

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 19 November 1986****The Council met at half-past Two o'clock****PRESENT**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR EDWARD YOUDE, G.C.M.G., G.C.V.O., M.B.E.

THE HONOURABLE THE CHIEF SECRETARY (*Acting*)

(THE HONOURABLE THE FINANCIAL SECRETARY)

MR. PIERS JACOBS, O.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, C.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 WONG PO-YAN, 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 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, O.B.E., J.P.

THE HONOURABLE CHAN YING-LUN, J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, J.P.

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN, J.P.

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

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

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

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.

SECRETARY FOR HEALTH AND WELFARE

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 HO SAI-CHU, M.B.E., J.P.  
THE HONOURABLE HUI YIN-FAT  
DR. THE HONOURABLE CONRAD LAM KUI-SHING  
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.  
THE HONOURABLE LEE YU-TAI  
THE HONOURABLE DAVID LI KWOK-PO, J.P.  
THE HONOURABLE LIU LIT-FOR, J.P.  
THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.  
THE HONOURABLE POON CHI-FAI  
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, O.B.E., J.P.  
THE HONOURABLE ANDREW WONG WANG-FAT  
THE HONOURABLE HARNAM SINGH GREWAL, E.D., J.P.  
SECRETARY FOR TRANSPORT  
THE HONOURABLE GRAHAM BARNES, J.P.  
SECRETARY FOR LANDS AND WORKS  
THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER  
THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.  
SECRETARY FOR SECURITY

**ABSENT**

THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.  
THE HONOURABLE THOMAS CLYDESDALE  
THE HONOURABLE RICHARD LAI SUNG-LUNG  
THE HONOURABLE PANG CHUN-HOI, M.B.E.  
PROF. THE HONOURABLE POON CHUNG-KWONG  
THE HONOURABLE LAU WONG-FAT, M.B.E., 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:

Boilers and Pressure Receivers Ordinance Boilers and Pressure Receivers (Exemption) (Consolidation) (Amendment) (No. 4) Order 1986 .....	271
Public Health and Municipal Services Ordinance Public Health and Municipal Services (Civic Centres) (Amendment of Thirteenth Schedule) (No. 2) Order 1986.....	272
District Court Ordinance District Court Civil Procedure (Costs) Rules 1986 .....	273
Banking Ordinance 1986 Banking Ordinance 1986 (Amendment of Fifth Schedule) (No. 3) Notice 1986.....	274

## Sessional Papers 1986-87:

- No. 15—Hong Kong Housing Authority Annual Report 1985-86
- No. 16—Hong Kong Housing Authority—Estate and general working account for  
the year ended 31 March 1986 and balance sheet as at that date
- No. 17—Report of changes to the approved estimates of expenditure approved  
during the second quarter of 1986-87—Public Finance Ordinance: section  
8
- No. 18—Hong Kong Productivity Council—Annual Report 1985-86
- No. 19—Annual Report of the Director of Accounting Services—Accounts of Hong  
Kong 1985-86
- No. 20—Report of the Director of Audit on the Accounts of the Hong Kong  
Government for the year ended 31 March 1986

*Others*

Scope of Government Audit in Hong Kong—‘Value for Money’ studies

**Address by Member presenting paper****Scope of Government Audit in Hong Kong—‘Value for Money’ Studies**

MR. ALLEN LEE: Sir, laid on the table today is a set of guidelines for the future conduct of value for money studies by the Director of Audit.

In paragraph 8.2 of the Public Accounts Committee’s Eighth Report issued in January 1986 the committee noted that whilst the Director of Audit does have a remit to examine and report on policy implementation, the boundaries of that remit, particularly in relation to value for money studies, have not been clearly defined. The committee recommended that early action be taken to resolve this grey area.

There has now been consultation between the committee, the Administration and the Director of Audit regarding this aspect, and a set of guidelines on value for money studies has been drawn up. They are set out in full in the papers laid on the table today. These guidelines have now been agreed between the committee and the Director of Audit and are, I understand, acceptable to the Administration.

The main features are:

*firstly*, the Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications.

Subject to the guidelines, he will not comment on policy decisions of the Executive and Legislative Councils, save from the point of view of their effect on the public purse;

*secondly*, in the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the director should, in his report to the Legislative Council on the matter in question, not make any judgment on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry;

*thirdly*, the Director of Audit may also consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;

*fourthly*, he may also consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;

*fifthly*, he may also consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;

*sixthly*, he may also consider as to whether there is conflict or potential conflict between different policy aims and objectives, or between the means chosen to implement them;

*seventhly*, he may also consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and so on, have been considered, and are reviewed as costs change; and

*finally*, he may also be entitled to exercise the powers given to him under section 9 of the Audit Ordinance.

### **Oral answers to questions**

#### **Firearms and Ammunition Ordinance**

1. MR. HUI asked: *In connection with the Attorney General's reply to Dr. the hon. CHIU Hin-kwong's question on 21 May 1986 regarding the proposed amendments to the Firearms and Ammunition Ordinance for the banning of possession in Hong Kong of imitation firearms, will Government inform this Council of the progress on the matter?*

SECRETARY FOR SECURITY: Sir, the Fight Crime Committee considered the proposals of the Working Group on the Use of Firearms in Crime and draft legislation earlier this year and recommended that the advice of the Executive Council should be sought on this controversial and difficult matter.

The amendments suggested to the Firearms and Ammunition Ordinance aimed at banning from Hong Kong replica firearms which closely resemble genuine firearms, except for the purpose of export, thereby dramatically reducing their availability for use in crimes in Hong Kong. The problem is to find a fully satisfactory definition of a replica firearm. The Fight Crime Committee was concerned over the difficulties the public might have in deciding what was a replica and what was not.

Following the Executive Council's advice, it was decided that no further action should be taken on the changes proposed in the legislation until a test case could be brought before the courts using the existing legislation. The existing relevant law is section 20 of the Firearms and Ammunition Ordinance. This provision makes possession of an imitation firearm an offence but provides defences which first, in the opinion of those involved, make it difficult to bring about a successful prosecution unless an imitation firearm is unquestionably being used for the purpose of committing a crime. And second, the existing law does nothing to reduce the availability of such imitations for criminals in Hong Kong. The test case to be brought before the courts will tackle the first point.

As regards the second point, the working group on the use of firearms will look again at the Japanese system, which distinguishes imitation firearms from real ones by prescribing that they should be coloured white or yellow.

MR. HUI: *Sir, since this issue has been dragging on for quite some time and there have been more people being hurt in recent incidents in the use of imitation firearms, when can Government come up with a specific recommendation relating to imitation firearms so that the safety of individuals and the security and stability of our community can be maintained, especially with reference to the Secretary's statement regarding a look at the Japanese system?*

SECRETARY FOR SECURITY: Sir, as regards having another look at the Japanese system, we have asked through Interpol for details of how the Japanese system works and whether or not it is successful. As soon as we have this information, we will do a deep but quick examination of the possibility of adapting the system for Hong Kong and hope that we will be able to put recommendations to Executive Council for advice in the near future.

### **Health screening at immigration entry points**

2. MR. LEE YU-TAI said: *In view of the fact that a few cholera cases which occurred in Hong Kong during this summer were imported from areas outside the territory, will Government inform this Council what precautionary measures, if any, have been considered or implemented for the improvement of health screening procedures at immigration entry points?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the cholera cases encountered in Hong Kong recently were of a type known as Cholera E1 Tor. A major difference between classical cholera and cholera E1 Tor is the presence of a carrier state in the latter; this means that individuals may be harbouring the bacteria without showing any signs or symptoms. Extensive experience has shown that due to its endemic nature and the existence of a carrier state of the disease, the introduction of cholera into a country cannot be prevented by

measures such as health screening of travellers at points of entry. Thus, in accordance with the World Health Organisation's practice and advice, Hong Kong, like many other countries, does not require health screening of persons coming in from other places.

The World Health Organisation has advised that the most effective strategy for the prevention and control of cholera is the maintenance of a high standard of environmental hygiene and sanitation, an effective surveillance system, and the diagnosis, isolation and treatment of cases. Measures to implement this strategy are being carried out on a regular basis by the various departments concerned, including the Urban Services and Regional Services Departments and the Medical and Health Department. Our success in containing the spread of cholera in Hong Kong in recent years is in itself a testimony to the effectiveness of these measures.

