

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 19 July 1978****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
SIR DENYS TUDOR EMIL ROBERTS, KBE, QC, JP

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR DAVID HAROLD JORDAN, CMG, MBE, JP

THE HONOURABLE THE ATTORNEY GENERAL
MR JOHN WILLIAM DIXON HOBLEY, CMG, QC, JP

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR LI FOOK-KOW, CMG, JP

THE HONOURABLE DAVID AKERS-JONES, CMG, JP
SECRETARY FOR THE NEW TERRITORIES

THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP
SECRETARY FOR SECURITY

THE HONOURABLE DAVID WYLIE McDONALD, CMG, JP
DIRECTOR OF PUBLIC WORKS

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, CMG, JP
DIRECTOR OF EDUCATION

THE HONOURABLE ALAN JAMES SCOTT, JP
SECRETARY FOR HOUSING

THE HONOURABLE GARTH CECIL THORNTON, QC
SOLICITOR GENERAL

THE HONOURABLE EDWARD HEWITT NICHOLS, OBE, JP
DIRECTOR OF AGRICULTURE AND FISHERIES

THE HONOURABLE THOMAS LEE CHUN-YON, CBE, JP
DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE DEREK JOHN CLAREMONT JONES, JP
SECRETARY FOR THE ENVIRONMENT

DR THE HONOURABLE THONG KAH-LEONG, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE ERIC PETER HO, JP
SECRETARY FOR SOCIAL SERVICES

THE HONOURABLE JOHN CHARLES CREASEY WALDEN, JP
DIRECTOR OF HOME AFFAIRS

THE HONOURABLE JOHN MARTIN ROWLANDS, JP
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE JAMES NEIL HENDERSON, JP
COMMISSIONER FOR LABOUR

THE HONOURABLE WILLIAM DORWARD, OBE, JP
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS (*Acting*)

THE HONOURABLE DAVID T. K. WONG, JP
SECRETARY FOR ECONOMIC SERVICES (*Acting*)

THE HONOURABLE LEE QUO-WEI, CBE, JP

THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP

THE HONOURABLE ROGERIO HYNDMAN LOBO, CBE, JP

THE HONOURABLE PETER GORDON WILLIAMS, OBE, JP

THE HONOURABLE JAMES WU MAN-HON, OBE, JP

THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP

THE HONOURABLE LI FOOK-WO, OBE, JP

THE HONOURABLE JOHN HENRY BREMRIDGE, OBE, JP

DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP

THE HONOURABLE MRS KWAN KO SIU-WAH, OBE, JP

THE HONOURABLE LO TAK-SHING, OBE, JP

THE HONOURABLE ALEX WU SHU-CHIH, OBE, JP

THE HONOURABLE CHEN SHOU-LUM, JP

THE HONOURABLE LYDIA DUNN, OBE, JP

DR THE HONOURABLE HENRY HU HUNG-LICK, OBE, JP

THE HONOURABLE LEUNG TAT-SHING, JP

THE REV. THE HONOURABLE PATRICK TERENCE McGOVERN, SJ, JP

THE HONOURABLE PETER C. WONG, JP

THE HONOURABLE WONG LAM, OBE, JP

THE HONOURABLE CHARLES YEUNG SIU-CHO, JP

ABSENT

THE HONOURABLE SIR SZE-YUEN CHUNG, CBE, JP

THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP

THE REV. THE HONOURABLE JOYCE MARY BENNETT, JP

DR THE HONOURABLE RAYSON LISUNG HUANG, CBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR STEPHEN TAM SHU-PUI

Papers

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:	
Road Traffic Ordinance. Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No 2) Regulations 1978	148
Summary Offences Ordinance. Summary Offences Ordinance (Exemption from Section 13) (No 2) Order 1978.....	149
Evidence Ordinance. Evidence (Authorized Persons) (No 8) Order 1978.....	150
Public Revenue Protection Ordinance. Public Revenue Protection (Interest Tax) (No 2) Order 1978	151
Public Revenue Protection Ordinance. Notification of withdrawal of Order	152

Sessional Paper 1977-78:

No 48—Report of the Administration of the Immigration Service Welfare Fund for the year ended 31 March 1978 (published on 19.7.78)

Value of Hong Kong dollar

1 MR JAMES WU asked:—*Will Government comment on the current value of the Hong Kong dollar in relation to the currencies of our major trading partners, and its effect on our trade and economy?*

THE FINANCIAL SECRETARY:—Sir, in terms of the published effective exchange rate index the Hong Kong dollar has depreciated by about 12% since the end of 1976. This index measures movements in the weighted average of the Hong Kong dollar exchange rates against the currencies of our 15 principal

trading partners. The depreciation has occurred despite the fact that the exchange rate of the Hong Kong dollar with the US dollar has changed very little in the last eighteen months.

This downward movement in the effective exchange rate is part of the adjustment process of the economy and is likely to have a number of implications for our trade and economy. The competitiveness of our exports against those from countries whose currencies have appreciated substantially will tend to improve to some extent, but such improvement will of course be limited because of the high import content of our exports. Imports generally will tend to become more expensive in terms of the Hong Kong dollar. But this tendency has so far been largely offset by steady or declining prices of industrial imports. The upward pressure on domestic price levels from this source has consequently been limited.

The current pick up in our export trade and the expected slowing down of the rate of growth in the domestic sector could help to stabilize the index. The recent decision by the banks to raise their interest rates may also make some contribution to this process.

MR JAMES WU:—*Sir, will the Financial Secretary please elaborate a little bit more on the statement that ‘the tendency has so far been largely offset by steady or declining world export prices of industrial imports.’?*

THE FINANCIAL SECRETARY:—The import unit value index, Sir, for raw materials has been pretty stable. It was 128 in the first quarter of 1977 and it's 127 in the first quarter of 1978. The index for capital goods was 150 in the first quarter of 1977, declined to 145 at the end of 1977 and rose to 151 in the first quarter of 1978.

MR JAMES WU:—*Sir, is it not surprising that in view of the almost unanimous inflationary trend in the countries that supply us with industrial imports that this be the situation, for example, I was wondering if it had been noticed that such items as steel had gone up tremendously in price?*

THE FINANCIAL SECRETARY:—It may be surprising, Sir, but that's what's happened to the index.

MISS DUNN:—*Sir, what is the current inflation rate?*

THE FINANCIAL SECRETARY:—That, Sir, I think is another question.

MISS DUNN:—*Sir, the Financial Secretary commented on the upward pressure on domestic price levels being limited, could he elaborate on that?*

THE FINANCIAL SECRETARY:—I meant, Sir, that because the import unit value indices to which I refer have remained stable in HK\$ terms despite the

depreciation of the HK\$ there has not from this source been much pressure on domestic price levels.

Boating on reservoirs

2 MR BREMRIDGE asked:—*With regard to opening up some reservoirs to boating, will Government please outline the progress actually made following the SHA's reply to my question in this Chamber on 8 December 1976 that 'Progress is being made with a view to allowing boating on selected reservoirs'; and following his earlier comment on 7 April 1976, that 'Mr Bremridge may therefore feel proud that his determination has secured this small twitch from the corpse of bureaucracy'?*

SECRETARY FOR HOME AFFAIRS:—Sir, in January 1977, the Recreation and Amenities Select Committee of the Urban Council approved a planning brief relating to boating on Wong Nei Chung Reservoir. In December 1977 the same committee approved in principle detailed layout plans for the project, but there are still certain details concerning access road to the area which need to be finalized before the project can be considered for upgrading to Category 'A' of the Public Works Programme.

As regards the possibility of boating on other reservoirs, I am afraid we have made very little progress mainly because of staff changes in my Branch since December 1976. In February this year, however, the Water Supplies Department took this matter up with the relevant departments and we are now considering actively the various matters such as an assessment of demand for the various types of boating facilities, the estimation of costs and the question of whether Government or a non-Government agency should undertake development.

MR BREMRIDGE:—*Sir, may we assume that this second and welcome 'twitch of the corpse' will not require another question in two and a half years time about total lack of progress?*

SECRETARY FOR HOME AFFAIRS:—I hope not, Sir, I hope from now on we should be talking in terms of months rather than years.

