

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 29 January 1986****The Council met at half-past Two o'clock****PRESENT**

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

THE HONOURABLE THE CHIEF SECRETARY
SIR DAVID AKERS-JONES, K.B.E., C.M.G., J.P.

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

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

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

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

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

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

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

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

THE HONOURABLE HU FA-KUANG, O.B.E., J.P.

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

THE HONOURABLE CHAN KAM-CHUEN, O.B.E., J.P.

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

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.

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

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

THE HONOURABLE MARIA TAM WAI-CHU, O.B.E., J.P.

DR. THE HONOURABLE HENRIETTA IP MAN-HING

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

THE HONOURABLE CHAN YING-LUN

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN

THE HONOURABLE PETER POON WING-CHEUNG, M.B.E., J.P.

THE HONOURABLE YEUNG PO-KWAN, C.P.M.

THE HONOURABLE JAMES NEIL HENDERSON, O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE KIM CHAM YAU-SUM, J.P.

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E., J.P.
SECRETARY FOR TRANSPORT

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

THE HONOURABLE CHENG HON-KWAN

THE HONOURABLE HILTON CHEONG-LEEN, C.B.E., J.P.

DR. THE HONOURABLE CHIU HIN-KWONG

THE HONOURABLE CHUNG PUI-LAM

THE HONOURABLE THOMAS CLYDESDALE

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

THE HONOURABLE HUI YIN-FAT

THE HONOURABLE RICHARD LAI SUNG-LUNG

DR. THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

THE HONOURABLE LEE YU-TAI

THE HONOURABLE LIU LIT-FOR, J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI

PROF. THE HONOURABLE POON CHUNG-KWONG

THE HONOURABLE HELMUT SOHMEN

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE CHI-WAI, O.B.E., J.P.

THE HONOURABLE ANDREW WONG WANG-FAT

THE HONOURABLE HAIDER HATIM TYEBJEE BARMA, J.P.
SECRETARY FOR HOUSING (*Acting*)

ABSENT

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

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR. LAW KAM-SANG

Papers

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

Subject *L.N. No.*

Subsidiary Legislation:

Public Health and Urban Services Ordinance. Public Health and Urban Services (Public Markets) (Designation and Amendment of Tenth Schedule) Order 1986	10
Legal Practitioners Ordinance. Admission and Registration (Amendment) Rules 1986	11
Marine Fish (Marketing) By-Laws. Assumption of Responsibility for Markets (Consolidation) (Amendment) Notification 1986	12
Shipping and Port Control Regulations. Shipping and Port Control Regulations (Amendment of Third Schedule) Notice 1986	13
Public Health and Urban Services Ordinance. Declaration of Markets in Urban Areas 1986.....	14
Census and Statistics Ordinance. Census and Statistics (1986 Population Census) (Marine) Order 1986	15
Census and Statistics Ordinance. Census and Statistics (1986 Population Census) (Land) Order 1986.....	16

Sessional Papers 1985-86:

No. 35—Hong Kong Examinations Authority—Programme of Activities with Auditors' Report and Balance Sheet and Statement of Income and Expenditure together with Statement of Receipts and Payments during the period from 1 September 1984 to 31 August 1985.

No. 36—Vocational Training Council Annual Report 1984-85.

No. 37—Supplementary provisions approved by the Urban Council during the third quarter of the financial year 1985-86.

Oral answers to questions

Information on activities of Trade Advisory Board and Industrial Development Board

1. MR. CLYDESDALE asked: *As far as I am aware neither the Trade Advisory Board nor the Industrial Development Board regularly publishes reports or information about its work or its recommendations. In view of the significant decline in the growth of Hong Kong's exports in 1985 will Government consider publishing information or much more information about the work of these two boards since they are so important to the on-going development of Hong Kong's trade and industry?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, may I first observe that the provisional trade figures for December 1985 show that domestic exports for that month registered a growth over both December 1984 and November 1985. Accordingly, while the lack of growth in our exports for 1985 as a whole over 1984 is disappointing, we should not allow that point to cause despair. As I said in this Council on 11 December 1985, 1984 was an extraordinarily good year and our export performance in 1985 over 1983—in itself a year of considerable growth—shows reasonable progress over a two-year period.

That said, the Trade Advisory Board (TAB) advises Government on matters affecting Hong Kong's trade, other than trade in textiles and garments. The Industry Development Board (IDB) advises Government on all industrial matters other than labour and those falling within the purview of the Textiles Advisory Board.

Information on important issues under consideration, recommendations made and other activities of the two boards is at present regularly made known to the public through suitable publicity arrangements such as the issue of press statements and features, speeches in public fora, briefings and interviews given to the media. Of course, members of the two boards also disseminate information about the work of the boards to the many trade and industrial organisations to which they belong. In the case of the IDB, consultative documents are issued to the trade where appropriate. For the TAB, notification to the trade of new developments are sometimes covered in Commercial Information Circulars issued by the Trade Department. The role, functions and activities of the two boards are also highlighted in relevant Government publications such as the Hong Kong Annual Report and in the case of the IDB promotional materials produced by the Industry Department.

PROF. POON: *Sir, has the Government any plan to enhance the co-operation between the Trade Advisory Board, and/or the Trade Development Council and the Industry Development Board, such as through a suitably constituted co-ordinated commission, for a more co-ordinated policy to help the weakening local industry?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the Government has no plans to integrate further the work of the three separate bodies. But, of course, there is a large degree of common membership between the various bodies and the Government departments concerned work in close co-operation with the TDC.

Concessions for elderly citizens

2. MR. CHEONG-LEEN asked: *Will steps be taken to set up and co-ordinate a system for the issuance of 'senior citizen cards' whereby senior citizens, say aged 65 or over, can be given certain privileges or special rates in the use of suitable public community facilities or services?*

SECRETARY FOR HEALTH AND WELFARE: Sir, there are a large number of schemes operated at the district level which provide services for the elderly at concessionary rates. These are mainly initiated and co-ordinated by voluntary organisations such as welfare agencies, service clubs, and partly district boards. The services provided include private medical treatment at special rates, reduced fares on maxicabs, and a number of shops and restaurants give discounts to elderly customers. I do not think that there would be much to be gained by Government being involved in the co-ordination of schemes of this kind.

Public services for the elderly are normally either free or heavily subsidised and the question of concessionary rates level does not usually arise.

MR. CHEONG-LEEN: *Sir, what concessionary rates have been provided by the MTR at present, and if there are none, will the Secretary put forward this suggestion to the MTR?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as I am aware, there is no concessionary rate for elderly people on the MTR and I have to discuss with the Director of Social Welfare whether it will be appropriate to discuss with the corporation this possibility.

MR. HUI: *Sir, would it be possible for the Government to take initiative in discussing with semi-public bodies, like the Urban Council, Ocean Park, bus and ferry companies for concessionary rates for elderly people which are already common features extended to senior citizens in many developed countries?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I understand that the Regional Council in the New Territories is introducing some form of concessionary rates for elderly people for some of their activities. The question of concessionary rates on transport has been considered in the past but has not been followed up. I will, as promised in the previous question, discuss the possibility of doing this with the Director of Social Welfare.

MR. YEUNG: *Sir, how many district boards are actually involved in the co-ordination of the welfare schemes for the elderly and what positive attitude does the Government adopt in encouraging the district boards to take the initiative?*

SECRETARY FOR HEALTH AND WELFARE: *Sir, I am aware of at least 10 districts in which the district board has taken action of this sort. Certainly, this is something which we would encourage.*

Hong Kong as drug transit centre

3. MR. LIU asked (in Cantonese): *It was recently alleged in a United Nations report that Hong Kong has become one of the three main drug transit centres in the Asian Region, thus seriously affecting Hong Kong's international image, Will Government inform this Council:*

- (a) of the number of cases in which Hong Kong residents were prosecuted for international drug trafficking in the past three years; and*
- (b) whether Government intends to take any action to refute the allegation so as to uphold Hong Kong's international image?*

ATTORNEY GENERAL: *I believe Mr. LIU Lit-for's question refers to the annual report for 1985 of the International Narcotics Control Board. What that said is, and I quote, 'Hong Kong serves as a transshipment point for heroin destined for Australia and the United States'. The board did not attempt to compare Hong Kong's international drug traffic with that of other centres in the region.*

The figures show that in the past three years, there have been eight prosecutions in Hong Kong of residents attempting to smuggle drugs out of Hong Kong and 21 prosecutions overseas involving Hong Kong residents in drug trafficking offences. Altogether 42 Hong Kong residents were implicated as drug couriers in these cases, and some 75 kilograms of illicit drugs were seized.