MR. LEE YU-TAI: *Sir, is it desirable to promote public education so that people of Hong Kong will take better precautions against infectious diseases when they travel on trips away from Hong Kong which will in turn reduce the possibility of the diseases being brought back to Hong Kong?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, I agree entirely with Mr. LEE and the Central Health Education Unit of the Medical and Health Department carries out a good deal of health education on the prevention of cholera and other infectious diseases.

MR. JACKIE CHAN (in Cantonese): *Sir, if neighbouring countries have cholera cases, would these countries inform Hong Kong as soon as possible and declare that those places are cholera-infected areas and, if not, will Government through other channels be informed that there are cholera cases in these countries and then take precautionary measures?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, notification of countries as cholera-infected places is carried out as a matter of routine through the World Health Organisation.

### **Correctional institutions inmates having triad affiliations**

3. MR. CHEONG-LEEN asked: *According to the statistics recently released by the Correctional Services Department, of the 1 600 inmates under the age of 21 admitted to correctional institutions in 1985, about 63 per cent were known to be tied up with triad gangs. Will Government inform this Council:*

- (a) *how many and what percentage of all inmates under the age of 21 have triad affiliations; and*
- (b) *what measures are being taken to have them sever their triad links?*

SECRETARY FOR SECURITY: Sir, when inmates are admitted to correctional institutions, they are asked whether or not they have triad affiliations. Their claims or admissions are used in deciding where to put them in the institutions. As different people might have different reasons for admitting or not admitting to having triad affiliations in these circumstances, the statistics derived from their answers must be viewed with a certain degree of caution.

To answer the first part of my hon. Friend's question, the figures he quoted refer to the young male inmates who were admitted into correctional institutions in 1985. According to a census conducted on the penal population as a whole towards the end of December 1985, 777 inmates under the age of 21 claimed to have triad or gang affiliations, equivalent to some 65 per cent of the total population of 1 202 young inmates at that time.

For the first eight months of 1986, 51 per cent of the young offenders admitted into correctional institutions claimed to have triad or gang affiliations. I am thus reasonably confident that the figures for 1986 are likely to be lower than those for 1985 or indeed for 1984.

To answer the second part of my hon. Friend's question on measures to help inmates sever their triad links, in all the rehabilitation programmes, young offenders with triad or gang affiliations are given every opportunity, assistance and encouragement to sever such links. To this end, young offenders in custody are given compulsory education and counselling, which seeks to strengthen both their sense of social responsibility and their vocational skills. Upon release, young offenders will have after-care supervision, where counselling, advice and job placement is given to help them overcome personal problems after release. The success of the detention and training centre programmes are a reflection of the effectiveness of these measures. For detention centres, where one year of statutory supervision is required, the success rate is as high as 94 per cent—after one year. For training centres, where three years of statutory supervision is required, the success rate is 66 per cent—after three years.

But, I must point out that whether a young offender who has triad or gang affiliations wants to sever such links must ultimately depend on his own determination. And the acceptance and help offered by his family and the society at large will clearly have a crucial bearing upon his decision.

Sir, the Government is very concerned with rehabilitation and a number of schemes are currently being considered to improve the situation generally—for example a release under supervision scheme, a pre-release employment scheme and a partially suspended sentence scheme. Further and perhaps the most important in the context of my hon. Friend's question, the public warmly welcomed the Fight Crime Committee's suggestion for a triad renunciation scheme and details of how that scheme will work are currently being prepared.

MR. CHEONG-LEEN: *Sir, what are the reasons for which it is expected that the figures for 1986 are likely to be lower than those for 1985; and how soon is it expected that the triad renunciation scheme can get off the ground?*



SECRETARY FOR SECURITY: Sir, on the first part of my hon. Friend's question, the reason why I think the figures for 1986 will be lower is that the number of youngsters admitted into the institutions and admitting to triad affiliations as a percentage of the whole is less than it was last year. As regards the second part of my hon. Friend's question, we hope to get the scheme off the ground just as quickly as we possibly can. We have fleshed out the details and have now put them to the Fight Crime Committee's appropriate committees.

MRS. NG (in Cantonese): *Sir, could Government consider in conjunction with the Housing Department looking into the case whereby if the person concerned lives in a public housing estate, and if he wants to move to similar accommodation in other estates after release to be away from his old friends, could the Housing Department make special arrangements so that prisoners who are released could turn over a new leaf by living in a new environment?*

SECRETARY FOR SECURITY: Yes, certainly, Sir, we will have a look at that possibility with the Secretary for Housing.

MR. MARTIN LEE: *Sir, as a matter of policy, when inmates admit to being related to triads, does the Attorney General then prosecute them for these offences?*

SECRETARY FOR SECURITY: When they are in institutions and admit to being members of triads, Sir, the answer is that they are not prosecuted.

MR. YEUNG: *Sir, will the Secretary for Security elaborate on how admission of triad affiliation on the part of the inmates may determine where they should be placed?*

SECRETARY FOR SECURITY: Well, Sir, it is question of the Correctional Services Department making quite sure that they do not get a group of closely associated triad members together in one institution. That is one point. And the second point is to put the individual in a place in the institutions where there is some possibility that he himself can sever his connections if he so wishes.

### **Temporary accommodation for natural disasters victims**

3. DR. LAM asked (in Cantonese): *In view of the disruptive effects on the normal operation of community centres by victims of natural disasters who sometimes stay in them for prolonged periods of time, will Government consider putting these victims in other types of transit accommodations?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, accommodation in Housing Department transit centres is always offered to victims of natural disasters. In the case of fire victims, such accommodation is made available in the New

Territories where, in accordance with current policy they are to be permanently rehoused. Emergency accommodation is usually also provided in nearby community centres on temporary basis.

Since the beginning of this financial year, there have been 33 fires including three major ones (two in Diamond Hill and one in Sau Mau Ping) in urban areas. In the case of the two Diamond Hill fires, part of both fire sites had previously been screened for clearance and many squatters living in the affected areas were, in the circumstances, eligible for urban rehousing. They were therefore offered accommodation in urban transit centres. As regards other fire victims including those living outside the clearance area, they were eligible for New Territories rehousing only. Since many of this category of fire victims had declined transit centre accommodation in the New Territories, space in a community centre had to be used for temporary shelter.

Sir, as I stated in my reply in this Council in May 1986 to a question on squatter fires, the policy implemented since September 1982 whereby victims of squatter area fires are rehoused in the New Territories will have to remain unchanged in order to provide an effective deterrent against deliberate fires in urban squatter areas.

Following a review in October this year undertaken by the Housing Department and the City and New Territories Administration, the Housing Authority also recommended that there should be no change to the current arrangements for the emergency rehousing of natural disaster victims. On humanitarian grounds, Government will find it difficult not to allow victims on a temporary stay in a nearby community centre immediately following a disaster. However, efforts will continue to be made to ensure that families rendered homeless by natural disaster are permanently rehoused in accordance with their eligibility as soon as possible. This should minimise any disruption caused to the operation of community centres.

DR. LAM (in Cantonese): *Sir, as transit centres in the urban area has a high vacancy rate, could Government consider allowing fire victims to temporarily live in these vacant transit centres in the urban area because some fire victims have to travel long distances to go to work or to school and they are very greatly inconvenienced by the arrangement?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, there are in fact limited number of spaces in the urban transit centres. In Hong Kong and Kowloon there are all together only just over 600 spaces enough for 600 persons, whereas in the New Territories there are over 4 000. The second point is the question of deterrent. Once they are re-housed, even temporarily, in the transit centres in the urban area, it is usually very difficult to evict them afterwards.

MR. POON CHI-FAI (in Cantonese): *Sir, although based on humanitarian grounds, Government is forced to accommodate some of the fire victims in community centres, could Government inform this Council whether temporary mobile facilities such as toilets, bathrooms, kitchens and so on could appropriately be provided to alleviate the sufferings of the fire victims and also to reduce damage to the environment or facility in the community centres concerned?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the community centres are used on a temporary basis. They are not really designed for residential purposes. In the case of fire victims, the policy is that they should be rehoused permanently in the New Territories. Therefore it is the New Territories transit centres where they should be directed to.

