contrast, there is a great deal of healthy and enjoyable music education going on outside the classroom, where the emphasis on performance does not preclude music literacy. The enthusiasm and success of our tens of thousands of young performers is something we should be proud of and never forget in any musical debate.

REVD. JOYCE M. BENNETT:—*Sir, can Mr. HAYE give more details on the arrangements to protect the interest of the 25 students in the music faculty of Lingnan which is being phased out, since I have been hearing of their very distressing situation?*

DIRECTOR OF EDUCATION:—I think this is a question that should really be addressed to the College authority but I have discussed it with them. I can say that arrangements have been made so that these students—25 of them over four years—will continue their studies at least until next September and thereafter in arrangement with the Chinese University will be able to complete the course for which they were enrolled.

REVD. JOYCE M. BENNETT:—*Sir, what can the Government do to prevent students in post secondary institutions in the future having classes they have started stopped or be curtailed?*

DIRECTOR OF EDUCATION:—I think we can insist on the institutions concerned giving adequate notice, Sir.

Unemployment in respect of seamen

2. DR. HO asked:—*Has the unemployment situation among local seamen deteriorated during the recent years; and if so, what actions will Government take to improve the situation?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, the Government's statistics on unemployment do not provide sufficient detail to reflect unemployment in respect of seamen. But on the basis of information supplied by employers of Hong Kong seamen to the Seamen's Recruiting Office, in the three years 1980 to 1982 the number of posts filled by Hong Kong seamen on foreign-going ships fell from about 18 200 to about 14 000, a decline of approximately 20%. In the first five months of this year, a further 1 251 posts were lost. This trend reflects the operation of market forces in a recessionary period and a growing tendency worldwide towards employing seamen with a broader range of skills.

It has often been said in this Council that, for a small and open economy such as ours, attempts by the Government to interfere with the operation of market forces are normally futile or ineffective, and could be damaging to the economy. For this reason the Government has always left entrepreneurial decisions, including employment decisions, to the private sector. As the employment of Hong Kong seamen does not appear to me to justify deviating from this general principle, the Government has no intention to intervene directly in this particular sector of the labour market.

The Government, however, supports institutions which seek to improve the quality of Hong Kong's workforce. Training for officers is already available in the Hong Kong Polytechnic. For ratings, a training centre at Little Sai Wan is expected to come into operation in January 1984 under the auspices of the Vocational Training Council. The object is to provide remedial training for registered ratings, to bring them up to the standards required under the International Convention on Standards of Training, Certification and Watchkeeping of 1978. It is quite possible that the employment prospects of Hong Kong seamen who have undergone such training will be improved.

DR. HO:—*Sir, to alleviate hardship of those local seamen who have lost their jobs during the recessionary period, will the Secretary for Economic Services propose some remedial actions without directly interfering with the operation of the market?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, I understand that the Employment Advisory Service of the Labour Department would assist any person who is looking for a job. The Service provides guidance and advice on personal advancement opportunities.

Evening medical clinics

3. DR. IP asked:—*Will Government state its policy and give statistics on evening medical clinics run either by Government or subvented agencies, for Hong Kong, Kowloon and New Territories?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, evening medical clinics were started by the Medical and Health Department to relieve the overworked Accident and Emergency Services, formerly called the Casualty by taking care of the non-emergency cases. These clinics were initially in those districts where the regional hospitals with their Accident and Emergency Departments were. Subsequently with the expansion of the Emergency Services in district hospitals and health centres more supporting clinics were opened.

These clinics also supplement our day out-patient services serving as a safety net for those unable to attend in the day because of their work schedule or who could not afford the services provided by the private sector in the evenings.

There are 15 Government clinics providing 43 doctor sessions. These are divided into:

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five clinics on Hong Kong Island with 14 doctor sessions per evening,
six in the Kowloon Region with 19 sessions,
and four in the New Territories with 10 sessions.

A total of 3 000 to 3 500 patients are taken care of every evening.

In the subvented hospitals, as part and parcel of their service, one hospital on Hong Kong Island and three in Kowloon provide a total of six doctor sessions in the evening and they see between 350 to 400 patients.

DR. IP:—*Sir, has Government monitored the number of patients turned away from Government evening medical clinics? If so, are there significant shortfalls as was pointed out by the District Boards from Sha Tin, Kwun Tong and Wong Tai Sin areas? If monitoring was not done how does Government plan in order to meet where deficiencies are greatest?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, we have monitored the attendances and there are still reserve places for these patients. In the Wong Tai Sin area, there are, besides the evening clinics, five day clinics with thirteen doctor-sessions, thirty public estate doctors and fifty-four general practitioners. So we feel that there is enough to serve the population in that district, Sir.

DR. IP:—*Sir, I repeat my question regarding whether there were any monitoring as regards patients being turned away in evening medical clinics in these areas?*

HIS HONOUR THE PRESIDENT:—If the Director understands the question he may answer.

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—I do, Sir. Turn-aways are only in the day clinics. There are no turn-aways in our evening clinics.

DR. IP:—*As a policy does Government subvent evening medical clinics run by subvented agencies outside hospitals, and if not, why not?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, Government's policy is to subsidize hospital services. This is the area where the subvented agencies can make the best contributions and we would not like them to dissipate their expertise by branching out into too many foreign fields. Furthermore, the Government's network of out-patient clinics serve the very important function as surveillance stations in detecting contagious and infectious diseases in our control of epidemics. And this should be a Government responsibility.

DR. IP:—*Sir, in the planning for Government evening medical clinics in a district does Government take into consideration the population density, the income brackets of the population in the area and the age of the population in question as well as other variables? If so, how?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir, all these are taken into consideration.

REVD. JOYCE M. BENNETT:—*Sir, what are the opening and closing hours of these clinics?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, these clinics open at 6 and they close at 10 p.m.

MISS DUNN:—*Sir, do these evening clinics in fact fulfil the objective of relieving pressure on Government casualty departments and isn't it a fact that casualty departments are still overworked and most of their cases are non-emergency cases which should be treated by evening medical clinics?*

HIS HONOUR THE PRESIDENT:—That question does wander somewhat from the original question but the Director of Medical and Health Services may answer.

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, our research shows that these evening clinics filter off about 10% of the non-emergency cases attending our Accident and Emergency units.

REVD. JOYCE M. BENNETT:—*Sir, what notices are displayed in Government hospitals giving the patients knowledge of the opening and closing hours of these evening clinics?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*Sir, notices are prominently displayed in all our clinics as to the opening and closing hours.*

MISS DUNN:—*I am afraid I don't think Dr. LAM has answered my question. My question was: do these evening clinic fulfil the objective (which was in his original answer) of relieving pressure on casualty departments?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*These evening clinics, as I said, partially fulfil the objective in that they filter off 10% of the non-emergency cases attending the Accident and Emergency Services, Sir,—although I take the point that our Accident and Emergency Services are overworked in spite of this.*

REVD. JOYCE M. BENNETT:—*Sir, may I have clarification: my question related to were there notices in Accident and Emergency Departments of the opening hours of the clinics, not were there notices in the clinics of when they open and close—so that the people going to the Emergency Departments in the hospitals know where they can go?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—*I take it that Miss BENNETT means are there notices in the Emergency Departments regarding the evening clinics. I am not sure about that but I will give her a written answer.*

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY.)

The enclosed photographs (not enclosed here) is of a notice which is put up in a very prominent part of the waiting area. The point you made regarding informing patients about the hours of operation in the evening clinics is taken and steps would be initiated to rewrite the notice to provide patients with these.

For the Wan Chai District, there are evening clinics at the Tang Shiu Kin Hospital Out-patient Department with two doctor sessions and Violet Peel Polyclinic with three doctor sessions per evening and they operate between 6 to 10 p.m.

Energy conservation

4. MR. SO asked in Cantonese:—

請問政府對教育本港市民節省能源方面，已採取甚麼措施？

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

What action has Government been taking to educate the people of Hong Kong on energy conservation?

SECRETARY FOR ECONOMIC SERVICES:—Sir, the impetus in the past for the introduction of energy conservation measures, including intensive publicity campaigns, has been the tightening of the global oil supply situation, as experienced in 1973 and 1979. Since 1980, however, weak economic conditions coupled with a progressive switching from dependence on fuel oil to other fuels as a source of energy have helped to create a world surplus of oil. It has not been necessary, therefore, for the Government to repeat the intensive publicity campaigns of 1973 and 1979 in recent years.

The Government, however, continues to attach importance to the promotion of energy conservation. In recent years the Government has carried out a number of investigations on several major buildings and installations that are large consumers of electricity, with a view to determining whether savings in power consumption could be achieved. These studies include Murray Building, the Kowloon Government Offices, Queen Elizabeth Hospital and other hospitals, the Airport and the incinerator plants. Most of the studies have borne fruit, and it is on the basis of this accumulated experience that the Architectural Office drew up, in 1981, a pamphlet on energy conservation in buildings. This document contains guidelines for an energy conscious building design, and has been made freely available to firms and professional people associated with property development and building management.

The scope of the Government's promotion of energy conservation has not been limited to the construction industry. A sustained effort is also being undertaken in the field of education. Thus energy conservation features in the school curriculum at both the primary and secondary levels, with the object of cultivating proper concepts of energy conservation in the minds of young people.