On the basis of these figures, it is not possible to refute the board's actual statement. But it is true that the board's observation has been misrepresented and the impression has been given that Hong Kong is a major drug re-exporting centre. The Government has, through press statements and through interviews, drawn attention to the lack of evidence on this point. However, given Hong Kong's geographical position, the good air and sea communications, and the millions of people who arrive and depart each year, it would not be surprising if Hong Kong were used from time to time to facilitate the distribution of drugs internationally. Sir, effective action by the police and customs in recent years has done much to restrict the use of Hong Kong for transshipment. The risk to traffickers of detection in re-exporting illicit drugs from Hong Kong is thought to be high.

Over the years, Hong Kong's anti-narcotic efforts have been much appreciated in international circles. If I may quote again from the report of the International Narcotics Control Board for 1985:

'The Hong Kong authorities are vigorously pursuing enforcement efforts, as well as treatment and prevention activities. It is believed that the co-ordinated programmes of the Action Committee Against Narcotics are having an impact on the heroin problem'.

MR. LIU (in Cantonese): *Sir, in view of the fact that drug trafficking is an international problem and has effects on the people of Hong Kong, is the Government considering amending the laws in order to increase the penalty for offenders?*

ATTORNEY GENERAL: Sir, if I may interpret the question to apply to the penalties for this particular kind of offence, I would like to remind Members that maximum penalty for trafficking in dangerous drugs is imprisonment for life and a fine of up to \$5 million (that is provided under the Dangerous Drugs Ordinance). The Government certainly believes this is adequate. Of course, the actual sentence in a particular case must be assessed in the light of the particular circumstances of that case.

MR. CHAM: *Sir, are there any prosecutions of non-residents attempting to smuggle drugs out of Hong Kong in the past three years?*

ATTORNEY GENERAL: Sir, the answer is yes. I can also say the number of persons involved is seven.

MRS. FAN: Same question, Sir.

MR. HUI: *Sir, can I ask whether the Government is happy or satisfied with the recent fines imposed on these criminals?*

ATTORNEY GENERAL: If one reviews the sentences over the last three years, the average sentence of those convicted in Hong Kong for drug trafficking is some seven years imprisonment. The range of sentence is between five years and eight years. I do not think the Judiciary would impose in any case a mere fine for a drug trafficking offence.

Oil depot

4. MR. POON CHI-FAI asked (in Cantonese): *It was pointed out by Government at the fourth meeting of the Kwun Tong District Board on 29 October 1985 that the Cha Kwo Ling Shell Oil Depot constituted a hazard to the Kwun Tong District. Will Government inform this Council:*

- (a) *to what extent are the industrial and residential areas in Kwun Tong affected by the oil depot;*
- (b) *whether Government has decided to remove the oil depot and if so, when is the removal date; and*
- (c) *before the oil depot is removed, does Government have any safety measures to prevent accidents at the depot and to ensure the safety of residents and workers in the district?*

SECRETARY FOR LANDS AND WORKS: Sir, the Shell Oil Depot at Cha Kwo Ling is one of a number of similar facilities which, by virtue of the fact that they store large quantities of flammable liquids and liquefied gases constitute a potential and I stress potential hazard to neighbouring development in the unlikely event of a fire or other accident. In ideal circumstances, all installations which pose even the slightest risk would be located away from population centres, but Hong Kong's very limited land resources make this unrealistic.

The Government is satisfied that the existence of this depot does not, under present circumstances, pose an unacceptable risk to the neighbouring areas of Kwun Tong, which are largely industrial in character. No decision has been taken to relocate the depot although the Shell Company has recently proposed to the Government a number of options which would reduce, still further, any possible risk to public safety from their storage installations. These initiatives are welcomed by the Government and are being carefully considered.

I would like to emphasise, Sir, that storage depots such as the one at Kwun Tong are operated to the highest international standards of safety and fire protection. All categories of dangerous goods within the depot are separately licensed. Every licence is subject to annual renewal which requires an inspection by staff of the Fire Protection Bureau of the Fire Services Department to ensure that all safety requirements have been complied with. In addition to these regular visits a major exercise is held, on average once a year, involving Fire Services personnel and staff of the depot to ensure that, in the event of any incident, fire fighting resources would be swiftly mobilised and co-ordinated to maximum effect.

In addition to annual inspection, the storage of liquid petroleum gas at the depot is also monitored, at quarterly intervals, by experienced engineers of the Gas Adviser's Office of the Electrical and Mechanical Services Department and a number of refinements and improvements to facilities have been implemented.

MR. POON CHI-FAI (in Cantonese): *Sir, did the working group under the EPA on potentially hazardous installations recommend a 990-metre radius distance from that area to be zoned high risk? If so, it will be contradictory to the reply given. Furthermore how is the international standard of safety and fire protection set? I understand that if an incident only takes place once every million years no precautionary measures are necessary but if it occurs 100 times in a million years then precautionary measures will be required. The THA in Cha Kwo Ling is much*

closer to an oil depot than is Melody Gardens in Tsing Yi. What are their hazard probabilities?

SECRETARY FOR LANDS AND WORKS: Sir, it is true that the EPA has recommended that within a radius of approximately 1 000 metres from the depot, we should, as a planning policy, not have population but, as I said in my reply, due to our very limited land resources this planning objective is unrealistic. Mr. POON refers to the relative hazard probability of this installation to that of the Tsing Yi installation and I would say they are of roughly about the same order of risk but I must emphasise that the risk is very very slight indeed. To say that a happening of 100 times in a million years is acceptable or not acceptable is perhaps not all that meaningful. What is more meaningful is to ensure that the safety standards are the highest that can be achieved within reasonable and practical means and I am sure that the Fire Services Department's personnel together with the engineers from the Gas Adviser's Office of the Electrical and Mechanical Services Department and the personnel at the Shell depot have done adequately to ensure that the actual risk of a catastrophic fire happening is reduced to the absolute minimum.

MR. CHENG: *Sir, as reference has now been made to the Shell Company's proposal to reduce possible risk to public safety, will the Government advise this Council whether or not this proposal was made as a result of the annual inspections required by the Oil Installation Regulations? If the answer is negative, why was this proposal initiated?*

SECRETARY FOR LANDS AND WORKS: Sir, these various options that are proposed by the Shell Company were done at their own initiative. Of course because of the annual inspection and also the regular inspections by the engineers from the Electrical and Mechanical Services Department, refinements and improvements to the whole system have at regular intervals been recommended to the Shell Company which have readily accepted the recommendations and have them implemented.

MR. LEE YU-TAI: *Sir, can I say that in view of the incident at Sha Tin City One a few days ago, potential dangers such as an oil depot can turn into a great disaster in a densely populated area. Would the Administration take note of this point and relocate potential danger before large scale urban development projects take place in the future?*

SECRETARY FOR LANDS AND WORKS: Sir, I am certainly aware of what has happened over the weekend at Sha Tin. Obviously that goes more to show that it is absolutely necessary to ensure that the fire prevention measures and the fire fighting drills at the depot are really vigourously enforced.

MR. JACKIE CHAN (in Cantonese): *Sir, according to Mr. POON, under the international standard the area within a radius of 990 metres from an oil depot is a high risk zone; how many areas are there in Hong Kong that will fall into this category?*

SECRETARY FOR LANDS AND WORKS: *Sir, I can say that most of the similar installations in Hong Kong would have some population within a distance, as quoted by Mr. POON, of 990 metres. But as I said before because of the very scarce land resources in Hong Kong, it is just not practicable to achieve such distances in the immediate future.*

MR. CHEONG: *Sir, I accept the Secretary for Lands and Works's explanation in respect of the practicability of the situation. Would the Government please then inform and liaise with the EPA that in working out their guidelines they must be practicable as well?*

SECRETARY FOR LANDS AND WORKS: The various other branches and departments concerned with planning standards and safety of installations are, of course, in constant discussion with the EPA through various forums such as the Lands Development Policy Committee and so on and I am sure Mr. CHEONG's point will be duly noted.