MR. TAI: *Sir, can the Secretary for District Administration explain why fire victims have to be compulsorily allotted accommodation in the NT whilst they live and work in the urban area? And could due consideration be given to these factors?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, at the cost of repeating my replies in May 1986, if I may quote the figures of the dramatic decrease in the fire victims. In 1981 there were over 26 000 fire victims. This figure has steadily decreased to 1 260 in 1985. This must have direct bearing on the policy of the deterrent which I mentioned earlier.

### **Waiting time at Chinese Extension Section of Immigration Department**

5. DR. CHIU asked: *In view of the fact that Chinese temporary residents have to wait for a long time at the New Rodney Block Immigration Office to apply for extension of stay, will the Government inform this Council:*

- (a) of the average number of applications handled by this immigration office per day; and*
- (b) what measures will be taken to improve the situation?*

SECRETARY FOR SECURITY: Sir,

- (a)* The average number of applications handled by the Chinese Extension Section of the Immigration Department at the New Rodney Block was 2 500 per day this year so far.
- (b)* Since April this year the Immigration Department has deployed 30 additional officers to reinforce the staff at the office. The department has also managed to streamline the procedures for dealing with the applications. The queues are better controlled. And the air conditioning in the office has been improved to make the more crowded conditions less uncomfortable.

To minimise the inconvenience to those applicants who cannot be dealt with on the day they attend, the department gives them an appointment to return on a later day.

As to the future, the department will continue looking for ways of improving their service. But we have good reason to believe that the problem is a temporary one and that next year the queues will start to shorten.

DR. CHIU: *Sir, I am pleased to learn that consideration has been given to the improvement of the service by the Immigration Department. I wonder whether the Secretary for Security can explain to us why he believes that the queues to apply for extension of stay will start to shorten next year?*

SECRETARY FOR SECURITY: Yes, Sir, I can explain. The short answer is that we are dealing with people who have arrived from China and been allowed to stay in Hong Kong. They have applied for temporary stay every year to begin with, then every two years, and at the end of the seventh year or in the seventh year, they are allowed to apply to stay here permanently. We are now dealing—we are now in the seventh year, as it were—with the great bulge of immigrants who came in in 1979 and 1980. In those two years we had arrivals in Hong Kong numbering more than 300 000, hence the agreement with China that the numbers should be limited to 75 a day, which makes the present inflow of roughly 27 000 a year. So we stand to drop, in other words, from around 150 000 a year down to 27 000 a year in about 12 months' time as far as applicants to stay in Hong Kong permanently are concerned.

### **Review of policy on overseas domestic helpers**

6. MRS. FAN asked: *With reference to the information given by the Attorney General to this Council on 25 June 1986 that the Secretary for Security hoped to complete the review of existing policy on overseas domestic helpers by the end of July this year, will Government inform this Council what progress has been made on the review so far and, in particular, whether consideration has been given to introducing a provision which makes it obligatory for foreign domestic helpers to make a return visit to their country of origin immediately after the termination of their contract of employment?*

SECRETARY FOR SECURITY: Sir, the review of existing policy on overseas domestic helpers has proved to be a much more complicated and contentious issue than we expected. The review is now completed and the results have been put to Executive Council for advice.

To answer the second part of my hon. Friend's question, that provision should be introduced to make it obligatory for foreign domestic helpers to return to their country of origin immediately after the termination of each contract of employment has been considered in the review.

MRS. FAN: *Sir, I note from the Secretary of Security's answer that the result of the review has already been put to the Executive Council for advice. Can the Secretary say when does the Government expect to announce the results of this review?*

SECRETARY FOR SECURITY: Sir, that will inevitably depend on what Executive Council's advice is, but our aim would be to make an announcement as soon as possible.

MR. JACKIE CHAN (in Cantonese): *Sir, would the Government inform this Council, whether over the past three years the Government has ever prosecuted overseas domestic helpers who had terminated their contract and then did not return to their country of origin and could the Government inform us whether he is aware of the reason for their not returning to their home country?*

SECRETARY FOR SECURITY: Yes, Sir. The answer is that the main reason for not returning to their home country at the end of a contract is frankly job-hopping, and we have indeed, or the Immigration Department has indeed, prosecuted job-hoppers wherever they were found in the last few years.

MRS. FAN: *Sir, I got a non-committal answer from the Secretary for Security so while awaiting eagerly the announcement, can the Secretary for Security confirm whether it is the existing policy not to grant a renewal of visa for staying in Hong Kong for overseas domestic helpers whose original employers do not give them the release documents?*

SECRETARY FOR SECURITY: Sir, I am afraid my hon. Friend has caught me out completely on a very technical point and I will give her an answer in writing. (See Annex I)

### **Measures to curb the influx of child illegal immigrants**

7. DR. HO asked: *Will Government inform this Council:*

- (a) how many child illegal immigrants have been caught in the last six months; and*
- (b) what measures will be taken to curb the influx of child illegal immigrants?*

SECRETARY FOR SECURITY: Sir, the number of child illegal immigrants aged under 14 arrested on entry in the last six months was seven in May, four in June, four in July, 20 in August, 12 in September, 23 in October, a total of 70. Another 60 have been arrested on entry during the first 18 days of this months.

Sir, the Government is most concerned at the resurgence of this dangerous and illegal smuggling of children. The security forces on our borders are keeping a sharp lookout. Any illegal immigrant children they catch will be returned to China. Any snakeheads caught will be prosecuted. I would like to take this

opportunity strongly to urge parents not to use this illegal and dangerous way to get their children here. There is a safe and legal route by means of the one-way permit system.

DR. HO: *Sir, in order to effectively curb this flow of illegal immigration and the operation of the snakeheads, would the Secretary for Security consider, (1) amending the existing Immigration Ordinance so that the authorities concerned could prosecute the parents of the child illegal immigrants, regardless of whether they have made arrangements for their children to be brought to Hong Kong or not, and (2) earmarking a portion of the current daily quota for giving preferential treatment to children under the age of 14 and with both parents living in Hong Kong?*

SECRETARY FOR SECURITY: Sir, I will certainly consider with the Legal Department my hon. Friend's first proposition, that parents should be considered responsible for the smuggling of their children into Hong Kong and should be prosecuted for it, and the law amended to enable that to happen. On the second part of my hon. Friend's question, the administration of the 75-a-day one-way permit system is of course a matter for the Government of China. I don't think there is any need for us to go back to the Government of China and seek better conditions or better arrangements for children of people in Hong Kong because it is clear that at least half of those coming over at the present time on the 75-a-day one-way permit system are children joining their parents in Hong Kong, and over half of these are under the age of 14.

### **Written answers to questions**

#### **Sick leave for civil servants**

8. MR. SZETO asked: *Is the existing number of days of sick leave with pay entitled by civil servants less than that stipulated by the Employment Ordinance? If so, is the Administration prepared to make any amendments?*

CHIEF SECRETARY: Sir, civil servants with more than four years' service are entitled to more days of sick leave than the minimum stipulated in the Employment Ordinance. Civil servants with less than four years' service are entitled to 91 days of sick leave with full pay, followed by another 91 days with half pay. Compared with the minimum of 120 days with two thirds pay, stipulated in the Employment Ordinance for private sector employees, the total pay received by this group of civil servants during the period of sickness is still favourable. Consideration is being given to the question whether the initial period of 91 days with full pay should also be extended to 120 days.

**Linked contracts for government contract staff**

9. MR. POON CHI-FAI: *The term of a contract for government contract staff normally lasts for two and a half years but some of the contracts are renewed for two terms, that is five years, at a time. In this connection, will Government inform this Council:*

- (a) *in the past three years (1983-85), how many and what percentage of the expatriate contract staff had their contracts renewed for two terms at a time each year and what is the equivalent for local contract staff;*
- (b) *what is the basis for approving the renewal of contracts for two terms at a time; and*
- (c) *what are the advantages and disadvantages of such a method of renewal?*

CHIEF SECRETARY: Sir, linked contracts are very rarely offered on first appointment, and even on renewal of contract, such terms have become the exception rather than the rule.

As regards the specific points raised:

- (a) During the period 1983-84 to 1985-86, a total of 5 135 contracts were renewed. Of this number, the detailed breakdown of linked-contract agreements offered is as follows:

<i>Year</i>	<i>Overseas Officers</i>		<i>Local Officers</i>	
	<i>Number</i>	<i>%(*)</i>	<i>Number</i>	<i>%(*)</i>
1983-84	111	9.1	12	4.9
1984-85	106	8.3	6	2.0
1985-86	53	4.7	17	9.4
	<u>270**</u>		<u>35</u>	

(Note: \*Percentage of the total number of overseas or local agreement officers;

\*\*of this number, 180 were police officers, 26 in the legal group of departments and Judiciary and 44 in the professional grades in the housing and lands and works group of departments. The remaining 20 were in other departments.)