REVD. JOYCE M. BENNETT:—*Sir, can Mr. YEUNG elaborate on what is being undertaken in the field of education since many schools on bright sunny days put all the lights on in all the classrooms all the day?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, I am reliably informed by the Education Department that energy conservation is taught in a number of subjects and at various levels of education. Starting with primary education, I am told that energy is a topic taught under the theme 'progress of human society' and 'the safe and proper use of fuels' in Primaries 4 and 6. At Primary 4 level, energy conservation is also taught under the topic 'Proper handling and use and conservation of fuels'. In addition to this, at Forms I to III level one whole unit is devoted to the subject 'energy', covering ten teaching periods. The teaching objectives of the unit on energy are to bring to the child the preception of several matters, the range of energy as resources available to man, man's increasing energy requirements, the need for conservation, and the ways and means of conservation. As a subject energy conservation is also taught at the universities and at the Polytechnic.

REVD. JOYCE M. BENNETT:—*Sir, does anyone ever suggest to the schools that they turn off the lights when no-one is in the room?*

SECRETARY FOR ECONOMIC SERVICES:—As I am not familiar with the management of schools, Sir, I really do not know the answer to this question. But I would have thought that the effect of teaching energy conservation in schools has begun to take effect. I am reminded, Sir, of the behaviour of my own daughter who, in recent years, would always remind me before she goes to bed: 'Please, dad, turn off all the lights.' The Government of course has not yet done a survey on the behaviour of school children and I am sure we can, if we wish it to be done, launch such a survey.

HIS HONOUR THE PRESIDENT: — One would have thought that headmasters and headmistresses could also set a good example.

Damage to road surfaces

5. MR. CHAN KAM-CHUEN asked:—*What damages are caused to our roads by the constant spraying of water on them and on the wheels of earth moving lorries on leaving construction sites?*

SECRETARY FOR LANDS AND WORKS:—Sir, the mere act of spraying of water on the road surface, and on the wheels of vehicles leaving construction sites, causes no significant damage to roads, provided that the road surface is in good condition.

It must be acknowledged, however, that roads adjoining construction sites are vulnerable to damage. The mere weight of earth-moving lorries should not cause any serious damage to roads which are designed for heavy wear. What can happen, however, is that materials such as grit and stones which fall from lorries may be ground into the road surface, breaking it and rendering it more vulnerable to further damage.

If a road surface which is already damaged is subjected to spraying it is possible that the water might seep through cracks in the surface and affect the road foundation, which would in turn result in further damage to the surface.

In the context of some \$160 million of expenditure a year on highways maintenance and by comparison with the large volume and high density of general traffic in the territory, the amount of damage attributable to construction activities is very small. In any case, repairs to the road surface and any other related damage is a charge to those responsible. In respect of Government contracts, the contractor is required to make good any damage he causes to Government property including roads whereas for private sites, the standard lease conditions provide for the lessee to reimburse Government the cost of making good any damage caused to adjoining roads.

Consultants on the technical operation and Government monitoring of the power companies

6. MR. SO asked in Cantonese:—

政府可否告知本局：

(甲) 一九八二年三月委任技術顧問審核兩大電力公司在發電上的技術問題，目前顧問的工作進度；

(乙) 委任顧問研究政府對電力公司的監管是否足夠的進展情況？

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

Will Government inform this Council the present progress of—

(a) the work of the technical consultants appointed in March 1982 to examine the technical aspects of electricity generation by the two major power companies; and

(b) the appointment of consultants to advise the Government on the adequacy of its monitoring of the power companies?

SECRETARY FOR ECONOMIC SERVICES:—

(a) The consultants appointed to examine the technical aspects of power generation by the two major power companies submitted their report in April this year. Their findings and recommendations have been discussed by the Director of Electrical and Mechanical Services with the power companies and with the Economic Services Branch. On the advice of Executive Council the Government has decided that the Executive Summary of the report should be published. Barring unforeseen difficulties I expect this document will be made public next month.

(b) As regards the consultancy to advise the Government on the adequacy of its monitoring of the power companies' activities, I have examined the proposals made by a number of consultancy firms, and will shortly begin negotiations with the preferred firm, with a view to concluding a contract. Subject to a contract being agreed I expect the consultants to begin their work in September and to submit their findings and recommendations to me by the end of the year.

MR. STEPHEN CHEONG:—*Sir, with regard to the second consultancy which the Secretary for Economic Services has mentioned about, if my recollection is correct, this particular consultancy was agreed upon to be appointed early in the year. What are the reasons for such a long delay in being able to have the consultants appointed and their work started?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, the consultancy was approved in late February this year. The fact that it has taken several months to reach the stage where we are only beginning to negotiate with the preferred firm is because it is*

an unusual consultancy. It involves an organizational and systems study for which experience and specialized skills are required. That sort of experience is not easily found. We have, therefore, had to spend some time looking for such consultancy firms.

MR. STEPHEN CHEONG:—*Sir, given the tremendous amount of care the Government has taken to go into the preparation of this consultancy, can we be assured, therefore, that their work will be seriously taken into account and that all the shortcomings, if any, would have been covered or unveiled by the consultancy report?*

HIS HONOUR THE PRESIDENT:—I think that question presupposes that a certain view will be taken by Executive Council.

Imitation firearms

7. MR. LO asked:—*Will Government consider banning the import, manufacturing except for export, sale, or possession without authority of toy guns or replicas so that they could not be used,*

- (a) In criminal activities by criminals pretending that they are real firearms or*
- (b) by being converted unlawfully into real firearms.*

SECRETARY FOR SECURITY:—Yes, Sir. Indeed we have been doing so for a number of years. However, because of the ramifications for our international trade we have till now tried to control the use of imitation firearms through statutory restrictions on their possession. This has not proved effective and we are once again considering whether it is feasible to ban them in some way. I propose that our conclusions should be put to the Fight Crime Committee in the first instance.

MR. LO:—*Does Government have any information on the success that the West German Government has had in banning certain imitation guns?*

SECRETARY FOR SECURITY:—I have no information on the success of the West German Government in banning imitation automatic weapons.

Cargo handling facilities

8. MR. WONG PO-YAN asked:—*Will the Government inform this Council*

- (a) the present level of utilization of cargo handling facilities at the container terminals and cargo working areas;*

- (b) *whether existing cargo handling facilities can cope with the anticipated increase in activities brought about by a recovery in the economy; and*
- (c) *whether it is satisfied with the new berth allocation system introduced in January this year to control the use of facilities at cargo working areas?*

SECRETARY FOR ECONOMIC SERVICES:—

Introduction

Sir, I propose to answer the three questions in two parts. The first will deal with facilities for the handling of break-bulk cargo, the second with the container terminals at Kwai Chung.

Public cargo working areas and waterfronts

At the present time the Marine Department operates six public cargo working areas and three public waterfronts. Total throughput in 1982 amounted to 4.9 million tonnes. This represented about 70% of the maximum capacity of all public cargo working areas and public waterfronts under the system of management in force during 1982.

Two of the existing public cargo working areas, at Tsuen Wan and Rambler Channel, are being extended to provide more waterfront space and the works are expected to be completed at the end of this year. A seventh public cargo working area, at Chai Wan, is expected to be brought into operation in 1986. By that time the capacity of all public cargo working areas and public waterfronts will have been increased by about 25%, and should be sufficient to cope with the expected increase in the level of activity over the next three years.

I can assure honourable Members that the Government is not complacent about the provision of these facilities. The Director of Marine is actively examining the feasibility of building a further three public cargo working areas. But given the scarcity of suitable waterfront sites and the relatively long lead times involved in their construction, it is essential that we seek to maximize the capacity of existing facilities by improving the efficiency of cargo handling operations. In this connection the new berth allocation system introduced in January this year has brought about a faster and larger turnover of vessels using the public cargo working areas and public waterfronts. In the first half of 1983, 25 000 vessels berthed at these waterfronts, compared with 20 500 vessels in the same period in 1982. The surcharge on berthing fees has successfully reduced the berthing period of most vessels to within two days, and has also prevented prolonged occupation of waterfront by idle lighters. The new berth allocation system has thus achieved the aim of improving the efficiency of operations at these cargo handling facilities.

The Director of Marine is currently reviewing the new berth allocation system in the light of the experience gained over the past six months, with a view to formulating and proposing necessary improvements. Provided the aim of

maximizing the capacity of these cargo handling facilities is not compromised, the interests of the various trade and trade organizations involved will be fully taken into account, and they will certainly be consulted before any new arrangements are put into effect.

The container terminals

Last year the total throughput of containerized cargo at the five container terminals at Kwai Chung was 1.5 million Twenty-Foot Equivalent Units (or T.E.U.s). This throughput exceeded the efficient working capacity of the terminals, which is only 1.2 million T.E.U.s a year.

However, I am pleased to inform honourable Members that the Government has approved a private treaty grant of land to two of the three terminal operators to enable them to reclaim Kwai Chung Creek. While the commencement of this project is subject to the resolution of certain details, the aim is to have the project completed in 1986. On its completion the project will increase the efficient working capacity of the container terminals from 1.2 million T.E.U.s a year by about 80% to 2.2 million T.E.U.s a year, against a throughput of 2.05 million T.E.U.s estimated for that year. The project will also improve vehicular access to and from the container terminals.

The reclamation of Kwai Chung Creek is the first of a series of projects required to increase the capacity of the container terminals. It will be followed in due course by additional terminals also at Kwai Chung. Their planning and construction will be closely monitored by the Container Port Executive Committee.