Liquidated damages for Tuen Mun Road Contract

3 MR T. S. LO asked:—*Does Government consider that the clause for liquidated damages of \$6,000 a day for the contract for Stage II of the Tuen Mun Road is:*

- (a) *a realistic incentive to the contractor to complete a project on schedule when it only amounts to 0.01% of the project cost of \$59 million; or*
- (b) *a reasonable assessment of the daily value of the road to Hong Kong?*

DIRECTOR OF PUBLIC WORKS:—Sir, the short answer to the first part of the question is no. I must point out, however, that a liquidated damages clause in a contract is not designed as an incentive to complete the works on time. Such a clause provides for a fixed or agreed sum to be paid as damages for some breach of contract and a typical clause allows for the deduction of a fixed sum per day for the number of days over the contract period or extended contract period during which the works are uncompleted. Therefore in such a case the intention is to cover the loss incurred by late completion.

In answering the second part of the question it must be admitted that the sum included in the Tuen Mun Road Stage II contract, fixed under the presently employed method of calculating liquidated damages, does not reflect the daily value of the road to the community. This method was worked out in the early 1960's and although it is still satisfactory in many cases today it is not well suited for a number of the very extensive contracts now being let such as Tuen Mun Road Stage II. Accordingly, alternative methods of calculating liquidated damages for such contracts are currently under review by the Standing Committee on Architectural & Civil Engineering Conditions of Contract which will, when finalized, represent more accurate pre-estimates of damages under current contract values and contract periods.

I must stress that over-assessment of liquidated sums could have and probably would have effects other than that intended *eg* contractors might tend to increase their tender rates to cover themselves in case of overrun of contract periods thereby increasing the overall cost of projects or they might dispute claims for damages on the basis that the fixed sums are penalties and not liquidated damages and so are not enforceable. The solution therefore is to adopt formulae which produce genuine estimates of damages and so are both equitable and enforceable.

MR T. S. LO:—*Since the liquidated damages clause in the Contract is not designed as an incentive to complete works on time, is there any other provision that's written into Government Contracts that's intended to act as an incentive for the contractor to finish the contract on time?*

DIRECTOR OF PUBLIC WORKS:—Sir, clauses such as the bonus penalty type are sometimes used to give incentive to the contractor to complete the works early but by no means do they guarantee early completion. This type of clause is not commonly used as they almost invariably result in serious and protracted disputes over delays, claims for extensions and the sums due to one party or the other and experience shows that with this type of contract generally there's little time benefit in the end.

MR T. S. LO:—*When will the alternative methods referred to in the answer be finalized and will the Government please consult the Finance Committee thereon?*

DIRECTOR OF PUBLIC WORKS:—Sir, I understand that the Standing Committee has now completed its considerations and is about to submit the alternative methods of assessment for approval. If these are approved they would be introduced within the next few weeks and they could be referred to the Finance Committee for approval.

MR T. S. LO:—Thank you.

Tsuen Wan auditorium

4 MR ALEX WU asked:—*Since the auditorium in Tsuen Wan is scheduled for completion by the end of 1979, will Government state which department will be responsible for its operation and confirm that action is in hand to recruit in due time the staff with the necessary expertise for its management?*

SECRETARY FOR HOME AFFAIRS:—Sir, the Tsuen Wan Town Hall, which includes an auditorium, will be managed by the Urban Services Department but a request for management staff for this Town Hall has not yet been received. The Director of Urban Services has however sought staff for the planning and promotion of activities and to assess the levels of staff required to manage the hall. He plans to seek the necessary management staff later this year, with a view to completing recruitment by mid-1979.

MR ALEX WU:—*Sir, from whom will the Urban Services Department receive policy guidance in respect of management of the Hall and activities therein?*

SECRETARY FOR HOME AFFAIRS:—Would be mainly from the Secretary for the New Territories in consultation with myself and possibly seeking advice from the District Advisory Board, Sir.

MR ALEX WU:—*Sir, will the Town Halls in Tuen Mun and Sha Tin be managed by the same Department?*

SECRETARY FOR HOME AFFAIRS:—Yes, Sir.

Noxious fumes of motor vehicles

5 DR FANG asked:—*Sir, apart from penalizing motorists for allowing their vehicles to emit excessive smoke, what control does Government have, in the interest of public health, over the emission of noxious gases by motor vehicles?*

SECRETARY FOR THE ENVIRONMENT:—Sir, all vehicles with petrol engines manufactured after 1 of November 1974 and all diesel engined vehicles manufactured after the 1 September 1976 must comply with emission standards

laid down by the Economic Commission for Europe before they can be registered. Consideration is also being given to new legislation to extend the scope of vehicle inspections to cover gaseous emissions other than smoke.

MR T. S. LO:—*Sir, presumably the legislation will cover, amongst others, Government vehicles?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir.

DR FANG: — *Sir, has Government enough up-to-date equipment to measure the concentration of these noxious fumes emitted by these motor vehicles?*

SECRETARY FOR THE ENVIRONMENT:—I doubt it, Sir. The Government has equipment to measure smoke but if this legislation were passed, we would have to obtain new equipment. New cars have to meet these specifications and the manufacturers, of course, have to guarantee this.

Additional postal services

6 DR HU asked:—*Sir, will Government set up an evening postal service for the collection of registered mail and extend the time for collection of registered mail from seven days to a fortnight?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, out of 8.3 million registered items handled by the Post Office in the last financial year, less than 400,000, that is, under 5%, were held for collection by addressees at one of 18 Post Offices. Of this number, 310,000 were collected within the period allowed. The remaining 90,000 were returned to their senders.

It is believed that the majority of the registered letters left uncollected are letters which addressees do not wish to receive because they may contain demands for payments of one kind or another. For example, it is estimated that about 30,000 of the registered items returned last year originated from the Inland Revenue Department or the Rating and Valuation Department.'

However, about 3,500 people called at Post Offices last year to collect registered letters after they had been returned to their senders. The number of letters involved represents roughly 0.04% of all registered mail handled and 1.1% of registered mail collected at Post Offices.

I do not think that the size of the problem warrants the keeping of 18 Post Offices open in the evening for the collection of registered mail. However, to give addressees or their representatives more time to collect registered mail, the Postmaster General will be extending the time for its collection from 7 to 14 days.

DR HU:—*Sir, why do 5% of the registered letters have to be collected by the addressees?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, the arrangement for the collection of registered mail is as follows: normally, every registered item is delivered to the address of the addressee with certain exceptions and normally two attempts are made to deliver each item. The exceptions are items addressed to post office boxes or to communal boxes in the New Territories. In those cases cards are left for addressees to call for their registered mail at a specified post office. In all other cases, it is only after the failure to deliver the item after two attempts that the card is left.*

MR YEUNG:—*Sir, of the 400,000 items which were held for collection by addressees, how many are letters and how many are parcels?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, there is no distinction in this case between a letter and a parcel. There is a rate for a registered letter and notwithstanding that it is a parcel, if the rate is paid, it is considered a letter. (laughter)*

Ventilation in Lion Rock Tunnels

7 DR FANG asked:—*Sir, will Government state:*

- (a) the average and the highest levels of noxious fumes emitted by motor vehicles inside the new Lion Rock Tunnel now in use;*
- (b) whether such levels are acceptable from a health point of view; and*
- (c) whether improvements will be made to the ventilation systems of the two Lion Rock Tunnels?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, on weekdays the average is 50 parts per million, or ppm for short. On Sundays it is 75 ppm. The highest reading recorded so far was 80 ppm on 18 January this year. These levels are acceptable from a health point of view and are well within international operating standards. A dangerous level is only reached when carbon monoxide in a tunnel exceeds 400 ppm or, during any 30 minute period, an average of 250 ppm.*

The ventilation system in the old tube could supply 600,000 cubic feet of air per minute and the figure for the new tube is 800,000 cubic feet per minute. This is considered to be adequate and it will work better when two tube operation starts later this year because of the ram effect of vehicles travelling in one direction only.

The present rather poor visibility in the tunnel is caused by the dust from earth carrying lorries, particularly those moving from the Mass Transit

Railway works to the reclamations in Sha Tin. This situation will also improve when both tubes are open to traffic and it will cease altogether when the works are finished.