- (b) A linked contract is offered only when this is justified by the staffing position of the grade concerned. For overseas officers, it must also be established that a local replacement will not be available during the period covered by the linked contract.
- (c) The advantage of linked contracts is that this facilitates forward planning and provides an element of continuity. It is designed to meet service needs, and, as such, there are no apparent disadvantages.

## Statements

### Scope of Government Audit in Hong Kong—'Value for Money' Studies

CHIEF SECRETARY: Sir, with regard to Mr. Allen LEE's earlier statement on the scope of government audit in Hong Kong, I am pleased to say that the Government supports the views and recommendations of the Public Accounts Committee as to the definition of the Director of Audit's duties, in relation to value for money studies; and notes that the Director of Audit considers that the boundaries of his remit in this respect, are now adequately defined.

Sir, I am grateful to Mr. LEE and all those who have worked so hard to resolve this matter.

### Sanctions against South Africa

FINANCIAL SECRETARY: Sir, following consideration by the Executive Council, it has been decided that the Government should introduce additional sanctions against South Africa. These include a ban on the import of iron and steel from South Africa, and a voluntary ban on new investment and bank loans and promotion of tourism to South Africa. The import ban will not apply to those goods which are covered by existing contracts or which do not originate from South Africa.

The Government has reached this decision after careful consideration of all relevant factors applicable to Hong Kong, including Hong Kong's moral position against apartheid, the growing consensus internationally on sanctions against South Africa and similar action recently taken by Hong Kong's major trading partners, including the United States, the European Community, Canada and Japan.

The Government's stance against apartheid is not new. Various measures have already been taken in previous years. For example, in line with the Gleneagles Declaration of 1977, the Government already discourages sporting contacts with South Africa. More recently, in August this year, a ban on the importation from South Africa of all gold coins minted in that country was introduced. The further measures which the Government has now decided to take are in keeping with the recent developments in the international community, particularly the action taken by Hong Kong's major trading partners. The effect of taking these additional measures will bring Hong Kong among those governments who are Hong Kong's major trading partners and who have stepped up economic measures against South Africa in protest against apartheid.

In 1985, 10.5 per cent of our imports of iron and steel came from South Africa. In the first eight months of this year, this proportion was 14 per cent. But other sources of supply are readily available.



The voluntary bans on new direct investment in and bank loans to South Africa will take the form of an advisory letter from the Government to the major financial, industrial and commercial representative organisations, informing them of the Government's decision to impose additional sanctions on South Africa and advising them to refrain from extending new loans to entities or making new direct investments in South Africa. Similarly, the Government will also issue a circular letter to all registered travel agents advising them to refrain from organising tours and promoting tourism to South Africa. These measures are not statutory since Hong Kong does not have legislation to allow restrictions in these areas.

The additional sanctions will be brought into effect when the Import Prohibition (South Africa)(No. 2) Regulations 1986 are published in the *Gazette* on Friday, 21 November 1986.

### **Report of changes to the approved estimates of expenditure approved during the second quarter of 1986-87—Public Finance Ordinance (section 8)**

FINANCIAL SECRETARY: Sir, in accordance with section 8(8)(b) of the Public Finance Ordinance, I now table for Members' information a summary of the changes to the approved Estimates of Expenditure in the second quarter of the financial year 1986-87.

Supplementary provision of \$195.7 million was approved. It was fully offset either by savings under the same or other heads of expenditure or by deletion of funds under the additional commitment votes. This included supplementary provision of \$132.4 million for grants to universities, polytechnics and the Baptist College to enable the institutions to award salary increases to staff following the adjustments to the civil service non-directorate pay scales.

Approved commitments were increased by \$151.8 million during the period, and new commitments of \$288.5 million were also approved.

Items in this summary have been approved either by Finance Committee or under delegated authority. The latter have been reported to the Finance Committee in accordance with section 8(8)(a) of the Public Finance Ordinance.

## **Government Business**

### **Motion**

#### **Immigration Ordinance**

THE SECRETARY FOR SECURITY moved the following motion: That section 18(3) and Parts VIIA and VIIB of the Immigration Ordinance shall expire on 31 December 1987.

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

Section 18(3) of the Immigration Ordinance was enacted in January 1979 to remove the limit of two months during which an immigration officer may remove a person refused permission to land in Hong Kong, if it appears to the Director of Immigration that that person was previously resident in Vietnam. This subsection will expire on 31 December 1986 unless extended by resolution of this Council.

Parts VIIA and VIIB of the Ordinance were enacted in August 1979 to provide for more effective control of trafficking in unlawful immigration. Under these provisions, any person who aids illegal immigrants to enter Hong Kong commits an offence. Offenders are liable on conviction to a fine up to \$5 million and imprisonment for life, while the ships and other property involved are liable to forfeiture. These two parts will also expire on 31 December 1986 unless extended.

Sir, Hong Kong's Vietnamese refugee problem has persisted. There has been an increase in arrivals from Vietnam this year. In the first nine months, a total of 1 920 Vietnamese refugees arrived, compared with 952 in the corresponding period in 1985. On the other hand, thanks to a sympathetic and greatly appreciated understanding of our predicament by the main resettlement countries, that is, the United States, Canada and Australia, and thanks also to Her Majesty's Government's initiative in relaxing the family reunion criteria it applies to refugees and the response of other countries to this initiative, the refugees resettled in the first nine months numbered 3 258. The refugee population at 8 356 at the end of September was at its lowest for this decade. But I'm afraid the prospects for next year as far as resettlement is concerned are not good, or so the resettlement countries are telling us. And as the refugees are still coming to Hong Kong, we still need to keep the special powers in the Immigration Ordinance to deal with them.

As regards the two parts dealing with illegal immigration from China, this also remains a problem. In 1985, 12 616 illegal immigrants were arrested while attempting to enter Hong Kong, and a further 3 394 who had evaded security forces at the border were arrested subsequently. For the first nine months of 1986, the figures were 11 843 and 2 623 respectively, compared with 7 841 and 2 331 for the corresponding period in 1985. No particular reason has been identified for the increased level of illegal immigration this year. It could well be a combination of the usual factors, including rumours circulating in China that amnesties would be granted. Rumours, I might say, that have no justification whatsoever.

The situation which I have just described reinforces the need to retain provisions in the Immigration Ordinance designed to assist in controlling the entry of unauthorised immigrants. It is our belief that neither the Vietnamese

refugee nor the illegal immigration problems will be with us permanently. Accordingly, the motion before this Council seeks to extend these provisions again for only one more year until 31 December 1987 when we shall again review the position.

Sir, I beg to move.

*Question put and agreed to.*

### **First Reading of Bills**

#### **DUTIABLE COMMODITIES (AMENDMENT) BILL 1986**

#### **EVIDENCE (AMENDMENT) BILL 1986**

#### **POST OFFICE (AMENDMENT) BILL 1986**

#### **TRADE DESCRIPTIONS (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**

#### **DUTIABLE COMMODITIES (AMENDMENT) BILL 1986**

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

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

The Bill amends the Dutiable Commodities Ordinance, which was enacted in 1931 for the taxation and control of liquor, tobacco, hydrocarbon oil, methyl alcohol and other substances. The Ordinance was last substantially revised in 1963. Amendments are now required primarily to update somewhat archaic provisions and definitions, as well as to adapt to modern business practices and administrative procedures. The detailed amendments are described in the Explanatory Memorandum to the Bill. No changes in duty rates are proposed.

The business community, in particular traders in dutiable commodities, have been extensively consulted. Their comments on the proposed amendments have been incorporated into the Bill where appropriate. The proposals have also been endorsed by the Trade Advisory Board.

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.*

## **EVIDENCE (AMENDMENT) BILL 1986**

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

He said: Sir, I move the Second Reading of the Evidence (Amendment) Bill 1986.

It is a necessary feature of any legal system that the courts should have available to them all relevant evidence. It is only in that way that their decisions can be fully informed. Difficulties are presently being encountered in gathering evidence from overseas jurisdictions, particularly in respect of frauds perpetrated in Hong Kong.