Government business

Motions

PUBLIC FINANCE ORDINANCE 1983—CAPITAL WORKS RESERVE FUND

THE FINANCIAL SECRETARY moved the following motion:—With respect to the Capital Works Reserve Fund established by resolution made and passed by this Council on 20 January 1982 and deemed under section 29(3) of the Ordinance to have been established in accordance with that section, that—

- (a) the Fund be administered by the Financial Secretary, who may delegate his power of administration to other public officers;
- (b) there be credited to the Fund such appropriations from general revenue as may be approved by this Council;

- (c) the Financial Secretary may expend moneys from the Fund for the purposes of the Government's public works programme and for the acquisition of land, in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee;
- (d) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditure from the Fund;
- (e) the Financial Secretary in his discretion may authorize the investment in such manner as he may determine of any unexpended balance held in the Fund at any time;
- (f) the Financial Secretary may from time to time transfer from the Fund to general revenue any balance in the Fund which is not required for the purposes of the Fund; and
- (g) paragraphs (b), (c), (d), (e) and (f) of the resolution made and passed by this Council on 20 January 1982 and published in the *Gazette* as Legal Notice No. 18 of 1982, which relate to the composition, expenditure and administration of the Fund, cease to apply.

He said:—Sir, I rise to move the five motions standing in my name in the Order Paper.

The purpose of the Resolution for the Capital Works Reserve Fund, the Mass Transit Fund, the Student Loan Fund, the Development Loan Fund and the Home Ownership Fund before you is simply to enable the Financial Secretary to administer the Funds in accordance with his duty under the new Public Finance Ordinance. The provision in each of the previous Resolutions relating to the establishment of these Funds will remain in force, but the paragraphs of these Resolutions which relate to the composition, expenditure and administration of each Fund will be superseded by the provisions of the new Resolutions.

The latter provide for the Financial Secretary to delegate his power of administration to other public officers. This is in accordance with current practice. The Resolutions also provide for moneys to be credited to the Fund from the same sources as were provided for under the original Resolutions. However, the purposes for which moneys may be expended by the Financial Secretary under each Fund have been re-expressed in general terms to enable these purposes to be varied to meet changing requirements. The Resolutions also require that such expenditure be in accordance with such conditions, exceptions and limitations as may be specified by Finance Committee, since it is the practice to refer proposals for expenditure to Finance Committee for approval.

The Resolutions enable the Director of Accounting Services under the authority of a funds warrant to make payments to meet expenditure incurred against each of the Funds and enable the Financial Secretary to authorize the investment of any unexpended balance held in any of the Funds at any time.

A new provision enables the Financial Secretary to transfer from a Fund to general revenue any balance in a Fund which is not required for the purposes of that Fund.

Sir, I intend to move the five motions one by one. I now move the first.

Question put and agreed to.

PUBLIC FINANCE ORDINANCE 1983—MASS TRANSIT FUND

THE FINANCIAL SECRETARY moved the following motion:—With respect to the Mass Transit Fund established by resolution made and passed by this Council on 28 March 1973 and deemed under section 29(3) of the Ordinance to have been established in accordance with that section, that—

- (a) the Fund be administered by the Financial Secretary, who may delegate his power of administration to other public officers;
- (b) there be credited to the Fund such appropriations from general revenue as may be approved by this Council;
- (c) the Financial Secretary may expend moneys from the Fund for the purposes of or in connexion with the mass transit railway system, in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee;
- (d) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditure from the Fund;
- (e) the Financial Secretary in his discretion may authorize the investment in such manner as he may determine of any unexpended balance held in the Fund at any time;
- (f) the Financial Secretary may from time to time transfer from the Fund to general revenue any balance in the Fund which is not required for the purposes of the Fund; and
- (g) paragraphs (ii), (iii) and (iv) of the resolution made and passed by this Council on 28 March 1973 and published in the *Gazette* as Legal Notice No. 78 of 1973, which relate to the composition, expenditure and administration of the Fund, cease to apply.

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

Question put and agreed to.

PUBLIC FINANCE ORDINANCE 1983—STUDENT LOAN FUND

THE FINANCIAL SECRETARY moved the following motion:—With respect to the Student Loan Fund established by resolution made and passed by this Council on 16 January 1980 and deemed under section 29(3) of the Ordinance to have been established in accordance with that section, that—

- (a) the Fund be administered by the Financial Secretary, who may delegate his power of administration to other public officers;
- (b) there be credited to the Fund—
 - (i) such appropriations from general revenue as may be approved by this Council; and
 - (ii) all sums received by way of repayment of loans to students made from the Fund;
- (c) the Financial Secretary may expend moneys from the Fund for the purpose of granting loans to students under schemes approved for that purpose by the Finance Committee, in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee;
- (d) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditure from the Fund;
- (e) the Financial Secretary in his discretion may authorize the investment in such manner as he may determine of any unexpended balance held in the Fund at any time;
- (f) the Financial Secretary may from time to time transfer from the Fund to general revenue any balance in the Fund which is not required for the purposes of the Fund; and
- (g) paragraphs (b), (c), (d) and (e) of the resolution made and passed by this Council on 16 January 1980 and published in the *Gazette* as Legal Notice No. 17 of 1980, which relate to the composition, expenditure and administration of the Fund, cease to apply.

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

Question put and agreed to.

PUBLIC ORDINANCE 1983—DEVELOPMENT LOAN FUND

THE FINANCIAL SECRETARY moved the following motion:— With respect to the Development Loan Fund established by resolution made and passed by this Council on 22 October 1958, as amended by resolution made and passed by this Council on 7 December 1966, and deemed under section 29(3) of the Ordinance to have been established in accordance with that section, that—

- (a) the Fund be administered by the Financial Secretary, who may delegate his power of administration to other public officers;
- (b) there be credited to the Fund—
 - (i) such appropriations from general revenue as may be approved by this Council;
 - (ii) all sums received by way of repayment of moneys expended in accordance with paragraph (c) below; and
 - (iii) all sums received by way of interest or dividends earned in respect of moneys expended in accordance with paragraph (c) below or invested in accordance with paragraph (e) below;
- (c) the Financial Secretary may expend moneys from the Fund for the purpose of financing by loans, advances or investments such schemes of development in Hong Kong as may be approved by the Finance Committee, in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee;
- (d) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditure from the Fund;
- (e) the Financial Secretary in his discretion may authorize the investment in such manner as he may determine of any unexpended balance held in the Fund at any time;
- (f) the Financial Secretary may from time to time transfer from the Fund to general revenue any balance in the Fund which is not required for the purposes of the Fund; and
- (g) paragraphs 2, 3 and 5 of the resolution made and passed by this Council on 22 October 1958 and published in the *Gazette* as Government Notice No. A64 of 1958 and the resolution made and passed by this Council on 7 December 1966 and published in the *Gazette* as Legal Notice No. 81 of 1966, which relate to the composition, expenditure and administration of the Fund, cease to apply.

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

Question put and agreed to.

PUBLIC FINANCE ORDINANCE 1983—HOME OWNERSHIP FUND

THE FINANCIAL SECRETARY moved the following motion:—With respect to the Home Ownership Fund established by resolution made and passed by this Council on 5 January 1977 and deemed under section 29(3) of the Ordinance to have been established in accordance with that section, that—

- (a) the Fund be administered by the Financial Secretary, who may delegate his power of administration to other public officers;
- (b) there be credited to the Fund—
 - (i) such appropriations from general revenue as may be approved by this Council; and
 - (ii) such proceeds as may arise from the sale of flats in connexion with the purpose mentioned in paragraph (c) below;
- (c) the Financial Secretary may expend moneys from the Fund for the purpose of promoting home ownership in Hong Kong, in accordance with such conditions, exceptions and limitations as may be specified by the Finance Committee;
- (d) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditure from the Fund;
- (e) the Financial Secretary in his discretion may authorize the investment in such manner as he may determine of any unexpended balance held in the Fund at any time;
- (f) the Financial Secretary may from time to time transfer from the Fund to general revenue any balance in the Fund which is not required for the purposes of the Fund; and
- (g) paragraphs (ii), (iii), (iv) and (v) of the resolution made and passed by this Council on 5 January 1977 and published in the *Gazette* as Legal Notice No. 3 of 1977, which relate to the composition, expenditure and administration of the Fund, cease to apply.

He said:—I move the fifth and last motion standing in my name on the Order Paper.

Question put and agreed to.

His Honour the President suspended the Council at 3.15 p.m.

His Excellency the Governor arrived and assumed his seat as President of the Council.

Council then resumed.