MR CHEUNG:—*Sir, is the ventilation turned on to its full capacity most of the time or is it turned on only to part of its potential capacity most of the time?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, I can't say one way or the other. I will have to ask the Commissioner for Transport and reply to Mr CHEUNG. It would certainly be turned on to its full capacity when there is a lot of traffic going through the tunnel.*

Kai Tak Airport terminal building

8 DR FANG asked:—*Sir, is Government satisfied with the ventilation conditions of the covered frontage area outside the buffer hall of the Kai Tak terminal building used by tourist coaches as a pick-up point, and if not, what improvements are being planned?*

SECRETARY FOR ECONOMIC SERVICES:—*Sir, the ventilation in the area in question is perhaps not the best in the world in terms of the natural air flow. This is because hoardings have been put up at the western end of the building to enable the extension of the terminal building to proceed. As a consequence, the natural east-west air flow has been partially impeded.*

As the extension to the terminal building progresses, the air flow should be improved because the design of the building provides for the installation of a ventilation system which would ensure a constant circulation of fresh air in all the covered areas outside the terminal building. The first phase of that system, which will cover the area in front of the existing buffer hall, is expected to be operational by March of next year.

Pedestrian activated traffic lights

9 MR PETER C. WONG asked:—*Sir, to avoid accidents and danger to both motorists and pedestrians, will Government consider installing pedestrian activated traffic lights, which would allow reasonable intervals for motorists to proceed even though the pedestrian button is being continuously activated, at zebra crossings:*

- (a) *where there is a constant flow of vehicular and pedestrian traffic; or*
- (b) *which are known to be ignored by a large number of motorists?*

SECRETARY FOR THE ENVIRONMENT:—Sir, it is the Government's policy to install traffic lights at more pedestrian crossings and there are now 216 signal controlled crossings throughout the territory compared with 145 zebra crossings. Most of the signal controlled crossings, however, are programmed to synchronize with other traffic lights in the area and they have regular timings to allow pedestrians to cross. This system is preferable where there is a constant flow of vehicles and pedestrians. Pedestrian activated signals are only provided in places where it is not necessary for them to be synchronized with other traffic lights.

MR PETER C. WONG:—*How many traffic lights at zebra crossings are currently under consideration for installation?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I will reply that question in writing.

MR PETER C. WONG:—*Sir, will my Friend also tell this Council where will these be installed and when will they be completed?*

SECRETARY FOR THE ENVIRONMENT:—Sir, that is a further supplementary requiring information which I will add to my written reply.

Working hours for omnibus drivers

10 MR CHEONG-LEEN asked:—*In the interest of public safety, will Government take steps to introduce maximum working hours for public omnibus drivers?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the answer is yes if it can be shown that long working hours by experienced drivers are causing accidents. The standard working week for bus drivers is now 48 hours but, given the difficulties in recruiting suitable drivers, overtime is usually worked. The Commissioner for Transport, however, already exercises a considerable influence over working hours by fixing schedules to ensure that driving requirements are reasonable and that there is adequate provision for layover times between trips and for meal breaks. If rigid maximum hours were to be fixed the public would have to accept the consequence that less buses would be on the road.

MR CHEONG-LEEN:—*Sir, what is the difficulty in recruiting drivers at present?*

SECRETARY FOR THE ENVIRONMENT:—Sir, there is a very high demand for public vehicle drivers, I suppose I would call them, in the territory as a whole, in view of the very high level of development and construction going on at the present time. There is a very high demand for lorry drivers and truck

drivers and I believe that there is also at the moment a shortage of taxi drivers and even minibus drivers for this reason.

MR CHEONG-LEEN:—*Sir, is there any programme to train and recruit new drivers for the public buses?*

HIS EXCELLENCY THE PRESIDENT:—You are wandering rather far from the original question and answer.

MR CHEONG-LEEN:—*Sir, may I ask another supplementary which would be nearer to the subject? Is my honourable Friend aware that most drivers of public buses are under severe physical and perhaps even mental pressure because in practice they are required to work 52 or 54 hours a week, ie virtually a 9-hour day including overtime and during that period they are given no more than 20 minutes to half an hour for a lunch break. And if that is the case...*

HIS EXCELLENCY THE PRESIDENT:—Would you like to extract a question from that statement, Mr CHEONG-LEEN?

SECRETARY FOR THE ENVIRONMENT:—*Sir, the Government is aware that the average length of time worked by bus drivers is 54 hours a week, which means something like 6 hours a week overtime. It involves 9 hours work a day, as Mr CHEONG-LEEN correctly calculated, but it also includes meal breaks—I am not sure whether these are as short as 20 minutes—and lay-over times at the end of each journey. The bus does not come to the end of the journey and start up again and go off. There is probably time for a little light refreshment. So it does include periods of rest.*

MR CHEUNG:—*Sir, what is the basic wage paid by the bus companies to the average bus driver without overtime?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, to put a guess to it, I would say it would be between \$1,500 and \$1,700 a month but I would have to check this with the companies.*

MR CHEUNG:—*If my honourable Friend checks will he discover that that includes very many hours of overtime and that the basic salary is about \$900 a month?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, I will check.

MR T. S. LO:—*And on the basis of these minimum wages, might it not be another consequence of any decision to enforce rigid maximum hours, that it might simply drive the drivers to take outside work?*

SECRETARY FOR THE ENVIRONMENT:—Sir, does my honourable Friend mean on their rest days, because I would not think there would be much time otherwise in the normal working week?

MR T. S. LO:—*No, if they don't work overtime, presumably there will be time and I wonder whether my honourable Friend will investigate and tell us whether there is time after their daily work, without overtime, whether they have time to do evening shifts for taxis for example?*

SECRETARY FOR THE ENVIRONMENT:—I will check, Sir.

MR CHEUNG:—*The Secretary for the Environment says Government will take steps if it is shown that long working hours by experienced drivers are causing accidents. Will Government take steps for public safety if it is demonstrated that drivers regularly and glaringly flout red traffic lights and drive through zebra crossings?*

SECRETARY FOR THE ENVIRONMENT:—I do not think that is pertinent to the question.

MISS KO:—*Sir, may I ask a supplementary question? Would Government make a survey if it can be shown that the long working hours by experienced workers are causing bad health of the drivers?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I am not sure that 54-hour a week can be called something that is conducive to bad health. I will ask the companies to see if they have medical services available for their drivers.

MISS KO:—*If Government could make such a survey, would Government pay attention to the very short period for lunch and so on?*

SECRETARY FOR THE ENVIRONMENT:—Yes, I will have this looked into.

MISS DUNN:—*Sir, does the Commissioner for Transport lay down the maximum number of hours that a driver can work on overtime?*

SECRETARY FOR THE ENVIRONMENT:—No, Sir, I do not believe so. I think this is left to the arrangements between the drivers and the companies, but, as I said, he does find out the number of hours worked and they are on average 54 hours a week as Mr CHEONG-LEEN said.

MISS DUNN:—*Sir, we lay down maximum hours, days of work, for factory workers. Why should not this apply to bus drivers?*

SECRETARY FOR THE ENVIRONMENT:—I am not sure. I may be out of date, but I believe it is women and young persons for whom maximum numbers of hours of work in the factories are laid down.

MR CHEONG-LEEN:—*Sir, is my honourable Friend aware that with this trend to have more double decker buses, to be operated by one man, this would increasingly cause a severe psychological and physical strain on the driver, which would lead to more accident prone situations?*

HIS EXCELLENCY THE PRESIDENT:—I think we are wandering too far from the original question. I think we should now pass to the next one.

MR CHEONG-LEEN:—*A final supplementary, which is very relevant?*

HIS EXCELLENCY THE PRESIDENT:—That will be a change.

MR CHEONG-LEEN:—*By way of explanation, may I say that the implications concerning public safety are so wide that quite often one has to stray a little from the subject. Is my honourable Friend aware that in other countries in Asia and the Pacific Basin, the hours of driving for bus drivers are limited to 42 hours a week and even less and possibly at twice the salary of bus drivers in Hong Kong?*

SECRETARY FOR THE ENVIRONMENT:—No, Sir, and I doubt very much whether they would have twice the salary of bus drivers in Hong Kong. Bus drivers are among the most highly paid workers in Hong Kong.

MR CHEONG-LEEN:—*I shall be glad to provide the information in due course for my honourable Friend to prove this point.*

Factory Ownership Scheme

11 MR CHEONG-LEEN asked:—*In order to assist small factories in purchasing their own factory premises, will Government devise a special loan scheme, or encourage or sponsor the building of industrial estates for sale to such factories with payment terms extending up to 15-year periods?*

SECRETARY FOR ECONOMIC SERVICES:—No, Sir.