Two areas governed by provisions of the Evidence Ordinance (Chapter 8) are causing concern. The first relates to the admission into evidence of the records of banks that are either defunct or in the process of liquidation. The second concerns the present requirement that originals of documents must be annexed to depositions obtained as a result of a letter of request to an overseas jurisdiction to obtain evidence for the purposes of Hong Kong proceedings.

The use of bankers records in legal proceedings is governed by sections 19B and 20 of the Ordinance where those records are to be proved by way of affidavit or affirmation, and by section 77F(2)(b) where those records are to be proved by way of deposition taken overseas before a judicial officer or tribunal. Section 20 enables copies of the records of Hong Kong banks to be admitted in evidence in both civil and criminal proceedings and enables copies of the records of overseas banks to be admitted in evidence in criminal proceedings.

Presently, Sir, those sections appear to apply only to operating institutions. For example, section 19B enables the designation of any overseas bank (for the purposes of section 20) '...which carries on the business of banking outside Hong Kong ...'. Section 20 allows the production of a banker's record provided '... that such record is in the custody or control of the bank...'. In sections 20 and 77F(2)(b) the person making an affidavit or affirmation or deposition to prove such records must be an officer of the banking body.

Unhappily not all banks have the blessing of eternal life. These requirements of the law cannot be met in the case of a defunct bank which once did but no longer carries on the business of banking. The records of a defunct bank are

usually in the custody or control of some person or institution appointed to administer its affairs. Nor will there be any longer an officer of the bank to prove the records.

This Bill therefore proposes to amend the Ordinance so as to allow those sections to operate in connection with criminal proceedings not only in respect of banks that carry on business, but also in respect of defunct banks or banks that are in the process of liquidation, whether in Hong Kong or overseas.

The second area of concern relates to the requirement in section 77F(1)(c) and (d) for the annexure to depositions taken overseas of original documents rather than copies. This requirement is in contrast to the provisions that enable copies of what I might call 'local' documents to be admitted under the Ordinance.

With the development of modern technology, documents such as cheques or credit advices are not retained as originals by many financial institutions but are destroyed after microfilming. An institution may be understandably reluctant to part with a sheet of microfilm containing many other images apart from the one required. Or it may be that the originals are in the hands of a defendant or co-defendant and accordingly cannot be annexed to the deposition. The institution may only have the copy. The institution may only receive copies. The original documents may be scattered amongst various other institutions in various jurisdictions. Or the original may be simply lost, or damaged or irrecoverable.

These facts of life make the requirement for the production of originals difficult, if not impossible, to meet. Recent court decisions in the United Kingdom support the modern view that the fact that documents are merely copies affects the question of their credibility, not their admissibility. The requirement for originals therefore, besides being unduly restrictive, does not provide any real safeguard that is likely to be impaired or eroded by the use of copies.

So this Bill proposes to amend the Ordinance to dispense with the requirement that documents annexed to depositions tendered in evidence pursuant to that section must be the originals.

The Judiciary, the Law Society and the Bar Association and interested government departments have been fully consulted, and the proposals in the Bill before this Council have their support.

The Bill is an important step forward in the fight against commercial crime. It is logical and sensible that all records and documents which would otherwise be lost or unavailable because of legal technicalities should be before the court.

Sir, I 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.*

**POST OFFICE (AMENDMENT) BILL 1986**

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: 'A Bill to amend the Post Office Ordinance'.

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

The principal objects of this Bill are to create a new offence outlawing the practice known as 'inertia selling', to give the Postmaster General discretion in relation to the method of payment of postal charges and, to update the penalties for offences under the principal Ordinance. The Bill would also remove the prohibition on the importation of intoxicating liquor by post.

Inertia selling is a deceptive practice whereby a person, often a directory publishing concern, sends a document through the post which gives the impression that the recipient company owes money for the insertion of its name in a trade directory.

When studied carefully, the document normally contains small print to the effect that it is only on payment being made that the entry will be included in the next issue of the directory. The deception works because the employees concerned may erroneously believe that this is a debt owed by their company and make the payment accordingly. In addition, the directories are sometimes not printed or, if they are, are of little commercial value.

Substantial numbers of complaints from both local and overseas companies have been received over the years. It is intended to curtail this and similar practices by making it an offence to post any bill, invoice or statement of account due for unsolicited goods or services unless the document has on its face a clear notice in English and Chinese that it is not a bill and need not be paid. A maximum penalty of \$100,000 fine and imprisonment of up to three years is proposed for offenders. In this way, Hong Kong's image as a leading international commercial centre will be enhanced.

The Bill also proposes that the Postmaster General be given the discretion regarding the payment of postage, allowing him to offer credit facilities to regular users of the speedpost and to bulk parcel customers. This will improve both the service offered by the Post Office and its competitiveness.

The revised maximum fines proposed in the Bill are intended to restore the deterrent effect which has been eroded by inflation since the levels were set in 1926.

The proposal regarding the importation of intoxicating liquor will bring the local postal system in line with international practice.

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.*

## **TRADE DESCRIPTIONS (AMENDMENT) BILL 1986**

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: 'A Bill to amend the Trade Descriptions Ordinance'.

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

The Trade Descriptions Ordinance, which replaced the Merchandise Marks Ordinance, was enacted in 1980 to update and strengthen the law relating to false and misleading descriptions of goods. The Bill before Members is the result of a review by the Commissioner of Customs and Excise of the administrative and enforcement procedures involved in implementing the Ordinance.

The Bill's principal objects are to streamline the procedures for the detention and forfeiture of goods; to give authorised officers powers of arrest; to permit the Commissioner of Customs and Excise to disclose information on seized goods to trade mark owners; and to facilitate the acceptance in court of evidence relating to the country of origin for imported goods bearing false trade descriptions.

The power to detain seized goods by locking or sealing premises, including the sealing of cabinets within a room, is proposed as a remedy for those infrequent occasions when it is not practicable to move the goods to government storage. Perishable goods under refrigeration, for example, would risk deterioration, whilst heavy or bulky goods would require special equipment or transport to remove them. This power would normally be employed in cases where it was anticipated that the court would order the seized goods returned to the owner after the removal of, for example, offending trade marks. Inconvenience to all parties concerned will thereby be minimised.

The proposal to give powers of arrest to authorised officers is necessary because experience of operation with the Ordinance suggests that such powers are essential for effective enforcement. Although the industry officers who are responsible for enforcing the Ordinance do not have a general power of arrest, in practice, where there is an expectation that an arrest is likely, arrangements are made for them to operate with the assistance of their customs and excise service colleagues who do have a general power of arrest. Although workable, this arrangement is wasteful of manpower and inhibits efficiency. The industry

officer grade has for many years exercised powers of arrest under the Import and Export Ordinance. The extension of such powers to the Trade Descriptions Ordinance will be a significant improvement leading to more effective and cost efficient enforcement of the Ordinance.

The disclosure of information provision is intended to allow the Commissioner of Customs and Excise to co-operate more effectively with trade mark owners, who may require the information to take civil action against infringements through the courts.

The provision relating to the forfeiture and disposal of goods replaces procedures under the existing Ordinance that have been found to be cumbersome and time consuming for all concerned.

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.*

## **SEPARATION AND MAINTENANCE ORDERS (AMENDMENT) BILL 1986**

### **Resumption of debate on Second Reading (29 October 1986)**

MISS TAM: Sir, there are three Bills laid before Council today which deal with the question of maintenance of the spouse or children to a broken marriage, and the children born outside of wedlock. These Bills are: the Separation and Maintenance Orders (Amendment) Bill 1986, the Affiliation Proceedings (Amendment) Bill 1986 and the Guardianship of Minors (Amendment) Bill 1986. On 29 October 1986, the Attorney General had, in his speeches introducing these Bills, explained the background and the rationale behind these amendments to the principal Ordinances, and the consultations that had taken place before drafting them. My colleagues, at the in-house meeting held on 31 October, gave full endorsement to the principles behind his proposals. An ad hoc group was formed to study the Bills and to support their passage through this Council. And with your leave, I shall speak now on all three Bills as one cohesive proposal.