MR. POON CHI-FAI: My question has already been asked by my colleagues. Thank you.

Monitoring of public utility and transport companies

5. MR. LEE YU-TAI asked: *How would the Government ensure promises are fulfilled by public utility and transport companies which agree to improve their services each and every time a revision in tariff or fare is granted?*

FINANCIAL SECRETARY: *Sir, responsibility for the quality of the service provided by privately owned public utility and transport companies rests primarily with the management of those companies. The community looks to the Government to ensure that the monopoly style services provided are efficient and reliable and are provided at a reasonable cost. In this latter regard the schemes of control play a major part.*

Judging by comments in the media and elsewhere public opinion appears to indicate that while the quality and cost of service provided by the electricity and telephone companies is presently acceptable, there continues to be a degree of concern about the quality of service provided by, for example, some of the transport companies.

The monitoring by the Government of the quality of service provided by public utility and transport companies is a continual process. It is certainly not limited only to those occasions on which a company applies for an increase in tariffs or fares. There is regular and close liaison between the Government and the public utility and transport companies to ensure that the management of those companies takes the action necessary to maintain the level of service which the Government considers should be provided.

MR. LEE YU-TAI: *Sir, given as a Monopoly's Commission, will a concept of such a setup be of relevance to and useful for the Hong Kong situation?*

FINANCIAL SECRETARY: No, Sir, because the schemes of control take its place.

Monitoring of quality of television programmes

6. MRS. NG asked (in Cantonese): *Will Government inform this Council what actions, if any, would be taken by Government if television dramas contain serious discrepancies from what is recorded in historical publications?*

CHIEF SECRETARY: Sir, section 26 of the Television Ordinance requires that the programmes broadcast by commercial licensees 'maintain a high general standard of quality'. If such a requirement is not met, the Commissioner for Television and Entertainment Licensing may write to the licensee requiring him to take action to improve the programme quality. If therefore the commissioner felt that a television drama contained serious historical inaccuracies and that the licensee should be warned of this, he would in the first instance write to the licensee concerned. He has in fact written to one of the television licensees on this subject recently on the advice of the Television Advisory Board.

The commissioner recognises however that many purportedly historical dramas on television normally contain a degree of dramatic licence. Because of this, the commissioner exercises his powers with great care.

MRS. NG (in Cantonese): *Sir, if the Commissioner for Television and Entertainment Licensing has sent warning letters to the licensee and yet no improvement has been effected, what further action can be taken by the Government?*

CHIEF SECRETARY: I think in a case like this, public opinion is very important indeed. It is not really a question of a complaint from individuals really but it is the bar of public opinion which can be better brought to bear upon the licensee.

MR. SZETO (in Cantonese): *Sir, can the Government inform this Council whether the Commissioner for Television and Entertainment Licensing has recently issued warnings to television stations for seriously distorting historical facts in order to*

create dramatic effect in certain programmes and if this has not been done, why? Is it because the staff in this particular office knows very little about Chinese history?

CHIEF SECRETARY: Well, Sir, our knowledge of Chinese history varies from person to person but I am quite sure that the commissioner has in his office persons sufficiently well versed in history to be able to make those judgements and perhaps I could supplement my answer to Mrs. Pauline NG'S question as to whether the Television Authority has any further powers; he could of course write to the licensee to prohibit a particular programme should he decide that was the course of action which the public would support. But we do know that authors of television programmes from the Muppets to historical dramas such as Shakespear take a great deal of licence with history.

MR. YEUNG: *Sir, how frequent did the Commissioner for Television and Entertainment Licensing give warnings to the licensees in the past 12 months with respect to improvement of programme quality and serious historical inaccuracies?*

CHIEF SECRETARY: I haven't those figures with me, Sir, but I will let the Member know. (Annex I)

MR. MARTIN LEE: *Sir, will the Administration please clarify as to how public opinion can effectively stop a commercial television station from telecasting a serial drama five nights a week portraying Sir Winston Churchill for example as a kung fu expert?*

CHIEF SECRETARY: I think the answer to that question, Sir, is that the best way to do this is to switch off the television set because the commercial licensees monitor the amount of viewers that they are getting for particular programmes and if there are no viewers, then there will be no advertisers and that will be the end of the station.

Workload of medical consultants

7. DR. CHIU asked: *In view of the heavy workload of medical staff in Government hospitals, will the Government inform this Council:*

- (a) what is the ratio of consultant to patients in Government hospitals recommended by the Medical Development Advisory Committee;*
- (b) what is the actual ratio in Government hospitals at present; and*
- (c) what measures will the Government take to improve this situation?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Medical Development Advisory Committee reviews the projected overall requirements and provision of manpower in the medical field but does not review the need for doctors of a specific rank or holding particular qualifications.

At present a consultant in a clinical unit of a regional hospital is in charge of about 120 beds. However, while the consultant has overall responsibility for patient care, it must be emphasised that there are also a number of other senior medical staff holding similar qualifications in each of the clinical units who share with him the duties of providing specialist care to patients.

The subject of the ratio of consultants to hospital beds has been addressed in the report on the delivery of medical services in hospitals, which subject to the approval of the Executive Council, will be published shortly as a consultative document.

DR. CHIU: *The responsibility of a consultant is to make independent clinical judgment for patients. As the heavy workload of 120 beds per consultant is shared by a number of the senior medical staff, will the Government inform this Council what recognition would be granted to these senior medical staff who are actually performing the duties of a consultant?*

SECRETARY FOR HEALTH AND WELFARE: Sir, this is one of the matters on which I hope the consultant's report will enable us to reach a conclusion.

DR. LAM (in Cantonese): *Sir, since the Government has not reviewed the need for consultants, what means does the Government use to determine the extent to which certain consultants, such as consultants for neurosurgery or anaesthesia and so on are lacking? The first and third questions don't seem to have been answered. Is it because the information asked for in the first question is confidential? Can I take the failure to answer the third question to mean that the Government thinks that the current situation is quite satisfactory?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the question asked by Dr. CHIU was: what was the ratio of consultants recommended by the Medical Development Advisory Committee and my answer was related to that question. The Government does have an establishment in each hospital of the number of doctors of different levels and different qualifications. While taken together with the number of other doctors, senior medical officers and so on, who also have post-graduate qualifications the ratio at present is thought to be reasonably adequate though, of course, we are never completely satisfied. Once again this is a matter which the consultants were asked to advise on and I am looking forward to being able to put forward their proposals very shortly.

Inspection of factories

8. MR. TAM asked (in Cantonese): *Will Government make a statement on the system of inspecting industrial safety in factories, especially with regard to:*

- (i) *the criteria used in determining the priority of inspections;*
- (ii) *the number of staff responsible for carrying out inspections;*
- (iii) *the frequency of inspections; and*
- (iv) *whether Government is satisfied with the present system?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, to take the points raised by Mr. TAM in order:

(i) The Factory Inspectorate Division of the Labour Department uses a rating system to establish the priorities for routine inspection of factories. Individual factories are rated according to their hazard potential as determined by factors such as the nature of the industrial processes involved, the complexity of the plant, the nature of the premises, the number of employees and the past record of accidents and prosecutions. The greater the potential hazard assessed on this basis, the higher the number of points awarded and the higher the frequency of inspection.

(ii) At present, the Factory Inspectorate has a strength of 187 inspectors, 130 of whom are assigned to inspection of factories. A further 33 are engaged in inspection of construction sites and the remainder in various support functions, including training and prosecution work.

(iii) The frequency of routine inspections varies from once in six months in the case, for example, of a large factory with high hazard potential to once in a maximum of 54 months in the case of, say, a small, very low-risk factory with a good safety record. In addition to routine inspections, special investigations are undertaken in the case of serious or fatal accidents or complaints. Follow-up inspections for enforcement purposes are also normally made within one to three months where a need for safety improvements has been identified.