MR CHEONG-LEEN:—*Sir, will my honourable Friend give specific and detailed reasons why the answer is 'no.'?*

SECRETARY FOR ECONOMIC SERVICES:—Because there does not appear to be any greater justification for the use of public funds to assist small factories to purchase their factory premises, than for using public funds to assist other types of business enterprises to purchase their business premises.

MR CHEONG-LEEN:—*What are the reasons, Mr Chairman, apart from appearances? My honourable Friend has said there appears to be no reason. What are those reasons?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, I said there appears to be no greater justification.

MR CHEONG-LEEN:—*In what respect are those reasons not justifiable? (laughter)*

SECRETARY FOR ECONOMIC SERVICES:—Sir, I fear I don't understand the question. *(laughter)*

MR CHEONG-LEEN:—*Mr Chairman, would my honourable Friend, be good enough to give me the reasons in writing and have them incorporated in the proceedings of this Council?*

SECRETARY FOR ECONOMIC SERVICES indicates refusal.

Computerized traffic monitoring system

12 MR PETER C. WONG asked:—*Will Government inform this Council the effect so far achieved through the introduction of the computerized traffic monitoring system?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the effect has been a considerable improvement in traffic circulation in the West Kowloon area where the scheme is operating. There has, for instance, been a 30% reduction in average journey times, a 52% reduction in the time during which vehicles are stopped and a 42% increase in the average speed of movement.

MR PETER C. WONG:—*Sir, is there any plan to extend the system to other parts of Hong Kong?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, consideration is being given to extending the system in Kowloon to the area west of the airport which would probably be within the capacity of the present computer. Plans are also being considered to extending it to Hong Kong island later on.

Labour safety

13 MR WONG LAM asked in Cantonese dialect:—

鑒於最近有兩名工人及五名本港海員因清理油缸時中毒致死，請問政府有何計劃予以改善，以防止此類事件再度發生，以確保工人安全？

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

In view of the two recent tragedies resulting in the death of two workers and five Hong Kong seamen while working in a fuel tank, what steps will Government

take to prevent a recurrence of similar accidents in order to ensure the safety of workers?

COMMISSIONER FOR LABOUR:—Sir, the Factories and Industrial Undertakings (Confined Spaces) Regulations, made in 1973, lay down the precautions which must be observed by proprietors and workers to ensure the safety of workers in confined spaces on land.

Because of the transient nature of work in confined spaces, the wide variety of such confined spaces and the types of different hazard encountered, field inspection in these cases is of limited value. The Labour Department therefore concentrates its effort on guidance and advice. A guide to the regulations is published and the free safety courses on work in confined spaces are run regularly.

With regard to the fatal accident at Kai Tak, the Labour Department is considering whether a prosecution is warranted, but investigations are not yet complete.

As for the fatal accident involving the Hong Kong seamen on board a British registered tanker in the Pacific, the UK Department of Trade is the authority for conducting an investigation.

The Marine Department and the UK Department of Trade both offer guidance and advice on working in confined spaces on board ships. The Shipping and Port Control Bill which will be enacted shortly will require work places on board ships within Hong Kong waters to be made safe before work on repairs or cargo-handling commence.

Money-lender Ordinance

14 MR CHEUNG-LEEN asked:—*Will Government consider amending the Money-lenders Ordinance Cap. 163 so as to:*

- (a) limit the maximum rate of interest chargeable by money-lenders on any loans to 36%;*
and
- (b) prohibit the charging of compound interest by money-lenders on any loans?*

SECRETARY FOR ECONOMIC SERVICES:—No, Sir. There is adequate provision in the Ordinance for the Courts to protect borrowers against exorbitant rates of interest, whether they be simple or compound.

MR CHEUNG-LEEN:—*Sir, is it correct that Government is reviewing this particular legislation at the present time?*

SECRETARY FOR ECONOMIC SERVICES:—Not that I am aware of, Sir.

MR CHEONG-LEEN:—*I see. Is there a particular reason why the present legislation limits the maximum rate of interest charged by money-lenders on any loans to 48%?*

SECRETARY FOR ECONOMIC SERVICES:—I am afraid I do not know the answer to that.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY)

I have since read over the Money-Lenders Ordinance again and I can find no reference to 48% in it. There is no statutory limit.

MR CHEONG-LEEN:—*Does the fact that the present legislation puts an upper limit of 48%, does this mean that Government considers that a maximum of 48% is reasonable under present day conditions?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, it depends on the circumstances of the particular loan. As I have said, the courts are there to see that in all the circumstances the interest charged is not excessive.

MR CHEONG-LEEN:—*But the maximum rate of interest, whether compound or simple, could be as high as 48%?*

SECRETARY FOR ECONOMIC SERVICES:—If the courts should feel any particular interest charged to be excessive, they have the power to set it aside under the existing law.

MR CHEONG-LEEN:—*Sir, will my honourable Friend confirm whether Government is reviewing the present legislation or not and advise me accordingly?*

SECRETARY FOR ECONOMIC SERVICES indicates assent.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY)

I confirm that no general review is in progress, though the Attorney General is considering one particular matter raised by Mr Oswald CHEUNG. In addition, as the Acting Financial Secretary indicated in the Legislative Council on 7 June, the Commissioner of Police has made proposals for increasing the penalties provided for in the legislation and these also are under consideration by the Attorney General. No other amendments are contemplated.

Malpractice of taxi-drivers

15 MR YEUNG asked:—*Is Government aware that many taxi-drivers are using 'out-of-service' signs or covering their meters with rags as a pretence for refusing hirings unless the passengers are travelling to a particular destination or are willing to pay a higher fare, and if so, what steps are being taken to stop this malpractice?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir. Government is aware. But I must caution that a taxi driver is, strictly speaking, not acting illegally if he refuses to accept a hiring when his flag is covered in such a manner that it is not visible outside the taxi. It is therefore most difficult to prove an offence in such circumstances and it is really up to the public to refuse to take part in such bargaining.

MR YEUNG:—*Sir, since the Government is aware of the situation, which I submit is appalling as far as the taxi users are concerned, does Government consider it a malpractice?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, it is a malpractice.

MR ALEX WU:—*Sir, will Government equate the situation to a go slow or a sit down strike?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I think the Government would rather describe the situation as a black market situation, rather than a sit down strike.

MR ALEX WU:—*Sir, will Government consider introducing legislation to make it an offence, if a taxi driver covers up the meter during the period when the taxi should be providing a service to the public?*

SECRETARY FOR THE ENVIRONMENT:—Sir, this matter will be considered in the light of a review of the taxi trade which is at present being conducted.

MR T. S. LO:—*Sir, I do not understand the reference to black market. As I understand it, not only is the driver not acting illegally after he refuses to take a hiring when his flag is covered but he is not acting illegally even if his flag is not covered so long as the fare does not get into the taxi. Will Government confirm that?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir.

MR T. S. LO:—*Then where is the black market which I understand is habitually based on doing something illegal?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I think if I can refer to the question—‘or are willing to pay a higher fare’.

MR T. S. LO:—*The black market relates to the higher fare and not to the question asked by the Honourable Alex Wu?*

SECRETARY FOR THE ENVIRONMENT:—The higher fare arose in the question and as I am saying there is a black market fare.

MR YEUNG:—*Sir, will Government mount a major publicity campaign to inform the public of their rights in relation to taxis and their capacity as commuters?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, this can also be looked at in the review of the taxi trade which I have mentioned.*

MISS KO:—*When will the review mentioned by the Director be held?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, it will be finished by the end of August.*

MR ALEX WU:—*Sir, in view of the malpractice, would Government consider issuing unlimited amount of licences for taxis at the cheaper rate?*

SECRETARY FOR THE ENVIRONMENT:—*No, Sir. At the present moment, Government is following the policy laid down of issuing 100 new taxi licences a month by tender. These are tendered for in batches of 300 and they are issued at the rate of 100 a month over a 3-month period.*

Government business

Motion

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

THE COMMISSIONER FOR LABOUR moved the following motion:—That the following regulations, made by the Commissioner for Labour on the 7 July 1978, be approved—

- (a) the Factories and Industrial Undertakings (Amendment) Regulations 1978;
- (b) the Factories and Industrial Undertakings (Blasting by Abrasives) (Amendment) Special Regulations 1978;
- (c) the Construction Sites (Safety) Regulations 1978;
- (d) the Factories and Industrial Undertakings (Cargo Handling) Regulations 1978; and
- (e) the Factories and Industrial Undertakings (Work in Compressed Air) (Amendment) Regulations 1978.