#### *Separation and Maintenance Orders (Amendment) Bill 1986*

The principal Ordinance to this Bill was enacted in 1935 and it enables a spouse of a broken marriage to apply to the court for a Separation Order. Under section 5 of the principal Ordinance, the wife can be awarded by the district court weekly maintenance of up to \$1,000, and each child can have up to \$500 per week for his maintenance. However, if this had been a divorce case and



proceeded under the Matrimonial Proceedings and Property Ordinance, there would be no restriction on the district court's jurisdiction on the limit of maintenance and the judge may decide on the appropriate amount and the method of payment as he sees fit.

The Legislative Council ad hoc group examined the history of the limits imposed on the maintenance and the method of payment in the provision of all the three principal Ordinances and found no valid reason to retain our power to fix an arbitrary limit on the awards made by the district court, as we have no knowledge of the actual needs of the children involved in these broken marriages and the ability of the parties to pay for the children's maintenance. We believe that the judge, who has heard the evidence and seen the parties and their children, must be in a better position to devise a formula whereby the children will be best protected, educated and maintained: likewise with the maintenance of the spouses. Hence we decided that the legislature should relinquish its power to revise these limits in the future and, instead, the courts, and in this case, the district courts should be given the flexibility to make the appropriate awards either by lump sum or by instalment payments.

We therefore support the proposed amendments to sections 5 and 7 of the Separation and Maintenance Orders Ordinance whereby the judge of a district court may award lump sum or instalment payments to meet the child's immediate and non-recurrent needs, or for the purpose of enabling liabilities or expenses reasonably incurred in his maintenance and education before the making of the Separation Order.

*Affiliation Proceedings (Amendment) Bill 1986*

We have also examined the proposed amendments to sections 5, 7, 9, and 10 of the principal Ordinance. The effect of these amendments are that the maintenance for an illegitimate child will no longer be restricted to \$500 per week and that a district court judge may also award lump sum or periodical payments for the child's maintenance and education as he thinks reasonable. In other words, an illegitimate child will have the same rights to maintenance as a legitimate child.

The ad hoc group shared the views of many members of the judiciary and the legal professions that the illegitimate child is an innocent party to the disputes between his parents. In many ways, an illegitimate child suffers disadvantages for lack of social status and the care of one of his parents, and he must not be deprived of just and fair treatment when he comes before the courts, often as a last resort, asking for protection of his interest. We believe that these timely amendments to the principal Ordinance should be made without hesitation.

*Guardianship of Minors (Amendment) Bill 1986*

Sir, I had earlier on mentioned that the legislators are content to relinquish to the Judiciary the power to determine the limit of maintenance awards. In saying so, I have in mind, in particular, the provisions of section 22(2) of the

Guardianship of Minors Ordinance. Here it says that: the Legislative Council may, by resolution, amend the maximum weekly sums which may be ordered by the district courts, which at present is limited to \$500 per week. Again, the ad hoc group does not believe that we should second guess what is the best arrangement to meet the needs of the child who is a minor in each of these applications before the court, and we therefore agree with the proposal to amend sections 11 to 13 of the principal Ordinance and give the power to the Judiciary to decide on the appropriate level of maintenance of the minor, and the method of payment.

We see the advantage in allowing the Director of Social Welfare to initiate proceedings under section 10 of the principal Ordinance to apply for an order regarding the custody of the minor and for his maintenance and welfare. This amendment will enable the Director of Social Welfare to come to the rescue of the child if both his parents should neglect their parental duties.

In short, we welcome these Bills introduced by the Attorney General and believe that his proposals will bring fairness and consistency to the practice of the courts in dealing with matrimonial dispute and the welfare of minors, the flexibility required to alleviate the hardship experienced by the members of a broken family and justice to the protection of the child's interest whether he is legitimate or not. We therefore have pleasure to support the Bills.

ATTORNEY GENERAL: Sir, I'd just like to thank Miss TAM and all the Members of the ad hoc group that was set up to study these three Bills for their sympathy with the objectives of the Bills, and for their support of the detailed provisions.

*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).*

## **AFFILIATION PROCEEDINGS (AMENDMENT) BILL 1986**

### **Resumption of debate on Second Reading (29 October 1986)**

*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).*

**GUARDIANSHIP OF MINORS (AMENDMENT) BILL 1986****Resumption of debate on Second Reading (29 October 1986)**

*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.

**SEPARATION AND MAINTENANCE ORDERS (AMENDMENT) BILL 1986**

Clauses 1 to 6 were agreed to.

**AFFILIATION PROCEEDINGS (AMENDMENT) BILL 1986**

Clauses 1 to 7 were agreed to.

**GUARDIANSHIP OF MINORS (AMENDMENT) BILL 1986**

Clauses 1 to 11 were agreed to.

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

SEPARATION AND MAINTENANCE ORDERS (AMENDMENT) BILL 1986

AFFILIATION PROCEEDINGS (AMENDMENT) BILL 1986

GUARDIANSHIP OF MINORS (AMENDMENT) BILL 1986

had passed through Committee without amendment and moved the Third Reading of the Bills.

*Questions put on the Bills and agreed to.*

Bills read the Third time and passed.

## Adjournment

3.44 pm

*Motion made. That this Council do now adjourn*—THE ATTORNEY GENERAL.

HIS EXCELLENCY THE PRESIDENT: As eight Members have given notice of their intention to speak, I propose to exercise my discretion under Standing Orders 9(7) and 9(8) to allow Members such time as is necessary to complete their speeches, and such time as is then necessary for the Official Member to reply to those speeches, before putting the question on the adjournment.

## Industrial safety

MR. CHAN KAM-CHUEN: Sir, since the invention of the steam engine which started the Industrial Revolution, man has created more powerful and faster machines which his mind and body may not be conditioned to cope with these high speeds. It is therefore important that safety provisions must keep in pace to prevent these hazards.

The subject of industrial safety, in one form or another, has been debated in this Council from time to time. It is an evil which industry cannot wish away and which requires the combined and continuous efforts of the Government, employers and employees to reduce the following unpleasant reported occupational accidents figures:

<i>Year</i>	<i>Total</i>		<i>Fatal</i>
1980	70 621	including	235
1981	69 428	including	270
1982	71 124	including	245
1983	71 141	including	246
1984	81 171	including	217
1985	79 556	including	216

(page 17 of the September 1986 issue of the Hong Kong Monthly Digest of Statistics)

The remainder may be injuries ranging from a needle wound from a sewing machine to a permanent total disability. Humanitarian considerations apart, this drain on our valuable skilled manpower and its ill effects on our economy and society are obviously undesirable.

Seven other Members will speak and as they come from a cross-section of our community, their topics will cover a full range of viewpoints, on such matters as financial and staff resources, penalties, division of tripartite responsibilities, causes of industrial accidents, medical and health issues, construction industry, existing inadequacies and their recommendations.

Prevention is better than cure and the basic preventive measures for industrial safety are engineering, enforcement and education.

Engineering means the design, layout and construction of work place, and the production process which all have a bearing on the creation of a safe environment.

Last night, someone was talking about the Cantonese factory term ‘踢晒腳’ often used to describe very heavy workload. But from the safety point of view, there may be a faulty layout of the workplace. If the passages are blocked with goods and materials, it may cause serious injuries to workers who trip over them. A good question to ask about production process may be ‘Can toxic material be replaced by a non-toxic substitute?’

Enforcement means not only the enforcement of safety laws by labour inspectors on spot checks but also the internal safety enforcement by the management. Implementation of the Safety Officers and Safety Supervisors Regulations will help to improve the situation. The number of factory inspectors will obviously never match the number of establishment or accidents but it is the increased inspection on constant offenders which would produce the best results and prevent them from turning minor faults into disasters.

Education means the methods of teaching the employees to avoid accidents, through on-the-job training, participation in safety seminars and campaigns using the mass publicity media. The Government and employers have contributed quite a lot of efforts in recent years.

However, this does not mean that we should not have an Occupational Safety Council, but as one of my colleagues will be speaking on this subject, I do not wish to elaborate but will lend him my strong support.

Perhaps, one should include first aid in the education programmes. Although Hong Kong has a very efficient medical and ambulance service but traffic congestion would sometimes delay their arrival at the scene of the accident. The successful pilot scheme of using motorcycles to carry first aid personnel to overcome traffic delays should be given full implementation.

Besides this, from the safety education point of view, the Government should seek the co-operation of factory and construction management as well as the St. John’s Ambulance Brigade to organise first aid seminars to teach employees on what to do or what not to do to the victims in case of accidents. Sometimes those precious minutes of bleeding may mean life or death to the victim.