(iv) The present system of inspection is working satisfactorily and every effort is made by the department to maximise the effectiveness of inspection within present constraints upon manpower levels. As and when circumstances permit, the department has plans for expansion of the factory inspectorate to around 250 inspectors. This would enable the frequency of inspections to be increased.

MR. TAM (in Cantonese): *Sir, how many factories are there that are inspected once every four years? As they are inspected so infrequently, will there be a lapse in the efforts to increase industrial safety?*

SECRETARY FOR EDUCATION AND MANPOWER: I am not sure that I can give you the exact number, Sir, but of course as most people here will know, a very high proportion of Hong Kong's factories are small in nature. I should perhaps emphasise that in the system of rating of which the most hazardous are over 130 points, the group above the lowest group, that is from 41 to 60 points, we manage to review with the frequency of about 18 months.

MRS. TAM: *Sir, point 4 of the answer says that as and when circumstances permit the department will expand the Factory Inspectorate to around 250 inspectors. Can I ask the Secretary what are the circumstances he is referring to?*

SECRETARY FOR EDUCATION AND MANPOWER: The circumstances referred to here. Sir, are the ability for us to grow in relation to resources as Members are aware there is low growth in the Civil Service at the present time.

DR. HO: *Sir, will the Government inform this Council, (1) by what year roughly will the Government achieve the expansion target of 250 inspectors; and (2) what is the annual wastage rate of the trained factory inspectors through retirement, resignation or transfer?*

SECRETARY FOR EDUCATION AND MANPOWER: The first question, Sir, I cannot give a definite answer to because it depends on the resources becoming available to increase the inspectorate to that number. With regard to the second question I will write to the Member concerned. I do not have the figures with me. (Annex II)

Billiard clubs

9. DR. TSE asked (in Cantonese): *In the light of recent law and order problems involving billiard saloons in private clubs, will Government inform this Council what measures will be taken to improve the situation in these establishments?*

ATTORNEY GENERAL: Sir, billiard saloons that are open to the public are subject to licensing control and the police have powers of entry. They regularly visit licensed billiard saloons for the purpose of ensuring that good order is maintained on the premises.

But billiard saloons which are run by private clubs and are not open to the public are not subject to licensing and the police do not have powers of entry. Police action is, however, possible if it can be shown that the club is a sham and no more than a device to avoid the need for licensing. A number of prosecutions are pending before the courts in such cases.

Sir, this Council was informed on 26 June 1985 that the Secretary for Municipal Services was examining the issue of whether and how some measure of control should be introduced over unlicensed billiard clubs. Since then, both within the Administration and the Urban Council, which is the licensing authority for public billiard saloons in the urban area, there has been agreement that billiard clubs should be controlled in the same way as licensed public billiard saloons. What has not been agreed yet is how best both types of billiard saloons should be controlled.

An exercise to gauge public opinion is under way and proposals to amend the law will be introduced into this Council in the light of the outcome.

Sir, although a number of recent cases have attracted public attention, the relative incidence of crime in billiard saloons and billiard clubs is not unduly high. There was a total of 230 cases in the whole of 1985. And there are 48 billiard saloons and at least 130 billiard clubs—that is on average not much more than one case each year in each establishment. But there has been a disturbing increase in the second half of 1985, probably associated with the increase in the number of unlicensed billiard clubs. I can assure Members that the Government will be taking steps to bring unlicensed billiard clubs under control and open to the police to ensure that law and order is maintained in these establishments.

DR. TSE (in Cantonese): *Sir, would the Attorney General please clarify how many prosecutions are pending before the courts in such cases?*

ATTORNEY GENERAL: I made enquiries on the very same point a day or two ago but I have not yet been furnished with the information. As soon as I have it I shall reply to the question. (Annex III)

MR. ANDREW WONG (in Cantonese): *Sir, will the Government inform us among the 230 cases in 1985 how many occurred in billiard saloons and how many in billiard clubs?*

ATTORNEY GENERAL: Sir, I do not have the breakdown between the two categories. I understand they are not in the police records differentiated.

MRS. TAM: *Sir, may I ask about the 230 criminal cases that were recorded in billiard saloons and clubs in the whole of 1985? What are the nature and characteristics of these criminal activities and did most of these criminal activities involve young people?*

ATTORNEY GENERAL: Sir, I can give a breakdown of the 230 cases: one of homicide, 74 of assault, eight robbery, two blackmail, two of arson, 33 of criminal damage to property, three keeping of vice establishment, 20 cases of burglary, 34 cases of theft, three cases of against public order, three of intimidation, 13 of obtaining pecuniary advantage by deception, 32 in relation to being an unlawful society or connected with unlawful society and two for possession of an offensive weapon. So far as young persons are concerned, on the basis of the available crime statistics, the police are not able to say the extent to which young people have been involved but the police are concerned with the potential effect of young persons mixing with undesirable elements in billiard saloons and clubs so the police generally would tend to favour some age limits being imposed for such establishments at the appropriate time.

MRS. CHOW: *Sir, can we be informed how many such billiard clubs exist and what is Government's plan to prosecute such billiard club? In other words would there be a sort of time frame within which all these illegal establishments would be charged?*

ATTORNEY GENERAL: Sir, as I indicated in my answer there are thought to be at least 130 billiard clubs. It must be recognised that a large number of them are probably well-run clubs, legitimate clubs, and as such they are presently beyond the reach of the law. It is only those clubs which are thought to be shams because of the ease of public access that are amenable presently to prosecution. But as I also said, what is intended is that billiard clubs like public billiard saloons should be brought under some measure of control, but that point of time has not been reached.

Written answers to questions

Shortage of medical doctors

10. DR. LAM asked: *Will Government inform this Council whether there is a problem of shortage of doctors, and if so:*

- (a) whether the shortage is in the private or the public sector, or both;*
- (b) whether the shortage is an overall one covering all medical fields or only in a few areas;*
- (c) how severe this shortage is;*
- (d) how this shortage of doctors has affected the public in terms of*
 - (i) the availability of health services in the territory; and*
 - (ii) the cost of such services; and*
- (e) what steps Government will take to improve the situation?*

SECRETARY FOR HEALTH AND WELFARE: According to the most recent review conducted by the Medical Development Advisory Committee the shortfall of doctors in the public sector in 1985 was 490 out of a total requirement of 2 510. However, it must be stressed that this number only represents a shortfall as against a requirement based on planning standards.

The current number of vacancies for doctors in the establishment of the public sector is 152 out of a total establishment of 2 162. This represents a vacancy rate of 7 per cent.

The Medical Development Advisory Committee has concluded that there is no method of adequately determining the demand for and shortfall of doctors in the private sector.

The vacancies in the public sector mainly occur in the less popular specialities such as anaesthesia and pathology.

While the shortage of doctors in the public sector may cause strain in some areas, the overall availability and quality of health services can none the less be maintained.

Measures taken by the Government to improve the situation include the establishment of a medical faculty in the Chinese University of Hong Kong which will produce its first group of qualified doctors in 1987, as well as overseas recruitment of doctors when vacancies cannot be filled locally, particularly in senior posts in anaesthesia, pathology, ENT and dermatology.

Image of Lockhart Road

11. MR. LEE YU-TAI asked: *The vicinity of Lockhart Road on the Hong Kong Island has been known as a 'Red Light District' or 'Susie Wong's World'. What is the Government prepared to do in order to improve its image?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, Government and the community at large probably share the same feeling that the 'Susie Wong's World' should eventually be a tale in the past. In fact the Susie Wong-type bars have gradually declined in view of urban re-development and decreasing customers. Many of the old four-storey tenement buildings, traditional sites of the Susie Wong-type bars, have now disappeared. With the end of the Vietnam war 10 years ago, visits by old customers, namely sailors from US Navy on R & R (rest and recreation) have decreased. There are only 18 bars, all licensed, in the vicinity of Lockhart Road. Businessmen are opening more discos and pub-type bars for social drinking in response to a changing demand.