He said:—*Sir, these regulations were made by me on 7 July 1978 and have been submitted to Your Excellency in accordance with the provisions of section 7(3) of the Factories and Industrial Undertakings Ordinance.*

As I stated in this Council on 26 April 1978, five out of 19 sets of the existing regulations have to be amended or re-enacted, following the amendment

of the principal Ordinance by the Factories and Industrial Undertakings (Amendment) Ordinance 1978. The definition of 'industrial undertaking' has been clarified to embrace not only the various industrial activities it specifies, but also the premises in and plant with which they are carried out. Since the re-enactment merely seeks to clarify the legal effects of existing regulations, the legislation will not give rise to new obligations or requirements.

I am also taking the opportunity to transpose Part V of the Factories and Industrial Undertakings Regulations which mainly deals with matters concerning construction sites to the Construction Sites (Safety) Regulations.

Question put and agreed to.

First reading of bills

INLAND REVENUE (AMENDMENT) (NO 4) BILL 1978

PREVENTION OF BRIBERY (AMENDMENT) BILL 1978

MAGISTRATES (AMENDMENT) BILL 1978

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

Second reading of bills

INLAND REVENUE (AMENDMENT) (NO 4) BILL 1978

THE FINANCIAL SECRETARY moved the second reading of:—'A bill to amend the Inland Revenue Ordinance.'

He said:—Sir, when I moved the second reading of the Inland Revenue (Amendment) (No 3) Bill at the sitting of Council on 5 July, I explained that the Bill was designed to give powers to the Financial Secretary to vary the rate of interest, at or below which interest payable by the Government and licensed banks is exempt from tax, so that changes could more readily be synchronized with changes in the rate of interest paid by the banks on savings accounts.

The next change in the savings account rate took effect two days ago, before the Bill could become law. To ensure that the change in the exemption rate took effect at the same time it was therefore necessary to use the procedure provided by the Public Revenue Protection Ordinance. Accordingly, Your Excellency made an Order under that Ordinance on Monday, 17 July, giving effect to this Inland Revenue (Amendment) (No 4) Bill presently before

this Council. At the same time the Public Revenue Protection (Interest Tax) Order 1978 made on 1 May was withdrawn and expired at midnight on 17 July.

The object of the present Bill is simply to raise the exemption limit on interest paid by the Government and licensed banks from 2¼% to 2½% by amending the Fourth Schedule to the principal Ordinance. Thus, the Bill merely seeks to ensure that the existing policy of keeping the exemption rate in line with the banks' savings account rate is maintained.

If the Inland Revenue (Amendment) (No 3) Bill is also passed today this procedure will not need to be used again. Future changes in the exemption limit will thereafter be specified by the Financial Secretary.

Question put and agreed to.

Bill read the second time.

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

PREVENTION OF BRIBERY (AMENDMENT) BILL 1978

THE SOLICITOR GENERAL moved the second reading of:—‘A bill to amend the Prevention of Bribery Ordinance.’

He said:—Sir, this Bill is intended to resolve difficulties which arise in the prosecution of offences under section 10 of the Prevention of Bribery Ordinance on account of the technical rules of the law of evidence. Section 10 is the section which makes it an offence for a Crown servant, past or present, to maintain a standard of living not commensurate with his official emoluments or to possess pecuniary resources or property disproportionate to his official emoluments. In prosecutions under this section, the Crown must, of course, prove what emoluments the accused actually received in the course of his Crown service so that this may be related to the evidence given as to his standard of living or his pecuniary resources or property.

Government records enable the official emoluments of a Crown servant to be quantified with precision but such Government records are not admissible as evidence in court under the technical rules of the law of evidence which require direct evidence. In cases under this section the Crown servant frequently has 20 or 30 years of service, and perhaps in his early days received his salary in cash, so the difficulties of procuring the direct evidence of someone who can speak to payments are enormous and may be insurmountable.

In a recent case before the District Court, the defence insisted on strict proof of emoluments and this proved impossible. In his judgment, the District Judge referred to the simple legislative amendment he saw as necessary to overcome the Crown's difficulties and anticipated the certificate procedure provided for in this Bill.

Clause 2 introduces a section enabling official emoluments to be proved by the production of a certificate signed by the Chief Secretary, showing the official emoluments and allowances paid to a Crown servant. Such a certificate could also relate to length of service and to the holding of any office by a Crown servant during his career. Certificates under this section will be restricted to prosecutions under section 10 of the Prevention of Bribery Ordinance. The information contained in such a certificate will be presumed by the Court to be true unless the defence proves the contrary.

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

Question put and agreed to.

MAGISTRATES (AMENDMENT) BILL 1978

THE SOLICITOR GENERAL moved the second reading of:—‘A bill to amend the Magistrates Ordinance.’

He said:—Sir, in the statement made by the Attorney General when Council last met, reference was made to a number of developments in the administration of criminal justice. One of these is the proposed scheme under which magistrates can be assisted in determining cases by the advice of Cantonese speaking members of the public who, in addition to speaking and understanding the language of most accused persons, have knowledge of local traditions and customs and especially current community views.

The main purpose of the Bill is to amend the Magistrates Ordinance to enable this scheme to be introduced. Clause 2 introduces 3 new sections to the Ordinance and these are fully described in the published Explanatory Memorandum to the Bill.

The scheme is experimental and therefore the amendments are permissive in character and capable of flexible application by the Chief Justice.

The opportunity is also taken to introduce changes in two respects to section 81A of the principal Ordinance which deals with committal proceedings.

The first amendment would permit written statements in committal proceedings to be tendered as evidence if copies are given to the magistrate and

the defence not less than 10 days before the statement is actually tendered. The present rule is needlessly onerous and inflexible in requiring that the 10 days' notice be given before the hearing commences. The result is that time consuming, oral testimony must sometimes now be given for no good reason except that the requirements of the section cannot be complied with.

The second amendment is concerned with a failure to comply with the procedure laid down in section 81A. At present, technical omissions such as the failure of the magistrate to sign a certificate may result in the whole committal proceedings and the subsequent indictment becoming a nullity. Apart from wasting the time of all concerned this may cause hardship by way of delay to the accused if the committal has to begin again. The amendment therefore provides that a failure to comply with section 81A shall not render written statements and exhibits inadmissible so long as the accused is not prejudiced by the failure.

In other words, both these amendments may be said to remove the adverse effects of technical difficulties without in any way prejudicing the interests of accused persons.

MR JAMES WU:—Sir, I have pleasure to speak in support of the proposed amendment to the Magistrates (Amendment) Bill 1978 whereby Chinese Assessors will be appointed to sit with and advise expatriate magistrates, where necessary, when cases are heard in the courts.

I have advocated in this Council for the appointment of more Chinese magistrates, providing more incentives and attractions where necessary. I am glad to note that Government now recognize that deficiencies in administration exist in our judicial system and is trying to remedy.

I agree with the Attorney General that whilst our legal system works well, the fact that the system derives mainly from English law and is written and administered in English poses a great deficiency, particularly when applied to those who come before the courts on criminal charges with little understanding of either English law and its procedures or of the English language. The situation has certainly deteriorated in recent years when expansion has made it difficult to recruit magistrates who are Cantonese-speaking or are at least knowledgeable in local conditions. All too often, judgment and verdicts would appear to be incomprehensible and sentence inappropriate, in the public opinion. Whilst the thought of miscarriage of justice makes one shudder, it is nevertheless, imperative in our modern society that justice must be done and is seen to be done, if the law is to have its full deterrent effect.