Temporary first aid given by his trained colleagues on site may sustain him until the professionals from the ambulance arrives to take over for subsequent handing over to a physician in a hospital.

As to the employees, I would advise them not to take a passive or fatalistic approach to industrial safety. Accidents can be prevented with a little more care, for example, those who work with cutting machines should not try to remove the safeguards for more production nor should they spend the whole night playing mahjong and work with sleepy eyes. Smoking whilst working with solvents and the like is suicidal.

Finally, the clear cut division of responsibilities of government departments is important to follow up with remedies. I shall cite one case. On 19 September 1984, a worker doing a repair job was scalded to death by a sudden discharge of boiling effluent from a defective sewer drain near a man hole at Kwok Shui Road, Kwai Chung. Subsequently, an inquest was held in July 1985 and an unanimous verdict of 'Death by Misadventure' was returned with a number of riders added by the jury for action by various government departments as well as private parties concerned.

What action have the parties concerned, especially the government departments, taken to prevent recurrence of a similar nature in such manholes? Or is it not the responsibility of any government departments as they are not empowered by legislation to deal with this problem? The colleagues and the relatives of the deceased awaits Government's answer as this person has died in vain.

With these observations, Sir, I support the motion.

DR. IP:

*Significance of industrial accidents*

Sir, insufficient industrial safety generates industrial accidents. The significance of this problem can be brought home by the following statements.

- (1) The accident rate in all industry in Hong Kong has risen from a value of 34 per 1 000 workers in 1976 to that of 50 in 1985.
- (2) In the last 10 years, we have seen the birth of a branch of orthopaedic surgery which specialises in reconstructive surgery to remedy hand injuries sustained during work.
- (3) There is a shift in the cause of physical disability from that of congenital and infective to that of injury.
- (4) A conservative estimate given in 1978 indicates that, in the preceding 10 years, some 3.1 million man-days and \$1.4 billion were lost as a result of accidents at work. Similar figures in the last 10 years would be higher.
- (5) In addition to that, there is an unquantifiable but nevertheless real cost in human suffering.

*Analytical study into industrial accidents*

Sir, the most effective way to ensure industrial safety is through a logical and analytical approach towards the causation of industrial accidents. An example of this is carried out jointly by the Departments of Community Medicine and Orthopaedic Surgery of the University of Hong Kong in 1982 on 'A Study of Major Factors Associated with Severe Occupational Hand Injury in Hong Kong Island'. (In passing, I would like to remind Members that hand injury constitutes some 21 per cent of all industrial accidents.)

*Hand injuries*

This study revealed that out of a retrospective study of 383 cases of severe occupational hand injury, 17 per cent had arrived from mainland China less than two years, and 87 per cent of this group either could not understand or could not adequately express themselves in Cantonese. Furthermore, the mean duration of work of 11.3 hours per day with 60 per cent of the injured working more than 10 hours per day. 39 per cent were not allowed a tea-break and 30 per cent were working overtime. As regards the machines, 58 per cent had no safety device.

The conclusions of the above study should form a good basis on which to formulate solutions to tackle the problem of severe occupational hand injuries.

*Injuries due to fire*

With the recent fire at Kwai Chung which killed 13 workers and injured 11, a study into similar incidents which involved flammable substances in liquid or gaseous form that were ignited almost immediately upon spillage/release reveals that between 1972 to 1986, five such incidents killed between one to 11 workers and injured between 11 to 300 each. There must have been many other fires caused by flammable substances of a different nature and of a smaller scale. The question is: Has similar analytical approach been adopted to study this problem?

With over 2 500 prosecutions for fire-related offences under the labour laws just this past year, plus God only knows how many more offences with warnings given without prosecution, fire related hazards which unabated will give rise to industrial fires and injury must be the major problem which must be tackled urgently! Furthermore, with 548 prosecutions relating to licensing and storage of dangerous goods in just these last two years, and with figures still rising, it seems obvious that such malpractice is abounding and legislation, prosecution and fine do not appear to have any deterrent effect!

There has been an outcry for the need to have dangerous chemicals properly labelled, the effects on human contact clearly stated, and management on spillage distinctly prescribed. There has been requests for notification by manufacturers, importers, or wholesalers of the whereabouts of the sales of

dangerous chemicals, and the toughening up of legislation in relation to them. I support all such requests as it will bring Hong Kong in line with the standard of international practice on industrial safety.

*The rising industrial accident rate*

Sir, the rising industrial accident rate worries me. Although there is a significant drop in the death rate in industrial accidents from 0.15 per 1 000 workers in 1977 to 0.069 in 1985, there is no concurrent drop in the overall rate of industrial accidents. The accident rate in all industry, I repeat, in Hong Kong has risen from a value of 34 per 1 000 workers in 1976 to that of 50 in 1985. Understandably, such drop in death rate may be due to better medical care, and such a rise in accident rate may be the result of better reporting. I am less optimistic about the figures. It spells out to me quite clearly that we are not successful in reducing industrial accidents!

Are we doing enough to prevent such accidents? Are we putting emphasis where we should? Where does these accidents occur, large factories or small ones? And in what proportions? How are these accidents caused? Other than the accidents themselves, which I have reasons to believe we are not studying enough, are we familiar with the term 'near-accidents' and have we evaluated their significance? Can we expect the Labour Department with all their many commitments to concentrate on just the aspect of industrial safety and prevention? All in all, I am still waiting for someone to provide me with all these answers which I consider vital in the process of solving our problems of industrial accidents.

*Small factories*

Sir, I am particularly concerned with the small factories which are responsible for over 80 per cent of the overall industrial productions in Hong Kong. It has been admitted by the Labour Department that their priority for factory inspection is low. It has been claimed by the Factory Inspectors Union in April 1985 that some of these factories which are low on the priority list, will not even be inspected once in every five to six years, and by the time they are inspected, there is a change of hands. Such frequency of inspection is by any standard ridiculously low, particularly if we were to accept the recommendation made by Mr. J. P. WOOD, the then chief factory inspector from Her Majesty Factory Inspectorate in the United Kingdom of three inspections per year. Furthermore, such low frequency of inspection has no deterrent effect at all, and it has certainly no effect in the promotion of safety and health.

I would like to quote from a letter sent to me by Professor P. C. LEUNG, Professor of Orthopaedics from the Chinese University, founder of Reconstructive Surgery in Hong Kong, and long time member of the Committee on Industrial Safety and Accident Prevention of the Labour Department. He said, 'The whole question of accident prevention in small factories require an individual research to be directed by a neutral group. The results of the research



will allow valuable recommendations to be made on accident prevention in such small factories, where the majority of occupational accidents occur and which are responsible for over 80 per cent of the overall industrial productions in Hong Kong.' To follow on his recommendations of a neutral group I will elaborate on no other than the establishment of an occupational safety and health council.

*Safety and health council*

Sir, it is not to say that Government have made no significant achievements in the important task of industrial safety and accident prevention in the last few years. Examples include the creation of factory inspectors, the introduction of safety officers in the construction industry, and the training courses in occupational safety. Furthermore it was a very wise move to establish the Committee on Industrial Safety and Accident Prevention (CISAP) in 1978 based on the recommendation of Mr. J. A. LINEHAN, labour adviser. It was through the very membership of the CISAP, which includes representatives from professional bodies and academic institutions with a particular interest and expertise in the field of industrial safety and health, that many safety subcommittees were set up to strengthen its framework and expand its scope of activity. It is now time to plan further!

It was envisaged as early as 1976, that the CISAP should foster a voluntary safety movement and in time gradually evolve into an independent safety council, such as those found in Singapore, Malaysia, Japan, the United Kingdom, and the United States.

Sir, the proposal for the establishment of an Occupational Safety and Health Council as a statutory body to promote occupational safety and health to both the industrial and non-industrial sectors, through training, education and consultancy warrants serious consideration. Accident prevention and safety promotion need a tripartite co-operation: the Government, the employer and employee. Accident prevention and safety promotion needs an independent and neutral approach which a statutory council can offer.

Sir S. Y. CHUNG has asked for it in 1981. Sir Murray MACLEHOSE as he then was, in his policy debate speech in the same year agreed to carefully study this concept. The Labour Department concluded in May 1984 that it was essential and CISAP endorsed such a recommendation. The report made by the working group set up to look into its implementation was endorsed by CISAP in 1985. It is now a subject for discussion at the Labour Advisory Board in December, and I look forward to their deliberations.