HONG KONG ROYAL INSTRUCTIONS 1917 to 1980

THE ATTORNEY GENERAL moved the following motion:—That with effect from 1 September 1983 the Standing Orders of the Legislative Council of Hong Kong, made by the said Council on 9 October 1968, be amended—

- (a) in Standing Order No. 4 by renumbering paragraphs (3), (4), (5), (6), (7) and (8) as paragraphs (2), (3), (4), (5), (6) and (7) respectively;
- (b) in Standing Order No. 9—
- (i) in paragraph (7), by inserting after ‘twenty minutes’ the following—
‘, or such longer period as the President may at any sitting determine,’; and
 - (ii) in paragraph (8), by inserting after ‘thirty minutes’ the following—
‘, or such longer period as the President may at any sitting determine,’;
- (c) in Standing Order No. 10(1) by deleting ‘ten’ and substituting the following—
‘twenty’;
- (d) in Standing Order No. 13(3)—
- (i) by deleting ‘funds of the Colony’ and substituting the following—
‘public moneys’; and
 - (ii) by deleting ‘to the Colony of Hong Kong’ and substituting the following—
‘to the Crown’;
- (e) in Standing Order No. 13(6) by deleting ‘fifteen’ and substituting the following—
‘twenty’;
- (f) in Standing Order No. 19—
- (i) in paragraph (6) by deleting ‘and’ and substituting the following—
‘or’; and
 - (ii) in paragraph (7) by inserting after ‘a written answer has been sought,’ the following—
‘or in the case of a supplementary question for which a written answer has been offered,’;
- (g) in Standing Order No. 23 by deleting ‘funds of the Colony’ and substituting the following—
‘public moneys’;
- (h) in Standing Order No. 39(3) by deleting ‘the Colony’ and substituting the following—
‘Hong Kong’;

- (i) in Standing Order No. 45—
- (i) in paragraph (2) by deleting ‘three’ and substituting the following—
- ‘four’; and
- (ii) in paragraph (6) by deleting ‘funds of the Colony’ and substituting the following—
- ‘public moneys’;
- (j) in Standing Order No. 54—
- (i) in paragraph (2) by deleting ‘the Colony’ and substituting the following—
- ‘Hong Kong’; and
- (ii) in paragraph (3) by deleting ‘The’ and substituting the following—
- ‘Subject to Standing Order No. 60(9), the’;
- (k) in Standing Order No. 58(1) by inserting after ‘that paper shall’ the following—
- ‘,subject to Standing Order No. 60(6),’;
- (l) in Standing Order No. 60—
- (i) by inserting after paragraph (2) the following new paragraph—
- (3 of 1983.) ‘(2A) The functions of the Finance Committee shall be such as are conferred upon the Committee by the Public Finance Ordinance 1983, any other law and these Standing Orders, and such as may from time to time be referred to the Committee by the Council.’;
- (ii) in paragraph (3) by inserting after ‘unless the committee otherwise order’ the following—
- ‘or except as provided under paragraph (9) of this order’;
- (iii) by renumbering paragraph (8) as paragraph (9) and by inserting therein, after ‘For the purposes of any such examination the Finance Committee’, the following—
- ‘shall, unless the Committee otherwise order, meet in public and’; and
- (iv) by inserting immediately before paragraph (9) the following—
- (3 of 1983.) ‘(8) Nothing in paragraphs (6) and (7) shall limit or prejudice any action that may be taken under the provisions of the Public Finance Ordinance 1983.’;
- (m) in Standing Order No. 65(3) by deleting ‘the Colony’ and substituting the following—
- ‘Hong Kong’.

He said:—Sir, I move the resolution for the amendment of the Standing Orders of this Council which stands in my name on the Order Paper. Members have already received copies of this resolution and they will have noticed that the amendments, if approved, will come into effect on 1 September next.

The amendments proposed today derive from the Report of the Working Party set up to review the Standing Orders, whose appointment was announced by you, Sir, in this Council on 6 October last year. The objective of the Working Party, as you then said, Sir, was to ‘review the Standing Orders, conventions and practices of this Council so as to achieve, among other things, a more structured public debate of legislation and an easier exchange of questions and answers, resulting in a truer reflection of the Council’s essentially representative role’.

The Working Party was, if I may say so, business like in its approach to the task. After a careful and thorough review, it found little to criticize in the existing provisions of Standing Orders or the conventions of the Council. The proposals put forward today, Sir, follow its recommendation which you, Sir, have accepted after consulting the Senior Unofficial Member.

Today’s resolution provides for the necessary amendments to Standing Orders. Many of the Working Party’s recommendations, however, relate to conventions and understandings which do not require amendments to Standing Orders. I should like to say a little about them later, but I shall deal first, if I may, with the Standing Orders and their amendments. There are two proposed which should bring about a noticeable difference in the way in which this Council operates.

First, in order to encourage greater use of the provisions for adjournment debates, amendments are proposed to Standing Orders 9(7) and 9(8) to give you, Sir, as President, discretion to extend the period of 20 minutes within which an Ex-officio or Official Member must be called upon to reply, and the overall period of 30 minutes within which the question must be put to conclude the debate. The present time limits, it is felt, have tended to discourage debate. If several Unofficials wish to speak on the same matter, the time presently allowed is a little short. Likewise the Official Member replying may find himself hard pressed to deal with all the points adequately within ten minutes.

Second, Sir, amendments are proposed to the constituent paragraphs of Standing Order 60 so as to permit, and indeed to make it normal, for Finance Committee to sit in public for its examination of the draft Estimates before the Appropriation Bill is considered in committee of the whole Council. This requires a little explanation. The procedure to which I refer is known informally as the work of the Estimates Committee. It consists of the Members of Finance Committee who sit down to consider the draft Estimates, to examine them in detail; and where the Committee so wishes, to require the attendance of the controlling officer to justify the sums of public money which he has sought for

that financial years. The controlling officer is, of course, the public officer with personal responsibility for the expenditure of public funds in a specific area, and is frequently the head of department concerned. I do not suppose, Sir, that by making these proceedings public we shall manage to reach the high state of drama of a United States Congressional Committee Hearing. But the Working Party felt that this step would be consistent with the spirit of, and complementary to, the committee stage proceedings of the Appropriation Bill and would help in the development of open government, and would demonstrate to the public the accountability of controlling officers.

There are two other important amendments proposed to Standing Orders. It is thought right to increase the quorum of this Council from ten to 20 to reflect the growth in the membership of this Council since this Order was last amended. This requires an amendment to Standing Order 10(1): A complementary amendment to the Royal Instructions is being sought at present. Sir, next, Standing Order 45(2) is to be amended to require that notice of proposed amendments to a bill in a committee of the whole Council should be given four instead of three clear days in advance of the bill's referral to committee. This will provide more time for publicity to be given to proposed amendments, and brings the requirement for notice into line with the provisions for motions and for questions.

Sir, the other amendment to Standing Orders to which I ought to make reference, not to give it headlines but rather to put it in context, is the deletion of references to 'Colony' which are to be replaced by references to 'Hong Kong'. I need only say that this follows the practice with regard to legislation and official documents that is now long standing and has no special significance. There are other amendments to Standing Orders in the Resolution of no great significance which are textual or raise points or minor procedure. The opportunity has been taken to specify the functions of Finance Committee by reference to the Public Finance Ordinance, and to make it clear that the Public Finance Ordinance is pre-eminent in determining the functions of Finance Committee.

If I may, I shall now refer briefly to the other matters raised or recommended by the Working Party in relation to the conventions or the understandings, since they form part of the same exercise and complement these amendments to Standing Orders. Their proposals can be divided into those that relate to the passage of bills, those that relate to questions, those that relate to provisions for debate and, finally, matters of general procedure.

Dealing with bills, the Working Party, *first*, recommended what in the course of the year has become our practice, that where amendments have been proposed or prompted by Unofficials, the moving of those amendments in a committee of the whole Council should be undertaken by the Unofficials. This ensures that credit goes where credit is due. *Second* the Working Party proposes that the Administration should be permitted to make informally minor corrections of typography, cross reference and other simple errors in a bill, after

its approval by the Executive Council and before its introduction into this Council. It is proposed that this liberty be taken by the Law Draftsman in consultation with the Clerk to the Council. This should reduce the volume of minor amendments that are presently moved at the committee stage. The procedure proposed follows common practice in the British Parliament and other Commonwealth legislatures. *Lastly* so far as bills are concerned, the Working Party has recommended that we should, where possible, batch amended clauses at the committee stage of the bill to allow the bill's sponsor or an Unofficial Member to speak once to cover all the proposed amendments, and to allow all the amendments to be voted on together. Indeed we have already started doing this. This has streamlined the Council's work, reducing some of what I might term its ritualism. Pursuing the same line of reasoning, the Working Party also recommends that we batch all the bills reaching their third readings in the same sitting so that with due economy of effort they can be made law by one shout of acclamation.

The Working Party found little, if anything, wrong with the present procedure for question time. But it did wonder whether there was perhaps too much reliance on questions as a substitute for debate, and whether some of the statements sought by questions might to advantage be instead the basis of subjects raised say, in adjournment debates. The Working Party thought it worthwhile to point out, too, that Standing Orders as presently written do not preclude the answering of supplementary questions by an official different from the one to whom the substantive question had been addressed.

As for debates, the Working Party noted that the presentation of a Supplementary Appropriation Bill on the unaudited accounts of the territory in about June or July of each year would provide an opportunity for a third general debate, as it were an echo of the debate on the motion of thanks for the Governor's Address at the beginning of the Legislative Year and of the debate on the Budget Speech. Although there is always a great deal of work at the end of a legislative session, Unofficial Members might wish to take advantage to this opportunity: such a debate would round off the work of the session it would provide useful guidelines on which the Administration could work during the recess prior to the Governor's next annual address. The Working Party also hoped that the present declining trend in the number of debates of motions and on the adjournment would be reversed.

Sir, finally, the Working Party hoped that more use still might be made of Cantonese in debate. Mr. Alex WU has recently raised again the question of the use of Mandarin, or Putonghua. The Working Party's hope requires no more than a greater inclination on the part of Members of this Council to speak Cantonese. Mr. WU's interest in Putonghua is a more complex matter which, as the Chief Secretary said here on 29 June, may need attention from an *ad hoc* working group of its own.