To the extent that we as a community that is mainly Chinese, this is no easy task. For about 2500 years, Chinese philosophy and culture have been mainly influenced by the Confucian school of thought which presumed that people were born innocent, and if taught and fortified with the virtues of filial piety, brotherly love, loyalty, honesty, rites, righteousness incorruptibility

and shame (孝悌忠信·禮義廉恥), people would behave and peace and prosperity would ensue. Such government would depend much on convention and precedents, to the extent that the Book for Rites (禮記) compiled about 400 BC had become the foundation of later Chinese laws. Thus China was ruled through centuries of alternating prosperity and poverty, peace and chaos, strength and decline, much depending on the personal performance and behaviour and technique of those who governed, not unlike the Roman Governors in the provinces.

It could be said that, as the system suited the ruling class, it had always been promoted, even during the reign of the Mongols and Manchus, but never seriously challenged until around 1920 in the May 4 Movement, championed by intellectuals and students, who, having seen the country being bullied by foreign powers, could no longer tolerate a system whereby the regressive view tended to lead to progressive degeneration. Only then Western democracy and scientific studies really began to take some roots.

It must however be noted that government by law actually had its first stint in China at around 400 BC and in fact before the full bloom of the Confucian school. Legalist SHANG Yang (商鞅) became the Prime Minister of the Kingdom of Chin and he was the first one to see that when the guiding principles of the people became unsuited to the circumstances, their standards of value must change, and as conditions in the world change, different principles were to be practised. He thus devised a new system of Government by law, and put the Kingdom of Chin on such a sound footing that it eventually conquered all the other Warring Kingdoms, and united China for the first time.

His theory was perhaps best propounded later by HAN Fei-Tze (韓非子) (circa 300 BC), who was perhaps the best known Legalist in Chinese history. He recognised that as the population multiplied, supplies would become short, and work getting harder for a meagre return, and people fell to quarrelling. He also theorised that people were generally born evil (or selfish), and few would do good for themselves, so the importance was to bring it about that people could do no wrong by a code of law, so that the ruler could rule with authority and would not concern himself with virtue but with law.

Although the Legalist thinking had become increasingly relevant as time passed, its materialistic approach had long been condemned as being mean and unhuman, and had never had a much prolonged reign, except during a short relapse in the Sung Dynasty under Premier WANG On-Shek (王安石) (Circa 1100 AD) whose new social-economic thinking suffered the same defeat.

It is of course obvious that the Confucian philosophy of law had become grossly inadequate as human relationship had grown increasingly complicated, but the virtues it preached still had a profound and great effect on the prevention or deterrence of crime.

I have said these to bring to mind the Chinese cultural heritage and its long-held philosophy that 'law is but humanly thinking' (法律不外乎人情) and that 'you can judge his behaviour by listening to what he says' (聽其言而觀其行). In the Hong Kong context, due consideration of these factors would appear to be essential for a successful administration, and in modern parlance, for helping to bridge the communication gap, albeit indirectly, between Government and the people.

Towards this end, I recommend that expatriate magistrates would do well to listen to their Chinese assessors, who in my opinion should be selected in the most careful manner, not so much for their fluency in the English language alone, but for his integrity, and particularly, for his knowledge of the middle and lower classes in our community, as many are finding that legal representation are at best expensive and at worst beyond their means.

MR CHEONG-LEEN:—Sir, the Scheme as envisaged in this Bill is experimental in nature, and even if one does have reservations about it as being a sound scheme over a longer period of time, the sensible thing to do now is to give it a good try.

Indeed I do have reservations as to whether the proposals in this Bill is a long-term solution to the serious shortage of local magistrates. But as there seems to be no immediate way to encourage more local people to become magistrates, I support the Bill as an interim approach on the understanding that it is kept under constant review from year to year.

The effectiveness of the Scheme will depend on a number of factors. Firstly, the quality of the assessors is crucial; they should have broad experience in community service and be prepared to speak their mind with firmness as an assessor. Where a magistrate does not accept the view of an assessor on a major point, the magistrate's reasons should be recorded.

Secondly, as most expatriate magistrates are on contract terms, preference could be given in future to recruiting those magistrates who would be prepared to acquire some proficiency in the Cantonese dialect. The question might well be asked as to whether an expatriate magistrate would find it easy to cope after sitting on the bench for 2½ years, supported by an assessor, and then overnight to find himself sitting alone without an assessor and without any knowledge of the language and custom of the local people. With the introduction of the assessors system, the public will be anticipating even higher standards in the dispensation of justice.

Another approach which can be considered is to appoint bi-lingual local persons with wide community experience to act as magistrates. They should be assisted by a legal assessor, who could be an expatriate member of the legal profession.

As to the long-term solution, Your Excellency has on a previous occasion in your capacity as the Chief Secretary in this Council given an indication of

what can be done, and that is to train more lawyers. I believe you used the term 'to flood the market.'

In proportion to the population, Singapore has twice as many lawyers as Hong Kong. If the Attorney General would like to have detailed information in this respect, I shall be glad to let him have it.

I understand that the Hong Kong University proposes to increase its intake into its School of Law to about 80 per annum commencing in 1979-80, but even at this rate Hong Kong will not have the same ratio of lawyers per head of population as Singapore within the next 10 years. I suggest that Government review this problem more searchingly at this time.

Finally Sir, may I also say that training more local lawyers is not the one-and-only solution. We must not overlook job prospects and job satisfaction. The message has to be put across more clearly and convincingly to local members of the legal profession that they have equal opportunity to reach the top of the judicial branch of the Hong Kong Government in the coming decade.

Sir, I support the motion.

MR WONG LAM delivered his speech in Cantonese dialect:—

督憲閣下：

有關一九七八年裁判司（修訂）法案，本人想就設立審判顧問制度，表示意見。

近年來輿論界及很多社會人士對於部份外籍裁判司的裁決，頗有意見，認為此乃對中國人的觀念及習俗缺乏瞭解所致，此點本人相當同意，所以對政府設立審判顧問之舉，極表贊同。不過，要使此制度獲得成功，本人認為必須注意下列的因素。

首先是審判顧問人選的資格。這類人士不獨必須精通中英語言（能夠通曉多種中國地方方言尤佳），而且對中國人的觀念，傳統及習俗也應有相當的認識。除了這些必備的條件外，他們必須具有正直的品格，明辨是非曲直，敢於表達意見。雖然他們的任務包括更正法庭傳譯員傳譯時的錯誤，但其主要任務卻不在此，而是本着良心，利用自己對本地環境及習俗、傳統的瞭解，對裁判司提供正直無偏的意見。他們絕不應把自己當作裁判司的下屬，對裁判司的意見，只有贊同，沒有反對，所以一些具有自卑感的人是不宜擔當的。

其次是責任問題。依據修訂法案，裁判司不論接納審判顧問的意見與否，均無須將後者的意見記錄在案。這點是有問題的。假如某件案件在判決前，審判顧問已表示了意見，而裁判司卻加以忽視，因此而作出受大眾指責或批評的判決，雖然法律上的責任在裁判司，但在道義上而言，審判顧問也蒙上不白之冤。這點實在是不公平的。當然，在大部份情形下，審判顧問與裁判司都會意見一致，這些自然無須記錄在案；但如果顧問與裁判司意見不一時，則前者應該有權要求後者把自己的意見記錄在案，以減少心理上的負擔。

從另一方面而言，審判顧問制度之成功與否，實在很難評估，但假如經過一段時間後，由有關人士審閱檔案，尤其是某些在判決上引起爭論或批評的案件，而查看到底審判顧問有否提出相反意見，則對此制度的成功與否，一定有所反映。

其三是僱主的合作問題。為免審判顧問缺席頻繁，政府應當規定所有僱主，必須給予身為審判顧問的僱員時間上的方便，使其於必要時可以在辦公時間出席法庭。

督憲閣下，本人非常樂意見到審判顧問制度的成立，但應當指出的是這種做法只是在請不到足夠的本地裁判司時的一種折衷辦法，如果可能的話，政府仍應盡一切力量吸引更多本地合資格人士出任裁判司。

督憲閣下，本人謹建議將此項動議押後辯論。

(The following is the interpretation of what Mr Wong Lam said)

Your Excellency, in respect of the Magistrates (Amendment) Bill 1978, I would like to express my views on the assessor scheme.

In recent years, members of the press and the public have quite a few comments on the judgments delivered by some expatriate magistrates. They thought that these judgments lack understanding of Chinese thinking and custom. I concur with such a view. This is why I strongly support the setting up of the assessor scheme. However, in order that this scheme may succeed, attention must be paid to the following points.