Notwithstanding the foregoing, Government is never complacent about transforming the image of Wanchai into one with a modern outlook both in terms of development potential and adequate provision of community facilities. At the district level, the District Fight Crime Committee monitors the situation on vice-establishments and trends regularly. All unlicensed massage parlour have been removed and the 18 licensed ones are subject to legislative control. The number of vice-establishments has dropped in the past three years and the police has continued to conduct raids on these establishments as well as pornographic outlets from time to time. The Wanchai District Board has also accorded priority to anti-pornographic education and publicity campaigns which contributes to improving the image of Wanchai through joint community effort.

At the territory-wide level, the issues relating to further control of vice-establishments and obscene signboards would continue to be kept in constant review by the central Fight Crime Committee together with the relevant departments and branches concerned.

Overall, the image of Wanchai is changing bearing in mind the development of old sites into high-rise commercial and residential blocks and the extensive development of the Wanchai reclamation. The increase of new commercial and cultural complexes, for example, the Hong Kong Convention and Exhibition Centre, the Academy for Performing Arts, Hong Kong Arts Centre and so on, is giving the District a more polished image.

Statements

Census and Statistics (1986 Population Census) (Marine) Order 1986

Census and Statistics (1986 Population Census) (Land) Order 1986

FINANCIAL SECRETARY: Sir, the Orders now laid on the table of this Council authorises the Commissioner for Census and Statistics to conduct a by-census (marine) and a by-census (land) in 1986.

On 25 October 1983, the Governor in Council ordered that a population by-census should be conducted in 1986. There will in fact be two by-censuses, namely, a by-census (marine) to be carried out from 4 to 8 February 1986, and a by-census (land) to be carried out from 7 to 16 March 1986. Unlike a full census, a by-census involves only a sample of the population. On this occasion, about 210 000 households will be covered, of which about 1 000 will be marine.

The third annual report of the Vocational Training Council

MR. S. L. CHEN: Sir, laid before this Council is the third Annual Report of the Vocational Training Council covering the year 1984-85. Sir, at the request of Dr. Francis TIEN, the council chairman, I have the honour of introducing it on the council's behalf.

As Dr. TIEN says in the foreword of the report, 1984-85 was another successful and highly significant year for the council and for technical education and industrial training in Hong Kong. The highlight of the year was the completion of the Kowloon Bay Training Centre Complex which houses five training centres. The Kwai Chung Training Centre Complex too, which houses seven centres, was almost completed at the end of the reporting period. It is now in full operation. With the completion of these multi-discipline training centre complexes, built to meet the needs of industry, Hong Kong can be justly proud of these unique facilities.

Another significant milestone was the coming into operation during the year of the council's Management Development Centre. This centre has the important task of remedying weaknesses in management and supervisory training

in Hong Kong pin-pointed by the Advisory Committee on Diversification in 1979. These were the lack of co-ordination between institutions providing training, the lack of research into the type of training which would meet the specific needs of Hong Kong's managers and the subsequent development of suitable programmes and the lack of an appropriate machinery to promote these programmes.

Also during the year, the Government allocated land to the council at Tai Lam East in the New Territories to build a permanent seamen's training centre to replace the temporary one at Little Sai Wan. The Government further approved the council's proposals for a Precision Tooling Training Centre, a Gas Industry Training Centre and an Insurance Training Centre. Of these, the Gas Industry Training Centre is already operational.

Technical education made significant strides forward in the period under review. The construction of two technical institutes at Sha Tin and Tuen Mun was started and the planning work for another at Chai Wan was completed during the year. The Sha Tin and Tuen Mun institutes are scheduled for completion in 1986 and the Chai Wan institute in 1987.

Sir, such progress would not have been possible without the commitment and financial support of the Government as well as the support of the members of the council's training boards and committees and other groups which assist the council in formulating and executing its policies. However, it would be amiss of me if I do not compliment the council's staff for their hard work, dedication and professionalism in planning, establishing and operating the council's facilities.

Government Business

Motions

PUBLIC FINANCE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: With effect from 1 April 1986 that—

- (1) This Council approves the establishment of a special suspense account to be known as the Unallocated Stores Suspense Account ('the Account');
- (2) the Account shall be employed for the purchase by the Government of stores (in this resolution called 'Unallocated stores') which are to be held in stock pending subsequent sale or issue to Government departments or other bodies;
- (3) the Account shall be administered by the Financial Secretary who may delegate his power of administration to other public officers;

- (4) subject to paragraph (5), the Director of Accounting Services and any public officer authorised in writing by him may pay from public moneys such sums as may be necessary for the purchase of unallocated stores;
- (5) total payments made under paragraph (4) shall not exceed in respect of any period specified by the Financial Secretary, such sum as he may determine;
- (6) the Account shall not at any time be in debt to an amount exceeding \$200,000,000.00 or such lesser sum as the Financial Secretary may determine.

He said: Sir, I rise to move the first resolution standing in my name on the Order Paper. Its purpose is to establish a special suspense account under section 30(1) of the Public Finance Ordinance for the purchase of unallocated stores by the Government.

The Director of Government Supplies purchases unallocated stores which are held in stock pending subsequent sale or issue to Government departments or subvented organisations to take advantage of the economies of bulk purchase and to ensure uninterrupted supplies to departments. These initial payments are currently charged to the Government Supplies Department head of expenditure, and payments made by Government departments on issue to them of unallocated stores are offset against this expenditure. Funds are appropriated annually from general revenue to cover the difference between these credits and debits at the end of a financial year, representing additions to stock and sales to subvented organisations, the proceeds of which are credited to general revenue.

The disadvantages of the present arrangements are as follows—

- (a) First, they are unnecessarily inflexible, since they provide no authority for the difference between credits and debits temporarily to exceed during the course of a year the amount appropriated to cover this difference; and
- (b) no useful purpose is served by appropriating funds to cover expenditure which will in due course be offset by payments from subvented organisations and Government departments.

Section 30(1) of the Public Finance Ordinance provides that a special suspense account may be established 'for the purposes of any commercial or industrial activity carried on by or on behalf of the Government'. I therefore propose that these financial arrangements should be replaced, with effect from 1 April 1986, by a special suspense account established under this section.

The main features of the resolution and the account are as follows:

- (a) initial payments for unallocated stores will be charged to the account, and payments made by subvented organisations and Government departments on issue to them of such stores will be credited to it;
- (b) the difference between these credits and debits will represent the stock in hand, or the level of indebtedness. This debt will be a charge to the general revenue balance, so clause 6 provides that the amount of such

debt should not exceed \$200 million. This limit is set at a level adequate for several years operation of the account in order to avoid the need for regular approaches to this Council to revise it. Clause 6 also provides that the Financial Secretary may set a lower limit in the meantime to ensure proper control; and

- (c) as initial payments for unallocated stores will be made from public moneys, clause 5 provides for the Financial Secretary to limit the total amount of such payments.

Sir, I beg to move.

Question put and agreed to.

PUBLIC FINANCE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: With effect from 1 April 1986 that—

- (1) this Council approves the establishment of a special suspense account to be known as the Correctional Services Industries Suspense Account ('the Account');
- (2) the Account shall be employed for the purchase and holding of materials for, and the provision of goods and services by, the Correctional Services Industries;
- (3) the Account shall be administered by the Financial Secretary who may delegate his power of administration to other public officers;
- (4) subject to paragraph (5), the Director of Accounting Services and any public officer authorised in writing by him may pay from public moneys such sums as may be necessary for the purchase of materials for the Correctional Services Industries;
- (5) total payments made under paragraph (4) shall not exceed in respect of any period specified by the Financial Secretary such sum as he may determine;
- (6) the Account shall not at any time be in debt to an amount exceeding \$40,000,000.00 or such lesser sum as the Financial Secretary may determine.

He said: Sir, I rise to move the second resolution standing in my name on the Order Paper. The purpose of this resolution is to seek approval for the establishment of a special suspense account to be known as the Correctional Services Industries Special Suspense Account for the purpose of operating the Correctional Services Industries. The account will not at any time be in debt to an amount exceeding \$40 million without the further authority of this Council being obtained.