Sir, I beg to move the amendments.

MR. LOBO:—Sir, in his usual elequence the Attorney General has just explained very clearly the reasons for his resolution, and the very good reasons why he is proposing certain amendments to the Standing Orders.

The Attorney General has also explained the Working Group's recommendations relating to conventions and understandings which do not require amendments to our Standing Orders.

The Unofficial Members of this Council were consulted and indeed contributed to the Working Party's Report and welcome the changes proposed. I am pleased to support the Attorney General's motion.

Question put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:—That the Ninth Schedule to the Public Health and Urban Services Ordinance be amended by deleting the item—

'27(2)(a) or (3)	\$5,000 fine	\$100 fine'
and substituting the following:—		
'27(2)(a) or (3)	\$10,000 fine	\$250 fine.'

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

Section 27 of the Public Health and Urban Services Ordinance provides that it is an offence to allow mosquitoes to breed in water accumulated on any premises, or to fail to comply with a notice to abate conditions suitable for the breeding of mosquitoes. The maximum fine is \$5,000 and the maximum daily penalty is \$100.

Malaria cases, Sir, have gradually increased from 47 in 1978 to 80 last year. Although this increase is due to a higher number of imported cases, the existence of vector mosquitoes makes every malaria case, imported or locally contracted, a potential reservoir for a major outbreak. The increasing number of malaria cases therefore makes the elimination of vector mosquitoes more important, and there is thus a need to strengthen measures taken against the breeding of mosquitoes.

The existing levels of maximum fine and penalty were set as long ago as July 1978 and are no longer a sufficient deterrent. The resolution therefore seeks to increase the maximum fine to \$10,000 and the maximum daily penalty to \$250. These maxima are the same as the existing maximum fine and daily penalty for any contravention of regulations made under the Ordinance, and it seems fitting

in this case that the maxima for an offence under the Ordinance should be no less than for a contravention of a regulation made under the Ordinance.

Sir, I beg to move.

Mr. SO delivered his speech in Cantonese:—

督憲閣下：蚊帳、蚊香、滅蚊器、防蚊油、預防瘧疾丸、罰款，祇可治標，不能治本。保持家居環境衛生，處理積水，防止蚊蟲滋生才是預防瘧疾的最佳辦法。市政局、區議會及各有關的單位積極清潔香港，和舉辦滅蚊運動一向不遺餘力，成績亦頗為理想。為了配合這些努力，衛生福利司所動議的增加罰款，以收阻嚇作用是必要的。根據所得的資料顯示，本年首六個月檢控地盤及樓宇內積水引致蚊蟲滋生的案件，有二百五十四宗，其中百分之九十是針對建築地盤的。所以在消除蚊患，教育和檢舉違例事件方面，我們還要多做些工夫。

督憲閣下，本人謹此陳辭，支持此項動議。

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

Sir, mosquito nets, mosquito-repellent incense, mosquito destroyers, mosquito-repellent lotion, anti-malaria pills and fines are just stopgap measures and not permanent solutions. The best method of preventing malaria is to stop the breeding of mosquitoes by keeping our living environment clean and by disposing of all stagnant water. The Urban Council, the District Boards and all units concerned have spared no effort in cleaning Hong Kong and holding anti-mosquito campaigns and the results have been quite satisfactory. To complement these efforts, the Secretary for Health and Welfare has proposed to increase the fines on offenders. This move is necessary because it can create a deterrent effect. According to available statistics, during the first six months of this year, there were 254 prosecutions involving construction sites and domestic premises where water was allowed to go stale resulting in the breeding of mosquitoes, of which ninety percent involved construction sites. We have to make a still greater effort, therefore, to fight the breeding of mosquitoes, educate the public and prosecute offenders.

Sir, with these remarks, I support the motion.

SECRETARY FOR HEALTH AND WELFARE:—I am grateful for Mr. SO's support and I would wish to associate myself with his remarks.

Question put and agreed to.

TELEPHONE ORDINANCE

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:—That Part III of the Schedule to the Telephone Ordinance be amended—

(a) in the heading by deleting ‘*Rent*’ and substituting the following—
‘*Charge*’;

(b) by adding after item 7 the following—

‘8. For 8 + 16 Super Star System—

(a) Relay set equipped with 4 intercoms and abbreviated dialling—		
(i) per set	\$ 6,612	\$ 500
(ii) maintenance, per set	\$ 648	Nil.
(b) Telephone instrument—		
(i) standard key telephone	\$ 480	\$ 400
(ii) key telephone for use under mains failure condition	\$ 660	\$ 400
(iii) maintenance, per telephone	\$ 84	Nil.
(c) 4-channel exchange line unit—		
(i) per unit	\$ 648	(See Note.)
(ii) maintenance, per unit	\$ 72	Nil.
(d) 4-channel key station unit—		
(i) per unit	\$ 504	(See Note.)
(ii) maintenance, per unit	\$ 72	Nil.
(e) Handsfree unit—		
(i) per unit	\$ 636	(See Note.)
(ii) maintenance, per unit	\$ 84	Nil.
(f) Direct station selection unit—		
(i) per unit	\$ 756	\$ 400
(ii) maintenance, per unit	\$ 84	Nil.

9. For 14 + 36 Super Star System—

(a) Relay set equipped with 4 intercoms and abbreviated dialling—		
(i) per set	\$ 9,360	\$1,000
(ii) maintenance, per set	\$ 924	Nil.
(b) Telephone instrument—		
(i) standard key telephone	\$ 492	\$ 400
(ii) key telephone for use under mains failure condition	\$ 672	\$ 400
(iii) maintenance, per telephone	\$ 84	Nil.
(c) 4-channel exchange line unit—		
(i) per unit	\$ 648	(See Note.)
(ii) maintenance, per unit	\$ 72	Nil.
(d) 4-channel key station unit—		
(i) per unit	\$ 504	(See Note.)
(ii) maintenance, per unit	\$ 72	Nil.
(e) for 2 additional intercoms—		
(i) surcharge	\$ 420	(See Note.)
(ii) maintenance	\$ 72	Nil.

(f) Handsfree unit—			
(i) per unit	\$	636	(See <i>Note</i> .)
(ii) maintenance, per unit	\$	84	Nil.
(g) Direct station selection console—			
(i) per console	\$	756	\$ 400
(ii) maintenance, per console	\$	84	Nil.
10. For 26 + 60 Super Star System—			
(a) Relay set equipped with 4 intercoms and abbreviated dialling—			
(i) per set	\$	2,468	\$1,500
(ii) maintenance, per set	\$	1,344	Nil.
(b) Telephone instrument—			
(i) standard key telephone	\$	516	\$ 400
(ii) key telephone for use under mains failure condition	\$	696	\$ 400
(iii) maintenance, per telephone	\$	84	Nil.
(c) 4-channel exchange line unit—			
(i) per unit	\$	648	(See <i>Note</i> .)
(ii) maintenance, per unit	\$	72	Nil.
(d) 4-channel key station unit—			
(i) per unit	\$	504	(See <i>Note</i> .)
(ii) maintenance, per unit	\$	72	Nil.
(e) For 2 additional intercoms—			
(i) surcharge	\$	540	(See <i>Note</i> .)
(ii) maintenance	\$	72	Nil.
(f) Handsfree unit—			
(i) per unit	\$	636	(See <i>Note</i> .)
(ii) maintenance, per unit	\$	84	Nil.
(g) Direct station selection console—			
(i) per console	\$	804	\$ 400
(ii) maintenance, per console	\$	84	Nil.;

(c) in the *Note* by deleting ‘and7(g)’ and substituting the following—

‘, 7(g), 8(c), 8(d), 8(e), 9(c), 9(d), 9(e), 9(f), 10(c), 10(d), 10(e) and 10(f)’.

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

The Hong Kong Telephone Company is now able to offer, for sale or rent, a new Exchange Connected Inter-communication System, known as the ‘Super Star’ system. The new system is an improvement on, and has three advantages over, the systems currently available. *First*, the ‘Super Star’ system is quicker to install, is more reliable and requires less room. *Second*, it will be available in three different capacities with up to 60 extensions. *Third*, it will be able to perform a number of telephonic tasks, such as last number re-dial and abbreviated dialling, that were beyond the scope of earlier systems.

The purpose of this motion is to add to Part III of the Schedule to the Telephone Ordinance the charges proposed by the Telephone Company for the installation, renting, maintenance and removal of the 'Super Star' system and its associated equipment. The Postmaster General considers the charges reasonable.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

SUPPLEMENTARY APPROPRIATION (1982-83) BILL 1983

CRIMINAL PROCEDURE (AMENDMENT) BILL 1983

**CRIMINAL PROCEDURE (PRELIMINARY PROCEEDINGS ON AN
INDICTABLE OFFENCE) BILL 1983**

SUPREME COURT (AMENDMENT) BILL 1983

SUPREME COURT (AMENDMENT) (NO. 2) BILL 1983

HONG KONG BAPTIST COLLEGE BILL 1983

HEUNG YEE KUK (AMENDMENT) BILL 1983

SMOKING (PUBLIC HEALTH) (AMENDMENT) BILL 1983

CRIMINAL PROCEDURE (AMENDMENT) (NO. 2) BILL 1983

**INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) (NO. 3) BILL
1983**

MASSAGE ESTABLISHMENTS BILL 1983

POLICE FORCE (AMENDMENT) BILL 1983

POLICE SUPERVISION (REPEAL) BILL 1983

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

SUPPLEMENTARY APPROPRIATION (1982-83) BILL 1983

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to approve a supplementary appropriation to the service of the financial year which ended on 31 March 1983’.