Firstly, there is the question of appointment qualifications of the assessors. Not only must the assessors be proficient in both Chinese and English (it would be better still if they know several Chinese dialects), they must also be familiar with the Chinese way of thinking, traditions and custom. Besides possessing these basic requirements, they must also be persons of integrity, be capable of distinguishing between right and wrong and be forward speaking.

Although part of their responsibilities is to correct any errors made by the court interpreter, their main task is however to provide the magistrate with fair and unbiased views based on their conscience and on their understanding of the local situation, custom, and traditions. In no way should they regard themselves as the magistrate's subordinates, only acquiescing with their views and never contradicting. Those who have inferiority feelings are therefore unsuitable for appointment as assessors.

Secondly, there is the question of responsibility for a judgment. According to the Bill, whether or not the magistrate accepts the opinion of the assessor, it is not required to put it on record. This is questionable. If, for example, a magistrate ignores the assessor's opinion and passes a judgment which is subsequently reprovved or criticized by the public, the responsibility for the judgment is on the magistrate legally but morally the assessor will also be blamed. This is unfair. Certainly, in the majority of cases, the assessor and the magistrate will share the same opinion. This of course does not require to be recorded. However, if the assessor and the magistrate differ in their opinion, then the former should have the right to ask the latter to put his views on record so as to relieve his disquiet.

If after a certain period of time, the records, particularly of those cases which have aroused controversy or criticism, are inspected by the authorities concerned to see whether the assessor has put forward any different views, there will be some insight into the success or otherwise of the assessor scheme.

Thirdly, there is a need to enlist the co-operation of employers. In order to avoid frequent non-attendance of assessors, Government should lay down a regulation to require all employers to give leave to their employees to serve as assessors, so that they may attend court proceedings during working hours if necessary.

Sir, I am happy to see the setting up of the assessor scheme. But it should be pointed out that this should only be taken as a compromise when there are not enough local magistrate appointments. If possible, Government should still make every effort to attract more qualified local people to serve as magistrates.

Motion made. That the debate on the second reading of the Bill be adjourned—MR WONG LAM.

AUDIT (AMENDMENT) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

MR F. W. LI:—Sir, as I have on numerous occasions in the past expressed concern in this Council over the criticisms made in the annual reports of the Director of Audit, I am particularly pleased to welcome and support the Audit (Amendment) Bill 1978, the object of which is to reflect in the principal Ordinance the creation and role of the Public Accounts Committee. The Bill also provides, inter alia, that the annual accounts of the Government and the report of the Director of Audit shall be laid before this Council at the same time as the report of the Public Accounts Committee.

Speaking in this Council on 10 May this year, when he moved a motion to amend the Standing Orders to provide for the establishment of the Public Accounts Committee as a standing committee of the Council, the Acting Chief Secretary said that the Committee's principal *task* would be to consider the reports of the Director of Audit on the Government's annual accounts and that its main *aim* would be to establish the circumstances surrounding the matters reported on by the Director of Audit and to consider what remedial action has been or should be taken.

He further stated that the Committee would be concerned primarily with the principles and systems rather than with details or personalities and that the Committee would not take the form of a commission of enquiry to judge or discipline individual officers who were at fault, although it might wish to know what action, including disciplinary measures, had been taken to prevent a repetition of the faults involved. He also stressed that the Committee would have no power to order any particular action to be taken but that the Finance Branch, as the Branch of the Government Secretariat responsible for the control and management of public funds, would naturally attach great weight to the Committee's opinion.

Sir, my Unofficial Colleagues and I fully appreciate what has been said and while we do not wish to interfere with the constitutional aspects of financial

management, we are more than a little uneasy that the power of the Public Accounts Committee is to be limited only to making recommendations. Also, if the Finance Branch has the right not to implement any particular recommendation of the Committee or to take action other than that which the Committee recommends, does this not mean that it is the Finance Branch that has the last word on the control of public expenditure and not the Legislative Council?

We consider therefore that, unless the Committee is to be given the authority to challenge, prior to their implementation, any decisions by the Finance Branch to alter or to take no action on the Committee's recommendations, it is difficult to envisage how the Public Accounts Committee can effectively carry out its task as the 'watch-dog' of this Council over the expenditure of public funds. On this note, Sir, and on behalf of my Unofficial Colleagues, I would seek an assurance from Government that the necessary authority in this respect will be included in the Committee's final terms of reference.

THE FINANCIAL SECRETARY:—Sir, while I welcome the support of Unofficial Members for this Bill, which, as I explained when I moved its second reading, is consequential upon the establishment of the new Standing Order 60A, I feel bound to say that the major part of Mr LI's speech seems to me to be out of order, in that it refers to the terms of reference of and the method of working of the Public Accounts Committee.

The 'final terms of reference' of the Committee have already been laid down in the new Standing Order and could be altered only by a further Resolution and debate, entirely separate from today's debate on the second reading of the Audit (Amendment) Bill.

Similarly, the powers of the Committee have already been determined by the Resolution establishing the new Standing Order.

I might add that the Government too is bound by the terms of the Resolution.

However, I would add, to meet my Friend's points so far as it is proper to do so in *this* debate that, although the formal power of the Public Accounts Committee would be limited to making comments and recommendations, the Government will naturally give great weight to the Committee's opinions.

The Bill we are considering today provides for the Report of the Committee to be laid before this Council. Since the Committee has power to require officials to give any information or explanations that the Committee may require in the performance of its duties, the Committee's views on this information or these explanations can be included in its Report. The Report can then be debated in this Council and the Government required to answer for its actions.

It seems to me that this will enable the Committee to perform its 'watchdog' function.

Question put and agreed to.

Bill read the second time.

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

INLAND REVENUE (AMENDMENT) (NO 3) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

TRAINING CENTRES (AMENDMENT) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

FEDERATION OF HONG KONG INDUSTRIES (AMENDMENT) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

MR JAMES WU:—Sir, I am grateful to the Secretary for Economic Services in introducing this Bill, and declaring my interest as its Chairman, I have pleasure to speak on the Federation of Hong Kong Industries (Amendment) Bill 1978.

The Federation of Hong Kong Industries was established by Ordinance in 1960 and among its objects are:—

- (a) To provide technical and other services to or for the benefit of its members;
- (b) To promote, in other territories, knowledge of and respect for Hong Kong's industries and to sponsor and assist in the organization of trade fairs and trade missions; and
- (c) To promote such activities as are designed to improve and develop Hong Kong's industries and to encourage the efficient use of their resources.

Under the able leadership and direction of my 3 preceding chairmen, all of them are and one still is Member of this Council, the Federation has developed to be the important and representative body it is today in our industrial development. It has particularly developed very well in the field of technical services, and standards and testing facilities for Hong Kong industry. Its Standards and Testing Centre has won the recognition of such national bodies in the leading industrialised countries, and is the Hong Kong national representative of I.S.O., the International Standards Organization.

In addition, the Federation has set up an Industrial Design Council and Centre, and a Packaging Council and Centre to actively promote sophistication and expertise in these two fields in industry. The Federation has won international recognition and financial support for its work and success in these spheres. It has also built an impressive library of industrial standards, as well as for technical consultancy and enquiry service.

It is the Federation's intention now to complement these services to industry by offering a Seal of Approval, a quality mark granted to a product which has been type-tested and found to comply with relevant national and/or international standards or other approved standards or specifications, and has been manufactured under an approved system of quality control and supervision.

The Federation believes that Hong Kong products today have generally achieved a high standard of quality comparable to any, and should be accorded due recognition after the same have passed through testing in accordance with internationally accepted or appropriate standards of quality.

The Federation is well equipped to handle this task as it has 15 major testing laboratories established within the Standards and Testing Centre, namely:

Textile Laboratory	Packaging Materials Laboratory
Chemical Laboratory	Food Microbiology Laboratory
Watch Laboratory	Food Laboratory
Electrical Laboratory	Transport Packaging Laboratory
Footwear Laboratory	Pharmaceutical Laboratory
Toy Laboratory	Gemology Laboratory
Electronics Laboratory	Mechanical Engineering Laboratory

and a limited service is provided by the Calibration Laboratory.

The Federation also offers two quality control services:

- (a) Preshipment Inspection Scheme: This offers an independent third party certification of product compliance with contract specification prior to shipment of products.
- (b) Quality Assurance Package Scheme: This provides a complete monitoring of product quality from its basic materials, through the manufacturing processes, until the goods are ready for shipment.