The Correctional Services Department operates a number of industries to keep inmates purposefully occupied. The goods and services provided by the industries are supplied to Government departments at the cost of materials used and to semi-government and non-government organisations at market prices decided at the discretion of the Commissioner of Correctional Services, provided that at least the cost of materials used is recovered. Payments for the purchase of industries materials are currently charged to the gross provision under Head 30 Correctional Services Department Subhead 236 Correctional services industries materials which has a credit item to facilitate the recovery of the cost of materials from client departments and organisations. Recoveries above the cost of materials are credited to general revenue. The difference between the gross provision and the credit entries is the net provision for the subhead. As with unallocated stores controlled by the Director of Government Supplies, the net provision may be temporarily exceeded for operational reasons and contingencies warrants have to be issued by me to authorise such excess payments. In line with the proposal for unallocated stores, it is therefore proposed to establish a special suspense account under section 31 of the Public Finance Ordinance for the purpose of operating the Correctional Services Industries.

This resolution contains six clauses which are essentially the same as those contained in the resolution establishing the Unallocated Stores Special Suspense Account. All payments for the purchase of materials for the Correctional Services Industries will be debited to the account and all payments made by client departments and organisations (excluding recoveries above the cost of materials used) for the goods and services supplied by the industries will be credited to the account. The difference between the debit and credit entries will represent the stock balance, or the level of indebtedness. Recoveries above the cost of materials used will continue to be credited to general revenue.

Clause 5 provides for the Financial Secretary to limit the total amount of payments from public moneys for the purchase of industries materials while clause 6 provides that the level of indebtedness defined by the stock balance of materials held by the industries should not exceed \$40 million (the statutory limit) or such lesser sum as the Financial Secretary may determine (the administrative limit). The statutory limit for this account is based on the Correctional Services Department's projection of the need over the next five years.

Sir, I beg to move.

Question put and agreed to.

RATING ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: That with effect from 1 April 1986 the percentage prescribed for the purposes of section 18(1) of the Rating Ordinance shall in respect of every tenement:

- (a) in the Urban Council area be—
- | | |
|--------------------------|------|
| (i) general rates | 2.5% |
| (ii) Urban Council rates | 3.5% |
- (b) in the Regional Council area be—
- | | |
|-----------------------------|------|
| (i) general rates | Nil; |
| (ii) Regional Council rates | 6.0% |

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

It increases with effect from 1 April 1986 Urban Council rates from 2.5 per cent to 3.5 per cent, offset in part by a reduction of 0.5 per cent in general rates in the Urban Council area, and rates in the Regional Council area from 5.5 per cent to 6 per cent. These increases are required to meet the financial needs of the Regional and Urban Councils in 1986-87 and 1987-88 for reasons which I have already explained in this Council and which have been supported by Mr. CHEONG-LEEN, Mr. CHEUNG Yan-lung and Miss Maria TAM.

Sir, I beg to move.

Question put and agreed to.

First Reading of Bills**INLAND REVENUE (AMENDMENT) BILL 1986****JURY (AMENDMENT) BILL 1986****LABOUR TRIBUNAL (AMENDMENT) BILL 1986****LAW AMENDMENT AND REFORM (CONSOLIDATION)
(AMENDMENT) BILL 1986****FATAL ACCIDENTS BILL 1986****MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED
PROVISIONS) (AMENDMENT) BILL 1986**

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) BILL 1986

THE FINANCIAL SECRETARY moved the Second Reading of: 'A Bill to amend the Inland Revenue Ordinance'.

He said: Sir, I move and state that the purpose of the much discussed Inland Revenue (Amendment) Bill 1986 is to give legislative effect to a number of proposals made in the 1985 Budget speech:

Firstly, to prohibit a deduction for accounting provisions made in respect of retirement schemes other than provisions, within prescribed limits, for 'annual contributions' to retirement schemes approved by the Commissioner of Inland Revenue;

secondly, to limit the opportunities for tax deferral through use of certain machinery or plant under leasing arrangements by denying to a lessor initial and annual allowances where machinery or plant was acquired by him under a sale and leaseback arrangement, or, being other than a ship or an aircraft, was acquired by him through a 'leveraged lease' transaction and is used wholly or principally outside Hong Kong;

thirdly, to provide the Commissioner of Inland Revenue with more effective weapons to combat tax avoidance and to protect the revenue by enabling him to strike down schemes which clearly appear to have been entered into for the sole or dominant purpose of conferring a tax benefit;

fourthly, to restrict the trafficking in loss companies by enabling the commissioner to refuse to set off prior year losses where he is satisfied that the sole or dominant purpose of a change in a company's shareholding was the utilisation of such losses to obtain a tax benefit;

fifthly, to provide a profits tax deduction for interest payable by a corporation on moneys borrowed from an 'associated corporation' where those moneys arose from a debenture issue by the associated corporation and on interest payable on 'commercial paper' which is marketable in Hong Kong or other major financial centre or which has been issued under an agreement advertised with the approval of the Securities Commission; and

sixthly, to introduce several minor technical amendments of a remedial nature.

The need to protect the revenue is obvious. These proposals were included in a draft Bill which was published in July 1985. They have since been subjected to close scrutiny by the UMELCO ad hoc Inland Revenue Review Panel which received a large number of representations from interested persons and institutions. The Bill now tabled before this Council differs in many respects from the draft Bill published in July. The alterations have largely emanated

from the very full and helpful report of the UMELCO review panel and take account of all the recommendations made. I believe that, while retaining the overall philosophy of my proposals, the changes now incorporated into the Bill will meet with the approval of all responsible members of the business community in particular, and of the general public at large. The major amendments to the draft Bill—

- (a) eliminate the possible retrospective effect which certain clauses may have had for taxpayers whose basis period for the year of assessment 1985-86 commenced prior to 1 April 1985;
- (b) extend the circumstances in which interest payable is deductible to include that paid on all intergroup borrowings arising from a debenture issue by a member of the group;
- (c) delete the clause which would have prohibited a deduction in respect of all accounting provisions other than those relating to retirement schemes;
- (d) substitute a more objective test for determining whether a transaction falls within the scope of the new general anti-avoidance provisions;
- (e) remove any retrospective effect which the anti-avoidance provisions may have had; and
- (f) alter the provisions relating to loss companies so that non-tax motivated changes to the shareholding of a company will not affect the ability of the company to carry forward losses for tax purposes.

In view of both the detailed examination which has been made of the proposals contained in the Bill, and of the information already provided to Members, I do not intend to expand further on them today. But there is another issue on which I must speak and that is the 1984 amendments which brought into the charge to profits tax so-called 'off-shore' interest income.

This matter was included in the terms of reference of the UMELCO ad hoc Inland Revenue Review Panel. On this point they concluded that the 1984 amendments have eroded Hong Kong's basic tax philosophy and have breached the territorial source criterion. I have given careful consideration to the findings of the panel and have held useful discussions on this difficult issue. I still do not accept that the 1984 amendments breach the territorial source rule but because of drafting difficulties I accept that they may unwittingly have introduced an element of uncertainty into this most fundamental concept of our taxation system. This is most undesirable. Practice notes are not a proper palliative. I am therefore prepared in principle to consider appropriate amendments to ensure that the taxation law continues to be seen to be applying only to income arising in or derived from Hong Kong. As such amendments must involve a very considerable cost to the revenue the timing of their introduction will depend on budgetary circumstances. I will address the issue further in my Budget speech.

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.

Question put and agreed to.

JURY (AMENDMENT) BILL 1986

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend the Jury Ordinance'.

He said: Sir, I move that the Jury (Amendment) Bill 1986 be read the Second time.

Hon. Members will I am sure have read or heard of what is known as the 'Carrian' case which will come to trial next month in the High Court and is expected to last many months. During the pre-trial review of this case which raises complex commercial issues, the trial judge suggested that a larger jury than usual should if possible be empanelled for the trial in case some of them were to drop out before it ended. The trial judge's suggestion has secured the support of all the parties to the case, both prosecution and the several defendants. Judiciary as a whole has also welcomed the suggestion. They consider that not only should the trial judge of the 'Carrian' case be empowered to empanel a larger jury than usual, but that the courts should be given a general power to do so in similar long cases. The proposal has also attracted the support of the legal profession. And no one, so far as I know, has found reason to criticise or oppose it. Accordingly this Bill has been drafted to implement the Judiciary's proposal. And I would like to thank both the trial judge in the 'Carrian' case who first made the suggestion, and the staff of the Judiciary for developing it to the point of a bill.