He said:—Sir, I move that the Supplementary Appropriation (1982-83) Bill 1983 be read a second time.

This Bill seeks to give final legislative authority to the supplementary funds made available under the authority of Resolutions passed by this Council for the service of the financial year 1982-83.

The original Estimates were given legislative form in the Appropriation Ordinance 1982, which authorized expenditure within a specific sum under each expenditure head in the Estimates. The purpose of the present Bill is to legislate further in respect of those heads of expenditure where the effect of supplementary provisions without a corresponding reduction in spending has resulted in an excess over the net sum appropriated for each head in the Appropriation Ordinance 1982.

The total net supplementary appropriation required is \$1,974 million under 53 heads. This excess is almost entirely accounted for by the 1982 salaries revision for the Civil Service (\$1,655 million) and Government subvented organizations (\$181 million), and for the payment of pensions, retiring allowances and gratuities to contract officers (\$134 million).

Nevertheless, because of savings made in other subheads actual expenditure at \$34,598 million for the full financial year was \$925 million less than the original estimate. Towards the end of the financial year there was a sharp drop in capital expenditure resulting from delays in building programmes and from lower than anticipated resumption costs under the land acquisition programme. The delays were occasioned mainly by much higher than average rainfall, which Members will certainly recollect. Expenditure from the Capital Works Reserve Fund at \$7,603 million was \$769 million less than the original estimate. Consequently there has been a much larger carry forward of \$3.2 billion into 1983-84, which will be most helpful in the maintenance of impetus. Actual revenue for the financial year was \$31,098 million and the final deficit was \$3,500 million compared with an estimated deficit of \$3,828 million announced in my Concluding Speech in the Budget Debate last April.

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

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

Question put and agreed to.

CRIMINAL PROCEDURE (AMENDMENT) BILL 1983

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Criminal Procedure Ordinance and to make consequential amendments to the Prison Rules’.

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

It has been a grievance of convicted prisoners for some time that disparity of treatment exists on whether time spent prior to committal counts towards sentence. Each judge has a discretion and judicial practice differs from court to court. Since time spent in custody before committal can be as much as three months, you will readily see, Sir, it is not unimportant to the prisoner if it has been left out of account.

By section 2 of this Bill, the law is to be changed. All time in custody pursuant to any court order will count towards sentence. This may mean a little more administrative work on the part of officers of Correctional Services. But I am sure that they will welcome that as the price of removing an irritant which works against good relations between prisoners and prison officers. By section 4, the Prison Rules will be amended so that time in custody before trial will also count towards remission. This is a fair and evenhanded way of proceeding and I feel confident that Members of this Council will welcome it.

The Bill contains another change in the law which should find favour with judges and prisoners alike. Whenever a judge is passing sentence for a number of individual offences, he has to take care to see not merely that each sentence is appropriate for each offence, but also that the accumulated total of imprisonment is also appropriate. Presently, he may make sentences concurrent, or he may make them consecutive. In those cases where he makes them consecutive (for example, for dissimilar offences committed on different occasions), the requirement to make the total right will often involve giving less for a particular offence than it really deserves. It would avoid this result if judges were able to give partly consecutive and partly concurrent sentences in such cases then individual sentences would each be correct and the total sentence could also be made appropriate by ordering some overlap where sentences are to be consecutive. The present Bill by section 3 proposes to achieve precisely that.

This reform will have a number of meritorious consequences. A co-accused facing sentence for one offence will no longer feel cheated when the multiple offender gets an apparently shorter sentence for the same offence. Criminal records will reflect the true gravity of all individual offences. The anomaly of successful appeals on one offence for which a long sentence was given leaving only an artificially light sentence on the other offence or offences will be avoided.

Sir, all in all these measures effect useful improvements in sentencing procedures.

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

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

Question put and agreed to.

CRIMINAL PROCEDURE (PRELIMINARY PROCEEDINGS ON AN INDICTABLE OFFENCE) BILL 1983

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the law relating to the committal of persons for trial on indictable offences and for matters connected therewith or related thereto’.

He said:—Sir, I now move that the Criminal Procedure (Preliminary Proceedings on an Indictable Offence) Bill 1983 be read the second time.

This is a modest Bill which if enacted will contribute to the saving of time and unnecessary expense in the administration of criminal justice.

Traditionally, it has been regarded as an important safeguard against unfair prosecution upon flimsy or incomplete evidence for all serious criminal cases to be the subject of a preliminary investigation before the magistrates. The oral and documentary evidence said to support the charges had to be presented to the Magistrate in the presence of the accused person who could test it by cross-examination and answer it by argument or evidence of his own. Only if a Magistrate was satisfied that there was a prima facie case to answer would the accused person be committed to stand trial in a superior court.

These ‘committal proceedings’ as they are called have in recent years declined in importance. In most cases, they are really no more than a time-consuming formality which, because of congestion of the lists in Magistrates Courts, serve only to delay the trial itself. This decline has already been illustrated by the use of written statements to avoid calling prosecution witnesses. It is largely the result of the greater efficiency and care on the part of those responsible for initiating and supporting criminal prosecutions that has brought about this decline. Rarely will there be that lacuna in the evidence or failure to prove an essential ingredient in the offences which in former days resulted in the Magistrate throwing out the charge at the committal stage.

Accordingly there has been pressure in recent years, notably from the Judiciary including the Magistracy, to abolish the committal stage altogether provided that the dossier of prosecution evidence was made available to the accused person and his advisers at an early stage.

After careful consideration by a working party under ADDISON J. to which legal practitioners valuably contributed, recommendations emerged with

support from all sides whereby the right of the accused person to insist upon existing committal procedures has been preserved, although at the same time a new procedure has been devised to enable the time, expense and delays of committal proceedings to be avoided unless the accused person asks for an old style committal.

It is recognized that at that early stage of electing whether to bow to the inevitability of a trial or whether to require the prosecution to present their case to the Magistrates in the traditional way, the accused person needs legal advice. For the first time therefore in the Magistrates' Court, Legal Aid is to be made available to accused persons at this early stage of the criminal process so that they may be advised in each case whether or not the dossier of evidence tendered by the prosecution discloses a *prima facie* case and whether or not anything can be gained by testing it before the magistrate. If past experience is a guide, it is anticipated that in the vast majority of cases the accused person will be advised to assent to the new procedure.

Under the existing procedure the accused can, at the end of the committal proceedings, apply for a discharge on the basis that there is no case to answer. The new procedure retains this valuable right, but the application will now be made to a High Court judge after committal for trial when the accused has had a proper opportunity of considering the prosecution dossier. If the application is successful the accused will be acquitted; but the prosecution has a right of appeal. The accused will still enjoy the right to plead guilty before the Magistrate at the stage of committal for trial. If the accused is committed for sentence to the High Court he will still expect to receive a measure of lenience for his plea.

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

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

Question put and agreed to.

SUPREME COURT (AMENDMENT) BILL 1983

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Supreme Court Ordinance and to make consequential amendments’.

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

The main purpose of this Bill is to clear up the uncertainty that exists at present concerning the business which may be transacted in the Supreme Court during its vacations. At the moment the Supreme Court Ordinance prescribes

what business may be conducted during vacations. But the Rules of the Supreme Court also deal with vacation business. The uncertainty has arisen because different definitions of the word 'pleading' are used in the Ordinance and the Rules.

The Bill proposes that, apart from criminal trials, criminal appeals and incidental business, the business which may be transacted during vacations will be as prescribed by the Rules of Court. This will remove the overlapping of the Ordinance and the Rules which exists at present.

In addition, the opportunity is taken to change the title of 'Commissioner of the High Court' to 'deputy judge of the High Court'. Commissioners are persons appointed, from amongst persons eligible to be appointed as High Court judges, to act as High Court judges when there is a vacancy on the bench or when a temporary appointment is necessary. They are known as deputy judges in England and Wales and it is proposed that we follow suit in Hong Kong.

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

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

Question put and agreed to.

SUPREME COURT (AMENDMENT) (NO. 2) BILL 1983

THE ATTORNEY GENERAL moved the second reading of:—'A bill to amend the Supreme Court Ordinance'.

He said:—Sir, I move that the Supreme Court (Amendment) (No. 2) Bill be read the second time.

This Bill will give the power to a Court of Appeal consisting of five or more judges to overrule an earlier decision by the Court consisting of fewer than five judges where it is satisfied the law applied in that earlier decision was wrong or conflicts with a decision of the House of Lords, the Privy Council or another decision of the Court of Appeal.

The Court will be able to apply the corrected law to the case before it or simply give notice that it will apply that law in the future. The latter power is for the purpose of avoiding undue disturbance to the affairs of people who have acted on the basis of the hitherto accepted view of the law. In exercising its powers, the Court is directed to have regard to the danger of this disturbance and the desirability of certainty in the law.

Sir, as far as I am aware, the proposals in this Bill have not been enacted in any other Commonwealth country. Furthermore, they have met with some opposition among Hong Kong practitioners. For those two reasons, I think a rather fuller than usual explanation of the merits of the Bill is called for.