We at the Federation like to think that our efforts have in recent years helped to raise the quality image and standards of Hong Kong products overseas and particularly in the industrialized countries such as the United States of America and Western Europe. Such momentous work would have normally been taken up by such organization as a bureau of standard at tremendous public expense in any country, but the Federation prouds itself for having done so with a minimal assistance of less than quarter of a million dollars per year from Government.

The approval of this Bill by Council will help the Federation in its effort to promote industrialization, and with sufficient Hong Kong products meeting the Seal of Approval tests, the Federation intends to put up a 'Buy Hong Kong' quality goods exhibition later this year and with a new dimension.

With the increasing volume of activities, the Federation also needs new ideas and additional help, and the proposal to increase the membership of its General Committee has therefore come not-too-soon.

Sir, with these remarks I support the motion.

Question put and agreed to.

Bill read the second time.

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

MERCHANT SHIPPING (AMENDMENT) (NO 2) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS) (AMENDMENT) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

BOILERS AND PRESSURE RECEIVERS (AMENDMENT) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

MR JAMES WU:—Sir, I agree with the Senior Member, Sir SZE-YUEN, when he spoke on this Bill in our last meeting. I understand that the Bill is concerned only with receivers connected to a compressing plant but the calamitous accidents that occurred in Spain and Mexico in the last 2 weeks should have impressed upon us the importance of dealing with compressed gases, inert or otherwise.

In fact, those who were in Hong Kong some 43 years ago could remember the tragedy at West Point, where leakage of a gasometer caused fires to a large area of several streets causing many deaths and casualties.

Compressed gases would be increasingly used as industrial activities and standard of living rise. It is important that we be aware of its conveniences and menaces, and increased efforts by the Labour Department in devising

preventive measures and education by way of lectures and posters at work places are clearly indicated.

Sir, I support the motion.

COMMISSIONER FOR LABOUR:—Sir, on 5 July 1978 I presented to this Council the amendment Bill including a proposal to extend the application of the Ordinance to vessels containing compressed inert gases which are connected to an air or gas compressing plant. At that meeting the Honourable Sir S. Y. CHUNG pointed out that in view of the greater hazards associated with non-inert gases as against inert gases, priority of imposing any additional controls should be given to compressed non-inert gases. However, if controls were simply to be extended to non-inert gas containers it would at once affect, for example, the numerous refrigerated installations, viz. air conditioning plants in large commercial and public building, cold storages and ice plants. This would enormously increase the scope of enforcement of the Ordinance. Besides, it is doubtful if similar rigid control on, for example, refrigerated systems is exercised anywhere else or is indeed necessary. A much more detailed study would be needed to establish criteria for which vessels containing non-inert gases which are connected to air or gas compressing plant control. Therefore since we cannot proceed with the non-inert gases at present I have decided for the time being to delete the reference to my proposal to extend the application of the Ordinance to vessels containing compressed inert gas and will propose the necessary amendment at the Committee Stage. There are in any case very few of these installations and individual advice can be given to the proprietors of such equipment.

At present some control of containers which held non-inert gases, particularly the gases which can support combustion is provided under the Dangerous Goods Ordinance which is administered by the Director of Fire Services. I must thank my honourable Friend Mr WU for his timely reminder about the extreme dangers of some forms of compressed non-inert gases. These controls are more likely to fall under the Dangerous Goods Ordinance than under the Bill at present under debate. These controls are in respect of the manufacture, storage and transport of compressed gases. However, it is not clear whether these controls are adequate or appropriate particularly in the increasingly complex plant technology met in industries. As I mentioned in my speech when I introduced the Bill, a report will be compiled by my Department on this problem in the next few months after consultation with the Director of Fire Services and others. I shall be setting up a study group for the purpose. I expect that by the time the report on the control of non-inert gas containers is ready the outcome of the UK Health and Safety Commission consultations on the possibility of introducing new legislation to cover complete pressure systems in industry rather than restricting it to defined items of pressure equipment would also be known. I will then consider making proposals seeking further amendments in respect of this Ordinance or other legislation.

Question put and agreed to.

Bill read the second time.

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

DUTIABLE COMMODITIES (AMENDMENT) (NO 2) BILL 1978

Resumption of debate on second reading (5 July 1978)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

Committee stage of bills

Council went into committee.

AUDIT (AMENDMENT) BILL 1978.

Clauses 1 to 4 were agreed to.

INLAND REVENUE (AMENDMENT) (NO 3) BILL 1978

Clause 1

THE FINANCIAL SECRETARY:—I move that clause 1 be amended as set out in the paper circulated to Honourable Members.

Proposed amendment

Clause 1

That clause 1 be amended by deleting '(No 3)'

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 and 3 were agreed to.

INLAND REVENUE (AMENDMENT) (NO 4) BILL 1978

Clause 1

THE FINANCIAL SECRETARY:—I move that clause 1 be amended as set out in the paper circulated to Honourable Members.

Clause 1

That clause 1 be amended by deleting '(No 4)' and substituting the following—
'(No 2)'

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2 was agreed to.

TRAINING CENTRES (AMENDMENT) BILL 1978

Clauses 1 to 3 were agreed to.

FEDERATION OF HONG KONG INDUSTRIES (AMENDMENT) BILL 1978

Clauses 1 to 3 were agreed to.

MERCHANT SHIPPING (AMENDMENT) (NO 2) BILL 1978

Clauses 1 and 2 were agreed to.

MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS) (AMENDMENT) BILL 1978

Clauses 1 to 7 were agreed to.

BOILERS AND PRESSURE RECEIVERS (AMENDMENT) BILL 1978

Clauses 1 and 2 were agreed to.

Clause 3

COMMISSIONER FOR LABOUR:—I move that clause 3 be amended as set out in the paper circulated to Honourable Members.

Proposed amendment

Clause 3

That clause 3 be amended—

(a) in subclause (1)—

(i) by deleting paragraph (a); and

(ii) by deleting paragraph (c) and substituting the following—

‘(c) by inserting after the definition of “factory inspector” the following definition—

“ “inspector (land boilers)” means a public officer who has been appointed as an inspector (land boilers) under section 4(1)(d);”; and’; and

(b) by deleting subclause (2).

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 to 27 were agreed to.

DUTIABLE COMMODITIES (AMENDMENT) (NO 2) BILL 1978

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

AUDIT (AMENDMENT) BILL

TRAINING CENTRES (AMENDMENT) BILL

FEDERATION OF HONG KONG INDUSTRIES (AMENDMENT) BILL

MERCHANT SHIPPING (AMENDMENT) (NO 2) BILL

**MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS)
(AMENDMENT) BILL****DUTIABLE COMMODITIES (AMENDMENT) BILL**

had passed through committee without amendment and that the

INLAND REVENUE (AMENDMENT) (NO 3) BILL**INLAND REVENUE (AMENDMENT) (NO 4) BILL****BOILERS AND PRESSURE RECEIVERS (AMENDMENT) BILL**

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

Question put on each bill and agreed to.

Bills read the third time and passed.

UNOFFICIAL MEMBER'S BILL**First reading of bill****GIRL GUIDES ASSOCIATION (HONG KONG BRANCH) (AMENDMENT) BILL
1978**

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

Second reading of bill**GIRL GUIDES ASSOCIATION (HONG KONG BRANCH) (AMENDMENT) BILL
1978**

MR F. W. LI moved the second reading of:—‘A bill to amend the Girl Guides Association (Hong Kong Branch) Ordinance.’

He said:—Sir, the purpose of this Bill is to allow the girl guide movement in Hong Kong to continue with its very useful and important activities in its recently acquired new role as an independent member of the world organization. More specifically, it provides for the incorporation of a new body corporate—the Hong Kong Girl Guides Association—to succeed to the rights

and obligations of the Girl Guides Association (Hong Kong Branch), removes the criminal sanction in section 6 of the principal Ordinance and increases the penalty for offences against that Ordinance from \$250 to \$5,000.

Motion made. That the debate on the second reading of the Bill be adjourned—MR F. W. LI.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I adjourn the Council until 2.30 pm on Wednesday the 2 August.

Adjourned accordingly at six minutes past four o'clock.