Let me explain how the proposal will work in practice.

The Jury Ordinance (Cap. 3) provides for a jury of seven members in both criminal and civil cases. However, during the course of a trial, up to two jurors may be discharged where, in the interests of justice or of the juror, it appears to the court to be expedient to do so without bringing the trial to an end. Thus, a jury consisting of only five may still deliver an effective verdict.

There have regrettably been instances where trials have had to be stopped and started afresh before a new jury because the number of jurors has fallen from the original seven to less than the minimum of five because of death, illness, being posted abroad or some other cause. The risk that there will not be sufficient jurors left at the end of the trial to deliver a verdict is particularly acute in the case of complex commercial cases which can take many months to complete. If this occurs, and a new trial with a new jury has to be ordered, the cost in time, inconvenience and money to the public purse, the Crown and the defending parties, could be very high indeed.

It is proposed, therefore, that the Jury Ordinance be amended to provide that in appropriate cases a judge may empanel a jury of nine. If this is done, up to four jurors could be discharged during the course of a trial without affecting the power of the remaining jurors to deliver a lawful verdict. It is not anticipated that judges will exercise this power to empanel nine jurors except in heavy cases which are likely to take a long time to try.

Sir, it is desired on all side that the trial judge of the 'Carrion' case which is due to commence on 24 February 1986 should be given this power to empanel nine jurors if necessary thereafter and to discharge more than two without frustrating its outcome. In order to achieve that, this legislation would have to be enacted in time for the trial. That is the reason why it is proposed that this particular Bill should pass through all stages in one sitting if all Members if this Council agree.

May I take this opportunity to thank hon. Members who have already studied the provision of the Bill with great care. It has been pointed out on their behalf that one particular phrase in it may be open to misunderstanding. In order to remove any possible doubt as to the meaning of that particular phrase, a short amendment to clause 4 of the Bill has been drafted in consultation with my learned friend the hon. Peter C. WONG. Accordingly I shall be moving an amendment at the Committee stage.

Sir, may I move that the Bill be read a Second time.

Question put and agreed to.

Bill read the Second time.

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

LABOUR TRIBUNAL (AMENDMENT) BILL 1986

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend the Labour Tribunal Ordinance'.

He said: Sir, may I move that the Labour Tribunal (Amendment) Bill 1986 be read the Second time.

The purpose of this Bill is to remove an anomaly which exists in relation to interest on awards made by the Labour Tribunal.

The Chief Justice has power to make rules under the Labour Tribunal Ordinance (Cap. 25) to prescribe the rate of interest on an award in the Labour Tribunal on the amount claimed for all or part of the period from the date when the cause of action arose to the date of the award. An award does not, however,

carry interest thereafter unless an order is made under section 39(3) of the Labour Tribunal Ordinance by the Labour Tribunal. Because the parties in the Labour Tribunal do not have legal representation, they are usually unaware of the need to ask for such an order. If the tribunal itself overlooks the matter, and it makes no order, a successful claimant receives no interest on the judgment debt after the date when the award is made. It will not be until the claimant registers his award in the district court, that interest will start to run again as from the date of registration.

The Bill now provides for an award to carry interest automatically from the date when it is made by the Labour Tribunal at a rate to be prescribed by the Chief Justice. It will thus obviate the need for the Labour Tribunal to make an order. This arrangement will bridge the gap between the date of award and the date of registration of such award in the district court.

Sir, I beg to move that the debate on this Bill be now adjourned.

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

LAW AMENDMENT AND REFORM (CONSOLIDATION) (AMENDMENT) BILL 1986

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend Law Amendment and Reform (Consolidation) Ordinance'.

He said: Sir, I move that the Law Amendment and Reform (Consolidation) (Amendment) Bill 1986 be read the Second time. Sir, with your permission, I will speak not only to its provisions but also to the provisions of the Fatal Accidents Bill 1986 which is the next item on the Order Paper for Second Reading. The measures proposed in these two Bills are closely inter-related. Each Bill has an effect upon the other, and the reforms proposed are a result of their combined provisions.

The sudden death of a breadwinner is a shattering experience for the members of his family. Not only do they suffer grief on losing a loved one. But they may also face severe hardship on losing financial support. The consequences of a severe injury to a breadwinner can be equally devastating if the accident causes hospitalisation and permanent disability which affects his wage-earning capacity.

In Hong Kong one form of redress the bereaved family, or the injured victim may have is recourse to the courts. Because if it can be proved that the death or injury was caused by someone's fault, compensation can be recovered by a deceased's estate or by an injured person, and also by those who have been

maintained by the deceased breadwinner, from the wrongdoer or his employers or insurers. The Law Amendment and Reform (Consolidation) Ordinance and the Fatal Accidents Ordinance are accordingly of potential value to nearly every person in the community. There were 307 deaths in road accidents alone last year—and in 1984 (the latest year for which figures are available) 217 deaths from occupational accidents. Many of those are likely to give rise to claims under the Ordinances. It is therefore important, Sir, that they should be seen to work effectively and fairly, and that they should be kept up-to-date to meet changing perceptions of social and economic needs.

Unfortunately both have long been in need of reform. The principles of recovery have been criticised both in Hong Kong and in the United Kingdom. The Vice President of our Court of Appeal here in relation to one problem commented that the state of the law had been regarded with distaste by several judges. Reforms were introduced to very similar legislation in the United Kingdom in 1982.

In 1982, the Law Reform Commission was asked by my predecessor and by the Chief Justice to report on whether Hong Kong should adopt the same amendments as those introduced into the United Kingdom statutes, and whether there were any other changes necessary. These Bills are the result of the Report of the Commission entitled 'Damages for Personal Injury and Death' published in February 1985. Their recommendations have been accepted by the Administration and the two Bills seek to implement them. In some respects they follow the United Kingdom changes, but in others they apply unique solutions to Hong Kong's particular problems.

First, the two Bills tackle the problem of 'windfall' damages. The possibility of 'windfall' damages or duplicated awards at present occurs when an injured person dies. His estate then has the right to the benefit of any claim he had for damages for his injury, but at the same time his dependants also have a right to a claim for their losses. If the beneficiaries under the estate are not also dependants, this can mean that the defendant pays twice.

Although there are at present provisions in the law that if a party is entitled to an award under both Ordinances he should only receive the higher of them, it is possible as a result of a series of decisions in the courts that where there is more than one beneficiary, a defendant will have to pay more in total under a combination of awards under both Ordinances than he would under either one alone. The Law Reform Commission concluded that these problems resulted from the way in which awards make provision for loss of future savings, and the Bills introduce a new formula based on the deceased's actual savings record. This should solve the problem in future.

Secondly, the Bills abolish some outdated provisions in the present law and replace them with new remedies. The major one is an award of \$40,000 as damages for bereavement which will be paid to the close relations of a deceased person. Where a person's injuries reduce his ability to give his close relatives the

benefit of his society compensation of up to \$40,000 can be awarded. If an injured or deceased person rendered gratuitous services to certain relations before the accident, compensation can be awarded for his loss of ability to render those services.

Thirdly, the Bills propose that the range of dependants who can make a claim for damages resulting from any person's death caused by a wrongful act, neglect or default, should be extended to cover persons of more distant relations than hitherto, such as great uncles and aunts, great-grandparents, grandchildren and great-grandchildren, godchildren and godparents according to Chinese custom, and unmarried co-habitees, as long as they have lived together for more than two years. The same range of dependants will apply to the claim for loss of the ability to render services gratuitously.

Fourthly, there is a new provision for the courts to make provisional orders for damages where the extent of injury or disability cannot be finally assessed at the time of the court proceedings.

Lastly there is a proposal to abolish the archaic remedies which allow an employer to sue a person who deprives him of the services of a menial servant by raping or seducing or enticing her. I can recall no instance of their being invoked in recent years.