In principle, I believe the courts should be allowed to keep their own house in order in matters connected with the binding force of judicial precedent. Some there are who argue that the Court of Appeal already has the power to free itself of the binding force of earlier decisions if constituted with five or more judges sitting together. However, the initiative for this Bill came from the Chief Justice and the measure has the support of the Acting Chief Justice and the other Justices of Appeal. They think that it would be useful for their Court to have a statutory power to put the law back on the proper course where it is thought that the Court has previously come to a wrong decision.

Two academic lawyers of distinction who have been consulted support the Bill in principle. And the Law Society has stated that it has no objection to the proposals. The Bar Committee, however, has decided (by a majority of those present at the meeting) that the Bill cannot be supported.

Their main objections are that the proposals will give the judges the power of legislation and that that will lead to uncertainty in the law.

The Court of Appeal does now, of course, have in a sense the power to make law. This it does by a process of development of the law and by distinguishing older inconvenient decisions. Sometimes, this results from subtle distinctions which lead to confusion and some uncertainty. The Bill will enable a specially constituted Court of Appeal to adopt a straight-forward approach and throw off the fetters of a previous decision which is clearly wrong.

I do not believe that the Bill will promote greater uncertainty in the law. At the moment, the Privy Council has the power to overrule previous decisions of the Court of Appeal, and in 1966 the House of Lords decided that it would overturn its own earlier decisions when 'it appears right to do so'. Accordingly, in both England and Hong Kong, at the present time, a lawyer cannot rest on an assurance that the courts will do precisely as they have done before. Under the Bill a previous decision of doubtful merit could be put right here in Hong Kong without the substantial expense and time involved in an appeal to the Privy Council. I am confident, Sir, that a Court of five judges will not act on a whim or a fancy where it chooses to exercise this new power and I venture to think it will be sparingly used. I feel confident that its decisions will be generally seen to be correct.

I have carefully considered the objections of the Bar Committee and my view is that the Bill should nonetheless go forward and be supported in principle. The differences between the Justices of Appeal, the Law Society and the academics, on the one hand, and the Bar Committee or its majority, on the other, could be likened to the differences in England between the 'progressive school of judges

with whom Lord DENNING's name is associated, and the more 'conservative' school exemplified perhaps by Lord DIPLOCK. It is the conflict between the need for change and the need for certainty. I am greatly influenced on this particular matter by what the Judges of Appeal in Hong Kong themselves want. How the Court of Appeal treats its own decisions is, I believe, a matter largely for that Court. I believe that the care of the law can be safely entrusted to I therefore think that the shackles binding the Court of Appeal to follow its previous decision should be loosened a little, as proposed by this Bill, and so help the law to match the aims of justice.

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

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

Question put and agreed to.

HONG KONG BAPTIST COLLEGE BILL 1983

THE SECRETARY FOR EDUCATION AND MANPOWER moved the second reading of:—'A bill to repeal the Hong Kong Baptist College Board of Governors Incorporation Ordinance and to provide for the incorporation of the Hong Kong Baptist College and for matters connected therewith'.

He said:—Sir, I move that the Hong Kong Baptist College Bill 1983 be read a second time.

The Hong Kong Baptist College was established in 1956. In 1970 it was registered under the Post Secondary Colleges Ordinance. In February last year, the Government decided that the College should be financed through the University and Polytechnic Grants Committee. Funding through the U.P.G.C. is expected to begin in the academic year 1983-84.

Following consultation with the U.P.G.C. and the College, it has been agreed that legislation should be introduced to replace the Hong Kong Baptist College Board of Governors Incorporation Ordinance in order to take account of the new role of the College, and to create a new framework for the governance of the College. The Bill before Members, Sir, is to meet these objectives.

The Bill provides for the establishment of a Board of Governors, a Council and an Academic Board.

The Board of Governors will be the supreme governing body, but its role will be akin to that of a university court, reacting to proposals from the Council.

The governance of the College will be vested in the Council, which will be the executive body solely responsible for the management of the College. The

Council will be made up chiefly of independently appointed members. This is in line with the other publicly funded higher education institutions, and this form of governance with community interests predominating is internationally accepted and recognized.

Members will note that the Baptist Convention of Hong Kong is represented both on the Board of Governors and on the Council. This is in recognition of its traditional link with the College which it founded twenty-seven years ago.

The academic affairs of the College are to be regulated by the Academic Board and clause 23 specifically empowers it to review and develop academic programmes, supervise teaching, research, admissions and examinations.

As regards the financing of the College, provision is made for the submission by the College to a person nominated by the Governor of a programme of activities and estimates of income and expenditure. It is the intention that the University and Polytechnic Grants Committee will receive the programme and estimates of the College so that decisions can be made regarding allocation of funds.

Provisions to enable the Council to make rules subjects to any regulations made by the Governor in Council are also included in the Bill.

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

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

Question put and agreed to.

HEUNG YEE KUK (AMENDMENT) BILL 1983

THE SECRETARY FOR DISTRICT ADMINISTRATION moved the second reading of:—‘A bill to amend the Heung Yee Kuk Ordinance’.

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

The New Territories Heung Yee Kuk has recently completed the redevelopment of the property it owns in Tai Po. The intention of the Kuk is to sell or let the redeveloped property using the proceeds to promote the objects of the Kuk, as specified under section 9 of its Ordinance. Specifically the Kuk will put part of this money towards the capital cost of the Heung Yee Kuk Tai Po Secondary School. However, section 12(b) of the Heung Yee Kuk Ordinance only provides that the Kuk may enter into contracts, and acquire and hold property in trust for the purposes of the Ordinance. There is no provision for the disposal and mortgage of its property. The purpose of this Bill is to amend the Ordinance to

enable the Heung Yee Kuk Incorporated to sell or otherwise dispose of its property and to borrow and mortgage its property as security, for the purpose of promoting the objects of the Kuk.

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

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

Question put and agreed to.

SMOKING (PUBLIC HEALTH) (AMENDMENT) BILL 1983

THE SECRETARY FOR HEALTH AND WELFARE moved the second reading of:—‘A bill to amend the Smoking (Public Health) Ordinance’.

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

The purpose of the Bill is simply to empower the Customs and Excise Service to seize, and to detain as exhibits, packets of cigarettes (including the cigarettes in them) which do not carry the health warnings and tar group ratings which the law will require them to carry with effect from 15 August 1983.

Existing legislation does not give this power to the Customs and Excise Service, and the difficulty is that by the time the assistance of the Police has been obtained, the offending goods may have been removed. The Bill, if enacted, will enable the Customs and Excise Service, as the principal enforcement agency, to take immediate action in circumstances where the law has clearly been breached and, if necessary, to apply to a magistrate for the forfeiture of packets of cigarettes which do not comply with the legislative requirements.

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 HEALTH AND WELFARE.

Question put and agreed to.

CRIMINAL PROCEDURE (AMENDMENT) (NO. 2) BILL 1983

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

He said:—Sir, I move that the Criminal Procedure (Amendment) (No. 2) Bill 1983 be read the second time.

Sir, where all the persons with whom an accused is alleged to have conspired have been acquitted, the law of Hong Kong requires that he also be acquitted no matter how strong the evidence may be against him. The reason for this rule is that, because a person cannot conspire with himself, his conviction would be inconsistent with the acquittals of the co-conspirators; these acquittals decreeing innocence. That, Sir, is what the law says. In real life, we know that accused are sometimes acquitted, not because they are innocent, but simply because the evidence against them is insufficient to prove their guilt beyond any reasonable doubt.

This Bill will allow the courts to judge a person accused of conspiracy on the merits of his own case and not on the basis of the evidence adduced against the other alleged conspirators.

In England, section 5(8) of the Criminal Law Act 1977 makes a similar provision. Needless to say, Sir, the drafting of the Hong Kong product is far better.

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—LAW DRAFTSMAN.

Question put and agreed to.

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) (NO. 3) BILL 1983

THE LAW DRAFTSMAN moved the second reading of:—‘A bill to amend the Interpretation and General Clauses Ordinance and, consequentially, the Offences against the Person Ordinance’.

He said:—Sir, I move that the Interpretation and General Clauses (Amendment) (No. 3) Bill 1983 be read the second time.

Sir, attempts, conspiracies and incitements to commit offences are misdemeanours at common law. At present, under section 90 of the Interpretation and General Clauses Ordinance (Chapter 1) these misdemeanours are punishable by imprisonment for seven years or a fine of \$50,000. As a result, a person who is convicted of attempted robbery is liable to imprisonment for a maximum of seven years although, if he had been successful in his attempt, he would have been liable to imprisonment for life. Similar examples could be given in relation to conspiracies and incitements.

Punishment should be directly related to the moral blameworthiness of the offender. Generally, the inefficient or unlucky criminal should not be entitled to a discount on that score. Those who attempt or conspire to commit offences, or

incite others to do so, should not, as a general rule, be treated more leniently than those who succeed in implementing their plans. This principle should perhaps give way only where the punishment for the substantive offence is death.

This Bill will allow the courts to impose the same punishment in respect of attempts, conspiracies and incitements as they may impose in respect of the substantive offence, except in the case of capital offences where life imprisonment may be imposed.

Obviously, Sir, the courts should retain the discretion to take into account specific mitigating features, and the proposals in this Bill will in no way prevent that from happening.

This Bill also remedies an omission in section 82(1) of Chapter 1. At present, this section allows the exercise of the same powers on convictions of attempts, aiding and abetting and conspiracies as on convictions of the substantive offence. The section does not cover incitements and there is no reason why it should not do so. Accordingly, the Bill extends the scope of the section to incitements as well as the other inchoate offences I have mentioned.

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—LAW DRAFTSMAN.

Question put and agreed to.

MESSAGE ESTABLISHMENTS BILL 1983

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to provide for the control and licensing of massage establishments and for matters connected therewith or incidental thereto’.

He said:—Sir, I move that the Massage Establishments Bill 1983 be read the second time.

The purpose of this legislation is to introduce an improved system for the licensing and control of massage establishments to allow lawful ones—where massage means massage and nothing more—to flourish, whilst strict curbs continue to be applied to unlicensed ones. The framework of the Miscellaneous Licences Ordinance has been found unsuitable for these reforms and a new ordinance dealing only with massage establishments is the result.

The Government has been aware for some time of the need to both tighten up and to make more realistic the rules relating to massage establishments. This Bill introduces stricter but more flexible control over them. The licensee will be

required to exercise personal supervision and if he fails to keep his staff in order, he will personally be held liable. He will commit an offence unless able to show that, despite proper discharge of this duty of personal supervision, the offence was caused by someone else's conduct and could not have been avoided. On the other hand, to bring things up to date, the licensing framework will be more flexible and will allow appropriate rules for different scales of establishments. In this respect it will be lawful for massage to be administered by a member of the opposite sex and there will be greater flexibility of opening hours.

The present regulation 32 requires that customers be massaged only by members of the same sex. The Bill deletes this provision on the basis that it has become socially acceptable for massage *per se* to be administered by a member of the opposite sex in *bona fide* massage establishments. The intention is that clients should be free to choose. Enforcement action against licensed establishments which act as a cover for vice will continue under the Crimes Ordinance—and if convicted their chances of retaining their licence will be virtually non-existent.

The provision in regulation 30(b) which restricts the hours of operation of massage establishments to between 8.00 a.m. and 8 p.m. has also been deleted and is replaced by the power of the Licensing Authority, that is, the Commissioner of Police, to set conditions on the issue of a licence, including the hours of operation. The object here is to protect the community by preventing environmental nuisance in the sense of annoyance to neighbours. In setting such conditions the Authority will consult the relevant District Officer through the Secretary for District Administration so that all local circumstances can be taken into account before conditions are drawn up.

The Bill also provides for a considerable tightening of control. In future, applications for licences will not be granted in respect of massage establishments located in domestic premises. Under the transitional arrangements however, the small number of establishments already licensed to operate in such premises will be permitted to remain, but will not, as a matter of policy, be permitted to benefit from the proposed relaxation of the provisions of current regulations 30(b) and (32).

The close connection between 'massage' and 'vice' means that greater penalties and stricter laws are needed to assist the Police in prosecuting unlicensed establishments where very often 'massage' is a cover for 'vice'. To this end, operators of such establishments will be liable to greatly increased penalties rising to a fine of \$100,000 and imprisonment for two years on a second or subsequent conviction. So, the unlicensed establishment will face action under the Crimes Ordinance in relation to vice offences *per se* and under this Ordinance for operating while unlicensed. This Ordinance has no application to so-called 'visiting' massage. If this is, in fact, a cover for prostitution those involved take their chances of being convicted under the Crimes Ordinance. If the visiting massage is legitimate then no offence is committed.

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

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

Question put and agreed to.

POLICE FORCE (AMENDMENT) BILL 1983

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

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

The purpose of this proposed legislation is to empower the Commissioner of Police to require banks and deposit-taking companies to reveal whether particular persons, suspected of having committed an indictable offence, have or had an account with them. Banks would also be required to reveal whether such a person has or had access to a safety deposit box or any property otherwise stored with them.

In many cases involving commercial crime, drug trafficking or kidnapping proceeds of the crime are laundered through banks or deposit-taking companies. Stolen or illegal goods can also be stored in safety deposit boxes or otherwise held in the custody of a bank. In order to investigate such cases, the Police may apply to a magistrate for a search warrant under the Police Force Ordinance.

Before such a warrant is obtained, however, it is very important to find out whether, and if so precisely where, a person has an account or storage facility with a bank or D.T.C. Without this information it is almost impossible for the Police to obtain a search warrant.

The amendment is thus of a very limited scope in that the precise nature of accounts, safety deposit boxes and other stored items will, as now, only be made available on the presentation of a search warrant issued by a magistrate. In this respect, therefore, the powers proposed in no way resemble the much wider powers available to the Independent Commission Against Corruption.

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

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

Question put and agreed to.

POLICE SUPERVISION (REPEAL) BILL 1983

THE SECRETARY FOR SECURITY moved the second reading of:—‘A bill to repeal the Police Supervision Ordinance and to make consequential amendments’.

He said:—Sir, I move that the Police Supervision (Repeal) Bill 1983 be read the second time.

The purpose of this Bill is to repeal the Police Supervision Ordinance and to make consequential amendments to the Immigration Ordinance and the Emergency (Deportation and Detention) Regulations.

Until the 1960's extensive use was made of police supervision orders. In 1964, for example, there were 1 347 in force. By 1980 there were only 99 and at the end of 1982 there were but 67, only eight of whom were reporting.

The substantial and steady decline in the use of this power is the result of several factors. Firstly the courts favour alternative schemes of supervision which are more rehabilitative in nature. Secondly it is known that there is a high rate of recidivism amongst persons under police supervision orders. Thirdly the Commissioner of Police no longer values the system as a source of criminal intelligence, and considers the checking of supervised persons to be a wasteful use of manpower. And fourthly the Social Welfare and Correctional Services Departments now have suitable alternatives to any remaining useful functions of this Ordinance. It is, therefore, proposed to repeal it.

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

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

Question put and agreed to.

VALEDICTORIES

HIS EXCELLENCY THE PRESIDENT:—Honourable Members, before adjourning this Council and since I may not be here for the next meeting, I should like to pay a warm tribute to two of our Members, the Reverend Joyce BENNETT, and Mr. Kenneth TOPLEY, who will both be retiring at the end of this session.

First, the Reverend Joyce BENNETT who is leaving Hong Kong this summer after thirty-four years of selfless devotion to the people of Hong Kong including seven years of stalwart service on this Council. I think the people of Hong Kong would readily agree that her contribution to the development of education in Hong Kong has been incalculable. She has also brought to our proceedings a passion and a warmth which has captured the imagination of the public,

demanded the attention of the officials charged with responsibility for education, and, through her use of the searching supplementary question, frequently kept them on their feet to prove it. (*laughter*)

It is only appropriate then that I should move on to Mr. TOPLEY who has only very recently showed in this Council what flair he has for public debate. Mr. TOPLEY has served the Administration in many fields, but on this Council his association has been, again, primarily education, first as Director of Education, then as Chairman of the Committee to Review Post-Secondary and Technical Education and now as Secretary for Education and Manpower. The Topley years have seen great progress in education in Hong Kong, marked by the advent of free and compulsory secondary education to Form III, the 1978 White Paper and the overall review of education—great progress, and the promise of more, a commitment which we shall keep.

To these two distinguished Members of the Council we wish continued success and every happiness in all their doings.

MR. LOBO:—Sir, Miss BENNETT will be leaving this Council after some 34 years of dedicated service to our community.

As a missionary, school principal, priest and a Member of this Council, Miss BENNETT has left her mark in many fields of public service. She is also a very good colleague. Young people, in particular, owe a great deal to Miss BENNETT's tireless efforts both inside and outside this Council.

But Miss BENNETT's interests are not and have not been confined to educational matters alone. She was involved from the beginning with the I.C.A.C.

Miss BENNETT has also been involved from the outset with the most demanding work of the UMELCO Police Group. Indeed, it would be safe to say that very few students have taken on more homework than Miss BENNETT nor completed their assignments with greater credit.

But turning back to this Council, Miss BENNETT has done as much as anyone to breathe life and meaning into our sometimes dull afternoon's proceedings. As you have said, Sir, her contribution to question time and her probing questions and supplementaries have kept us all on the edges of our seats, if not on our toes.

Conscience, conviction, courage and commitment are qualities which have marked Miss BENNETT's contribution to our business. We shall miss her and her place will not be easily filled.

Sir, on behalf of the Unofficial Members, her Umelco colleagues these past seven years, I would like to be associated with your tribute to Revd. Joyce BENNETT and wish her every success in the work she will be continuing with her ministry in the U.K.

Sir, the Unofficial Members would wish also to be associated with your warm tribute to Mr. TOPLEY.

Mr. TOPLEY served Hong Kong for some 28 years, and through much of this time he has filled senior positions in the Government.

While some of us have known and worked with Ken TOPLEY in other capacities, it is true to say that most of us know him best for his work in the education field, first as Director of Education, then, as Secretary for Education and more recently, as Secretary for Education and Manpower.

He has steered the education system in Hong Kong through a series of comprehensive reviews and, we might say, the continuing improvement achieved has been under his guiding hand.

No one would pretend he has had an easy task, and his stout defence of his policies and his willingness to account for them in this Council has enriched as well as enlivened our proceedings.

On behalf of my Unofficial Colleagues, I would like to wish Mr. and Mrs. TOPLEY a happy retirement and every success in the future.

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 10 August 1983.

Adjourned accordingly at sixteen minutes past four o'clock.