Sir, as I have said all these proposals that I have mentioned above are based on the recommendations of the Law Reform Commission which in turn had before it the report of a sub-committee made up of a mix of lawyers and lay persons, chaired by Mr. Robert ALLCOCK, Head of Department of Law at Hong Kong University. I should like to pay tribute to their careful review of the state of the law, and their wise and well-judged conclusions. It is their devoted public service that has led to these proposed amendments to the law which I now commend to this Council.

Sir, I beg to move that the debate on the Second Reading be adjourned.

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

FATAL ACCIDENTS BILL 1986

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend the Fatal Accidents Ordinance'.

He said: Sir, I move that the Fatal Accidents Bill 1986 be read the Second time. When I moved the second reading of the last Bill on the Order Paper, I spoke to the provisions of this Bill, so with your permission and everyone relief I shall not repeat what I said then.

Sir, I beg to move that the debate on the Second Reading be adjourned.

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS) (AMENDMENT) BILL 1986

THE SECRETARY FOR LANDS AND WORKS moved the Second Reading of: 'A Bill to amend the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance'.

He said: Sir, I rise to move the Second Reading of the Mass Transit Railway (Land Resumption and Related Provisions) (Amendment) Bill 1986.

The main object of the Bill is to extend certain compensation provisions under the principal Ordinance to the route of the Eastern Harbour Crossing.

Section 15 of the Ordinance empowers the Building Authority to protect the route of future MTR lines by withholding approval of building plans or consent to commencement of works, withdrawing approval already given, and in the case of piling, excavation or foundation works, requiring amendment to plans or compliance with special conditions.

Provisions for compensation to the affected landowners under section 15(3) and items 11 and 12 in the First Schedule to the Ordinance, as the law stands now, only refer to those sections of the MTR already completed or under construction. For these provisions to apply to the Eastern Harbour Crossing it is proposed to add a reference to the Eastern Harbour Crossing and a definition of the project at appropriate places.

Once the amendments have been made, any landowner adversely affected by the project will be entitled to claim compensation.

The opportunity has also been taken to tidy up a minor anomaly arising from an earlier amendment to the Ordinance in 1983. At that time the words 'or rights' were added to section 6 to enable the Governor to order creation of easements in, under or over land in the railway area. The same words should at the same time have been added to section 3 to make it clear that railway area plans prepared in accordance with that section should show the area within which land may be resumed or easements or rights created. This matter was overlooked in 1983 and it is now proposed to amend section 3 to remedy the oversight.

Sir, I move that the debate be now adjourned.

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

Committee stage of Bills

Council went into Committee

JURY (AMENDMENT) BILL 1986

Clauses 1 to 3 were agreed to.

Clause 4

ATTORNEY GENERAL: I move that clause 4 be amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 4

That clause 4(b) be amended, in the proposed new subsection (3), by deleting—

'the validity of any verdict returned by the remaining jurors, whether or not by a majority'

and substituting the following—

'any verdict returned by the remaining jurors, being an unanimous verdict or a majority verdict'.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

JURY (AMENDMENT) BILL 1986

had passed through Committee with amendment, and moved the Third Reading of the Bill.

Question put on the Bill and agreed to.

Bill read the Third time and passed.

Unofficial Member's Motion

Statement by Senior Unofficial Member

MISS LYDIA DUNN moved the following motion: That Standing Order 20(1) be suspended to enable the Senior Unofficial Member to make a statement.

Question put and agreed to.

DRAFT HONG KONG (BRITISH NATIONALITY) ORDER 1986

MISS DUNN said: Sir, with your permission, I should like to make a statement as a matter of prime concern to me and to my Unofficial colleagues. We are still awaiting the outcome to the calls made in this Council for implementation of the proposals set out in my letter dated 3 January 1986 which was tabled in this Council a fortnight ago. However, my colleagues and I have noted the Minister of State for Foreign and Commonwealth Affairs, Mr. Timothy RENTON'S assurance on 24 January that Her Majesty's Government will agree to our request for an endorsement in the new BNO passport which would make clear that holders of these passports will not require entry visas to the United Kingdom for bona fide visits. We also welcome the news that a team of Hong Kong Government officials will visit London to provide further information on the non-ethnic minorities and the status of ex-servicemen. These are positive initiatives in response to the serious concern in Hong Kong about these important matters and we welcome them.

The Minister of State has said that the endorsement in the passport is subject to a satisfactory formula being found. We are sure that this can be worked out. As I said before, 'where there is a will, there is a way.' I should like to make clear yet again that we do not seek to be exempted from normal immigration formalities. On that point, there is no difference between our position and that of the British Government.

We are encouraged by the Minister's assurance that 'minds are not closed' in Westminster on the plight of the non-ethnic minorities and ex-servicemen. We

hope that ways and means of meeting fully their concerns will be explored in the light of the information provided by the Hong Kong team of Government officials.

Meanwhile, the Unofficial Members of both the Executive and Legislative Councils have formed an ad hoc group to examine any technical issues there may be and to monitor developments closely.

We ask that the Hong Kong Government will liaise closely with the UMELCO ad hoc group on the progress of the talks in London, and that it will report back to this Council on the outcome of that visit, as well as the form of wording in the passport endorsement when that is decided.

Sir, since we moved our motion on 8 January, many district boards, organisations and individuals have voiced their support. The community is over-whelmingly united on the principles and the moral issues involved in this matter. Speakers in the recent debate in the House of Lords grasped the significance of this fact. Lord Avebury pointed out that the forceful and unanimous resolution of this Council constituted the only possible means by which the British Government are able to gauge the views of the people of Hong Kong as a whole. And your predecessor, Sir, Lord MACLEHOSE could not recall an occasion on which there had been such unanimity and such force behind a request by this Council to the British Government.

So the depth of our feelings on this subject has been recognised in West-minster. Our demands have been lodged with the British Government. We await their decision.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on 5 February 1986.

Adjourned accordingly at four minutes past Four o'clock.

WRITTEN ANSWER**Annex I****Written answer by Chief Secretary to Mr. YEUNG'S supplementary question to Question 6.**

For the past 12 months from 1 February 1985 to 31 January 1986, the Commissioner for Television and Entertainment Licensing has sent 38 letters to the television licensees either giving warnings on or requiring the licensees to improve certain aspects of programme quality. In addition, the Commissioner has also written 15 times to the licensees concerning operational faults and technical breakdowns.

These written warnings are in addition to the verbal ones made over the telephone and in the regular meetings with the senior management of the licensees. A number of these warnings have led to the licensees being imposed financial penalties of \$10,000 and \$7,500 respectively during the period.

On serious distortion of historical facts in television drama programmes. TVB has been warned once in writing during the past 12 months on 16 October 1985 for their Chinese productions of '楚河漢界' (The Battlefield) and '皇上保重' (Take Care Your Highness). ATV was sent a warning letter on 17 January 1986 for their Chinese programme '諸葛亮' (The Legendary Prime Minister—Zhuge Liang). The Commissioner also repeated this special concern in his regular meeting with the senior management of the licensees on 30 January 1986.

Annex II**Written answer by Secretary for Education and Manpower to Dr. Ho's supplementary question to Question 8.**

The position is as follows. Over the past five years, a total of 38 factory inspectors have left the inspectorate by transfer to other work, resignation or retirement. The wastage rate overall thus averages 7.6 inspectors per year, compared with a current establishment of 199. Of these 38, 19 were probationary Inspectors II and Assistant Inspectors who had not completed their three years' training. If these are excluded, the wastage rate for fully trained inspectors is reduced to an average 3.8 inspectors per annum over this period.

Annex III**Written answer by Attorney General to Dr. TSE'S supplementary question to Question 9.**

You may recall that I indicated my own request for this information had not been met before the meeting of the Legislative Council. I understand that there is presently no single source for the required information and that the task of gathering figures from all police divisions is proving difficult.

I have now been advised by the police that there are presently five such cases pending before the courts: two cases in Yau Ma Tei, two cases in Sau Mau Ping and one case in Wong Tai Sin.