Sir, I conclude by requesting that if the concept of an independent council likewise gets the support from the Labour Advisory Board, I appeal to Government to establish such a council with a fair degree of urgency, since it is already some 10 years from when it was first conceived.

I look forward to Hong Kong competing successfully in the contest for industrial excellence and profitability, but let us make it also a safe contest!

MRS. NG (in Cantonese): Sir, over 20 people died or were injured in the fire which broke out in a Kwai Chung fur factory in the night of 8 October this year. This has caused grave concern among the public and it has also sparked off the adjournment debate for this evening. We want to urge the authorities concerned and people from all walks of life to pay greater attention to industrial safety.

The Labour Department's factory inspectors will be responsible for enforcing the Factory and Industrial Undertakings Ordinance and its subsidiary legislation. Undoubtedly, there must be more checks on chemicals used in factories and this will be an effective method of reducing the number of industrial accidents. But in order to achieve better results, the factory owners, the workers and people at large must share a collective responsibility to promote industrial safety.

Yesterday, together with Miss Maria TAM and Mr. HUI Yin-fat, we interviewed the representatives from the Industrial Safety Rights Committee. They put forward the following five suggestions for Government's reference:

- (a) Chemicals should be classified:
  - (1) to prohibit the use of extremely dangerous carcinogenic substances;
  - (2) to control dangerous chemicals and to ask those industries which handle dangerous chemicals to be registered and licensed by the Labour Department. Before issuing a licence, the Labour Department must fully inspect the factories concerned to ensure that all safety measures have been properly observed. After the licence is issued, there must be frequent checks and Government must legislate to prohibit workers under the age of 18 from using or coming into contact with such chemicals;
  - (3) to legislate the labelling of chemicals: this will make it mandatory for factory owners to label in Chinese the use of dangerous chemicals and the label should be clearly stuck on to the receptacles.
- (b) The use of chemicals must be subject to the granting of a licence from the Labour Department and there must be a 'chemicals central register' declaring the dangerous nature of the various types of chemicals used in various trades.
- (c) Employers must state clearly in the recruitment of workers, the nature of the chemicals used in the factory and provide safety operation memo. The employers must send workers to attend training courses on the use of such chemicals or to invite a factory inspector to come along to the factory to teach workers on the safest method of handling such chemicals.
- (d) The fourth suggestion is to increase the number of the factory inspectors to 250.
- (e) To take criminal action against the offending employers.

On top of the five recommendations, I think that equally important and as a long-term measure, we should positively promote industrial safety education so that people from all walks of life, especially factory operators, the management and factory workers would know about industrial safety and take appropriate measures to prevent accidents. Government can consider using the mass media or other methods to promote publicity on industrial safety and provide more information; or to provide questions and answers or quiz sessions. The 'industrial safety ambassador award scheme' organised by the Committee on Industrial Safety and Accident Prevention and Radio Hong Kong is commendable.

Industrial safety education today is even more important. I always come into contact with the labour force. I know that many are new immigrants to Hong Kong and they work in factories. They don't speak Cantonese and therefore have difficulties in communicating with fellow factory workers. Therefore they are not aware of the potential dangers in the various processes. In order to protect the interest of these new immigrants, Government must step up industrial safety so that factory workers would come to know the dangers inherent in the different types of chemicals.

In training, the industrial safety training centre has already organised various training courses for students and for various people in the trade and for employees. But the number of people trained cannot cope with the tremendous need of the Hong Kong industry. I therefore urge the Government to increase the number of courses so that people can thus benefit.

The lesson to be learned from the Kwai Chung fur factory explosion is that the Government should set up a specialised industrial safety council to co-ordinate the promotion of industrial safety, for example, organising regular briefings, discussion sessions and so on to introduce the degree of danger in the various dangerous chemicals so that workers will better understand these chemicals and we can avoid recurrence of the Kwai Chung factory explosion.

MR. CHEONG-LEEN: Sir, in the short span of time I have been able to speak on this subject, let me say straight away that I unequivocally support the setting up of the mooted Occupational Safety and Health Council, or OSHC for short.

I understand that the proposals for the establishment of the OSHC, including the method of financing, will be put to the Labour Advisory Board early next month, and I hope that the proposals will be favourably considered.

In fact the idea for such a council has been in gestation for the past 10 years, but it was only in 1984 that the Committee on Industrial Safety and Accident Prevention endorsed the setting up of an Occupational Safety and Health Council. A working party was created and in its report completed in July last year, it recommended that OSHC be established as a statutory body by 1987. I hope that the Administration can stick to this time-table.

Briefly, OSHC should be an independent safety council, tripartite in composition with its members representing the Government, employers and employees. Its overall objective should be the promotion of occupational safety and health, and it should develop a full range of activities including training and education, promotion and research in matters relating to occupational safety and health. In due course, perhaps annual awards could be given to those industrial firms that have contributed most to the industrial safety movement in the previous year.

In particular, I believe that small factories can benefit from the setting up of OSHC. Due to the small number of workers in each factory, there is inadequate knowledge of industrial safety, negligence on the part of both management and workers, and poor quality tools and machinery, and all this has led to a relatively large number of hand injuries every year, occurring most frequently in plastics and garment factories, and at construction sites.

As to the various methods of funding the council, I understand that the need for the first year is \$8 million, and because of the constriction, I don't wish to go into details, but this is a matter which has to be thoroughly discussed among all parties concerned and a consensus arrived at. Whatever system is eventually devised, it should be fair, simple and easy to manage, with minimum administrative cost.

It is worthwhile noting that the number of fatal industrial accidents has dropped from 141 in 1981 to 70 in 1985. On the other hand, non-fatal industrial accidents have increased from 45 659 in 1981 to 50 723 in 1985, and one can only speculate as to the reasons therefor. Is it because the number of prosecutions was reduced from 3 804 in 1981 to 1 535 in 1985? Or is it because the special provision for industrial safety publicity programmes has been reduced over the past few years, for example: from \$1,500,000 for 1984-85, to \$883,000 for 1985-86, and \$750,000 for 1986-87?

The enactment of legislation on the employment of safety officers should help raise the standard of industrial safety and reduce the number of industrial accidents in Hong Kong. The relevant regulations will initially apply only to the construction industry, but could and should be applied to other industries when there is clear and full justification to do so.

I think one of the principal advantages in setting up the independent OSHC will be the stronger interaction between the three parties concerned, with the increased momentum on information, education, self-reliance and self-responsibility in preventing accidents, and hopefully less reliance on governmental inspection and punitive legislative measures.

Therefore, after OSHC has been established, I would urge Government to monitor the annual expenditure by the Labour Department on industrial safety and health to ensure good value for money expended, and that as OSHC's annual budget increases, there should be at least corresponding savings within

the Labour Department. To give an idea of how much was spent by the Labour Department in this particular field: \$37 million was spent in 1984-85, and this was increased to \$42 million in 1986-87, and these figures do not include the personal emoluments in respect of doctors and nurses and other staff seconded from the Medical and Health Department.

I would also like to take this opportunity to stress the need for greater interaction in the different areas of safety requirements and safety promotion common to all big cities like Hong Kong. Apart from occupational safety and health which we are discussing today, there is also road safety, which is under the aegis of the Road Safety Council, and home safety and leisure safety (covering physical recreational activities whether in the water or on land) which falls particularly within the competence of various agencies such as the Consumers Council, the Urban and Regional Councils and so on.

I do not wish to suggest at this time that Hong Kong ought to follow the Singapore example of establishing an all-embracing national safety council which is organised into three sections: road safety, home safety and industrial safety. But I would ask the Administration to look into the desirability of closer co-ordination and interaction in the carrying out of research, and in educational and promotional efforts as regards the more important aspects of home safety and leisure safety.

For example, an industrial safety week is being planned for March next year. Will it be worthwhile by the same token to organise a territory-wide home safety and leisure safety week at some time in the near future, and if so, who will be responsible for co-ordinating it?

Sir, I support the motion.

4.17 pm

HIS EXCELLENCY THE PRESIDENT: At this point, Council might like a short break.

4.42 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

MR. HO (in Cantonese): Sir, in your address to this Council on 8 October 1986, you spoke on a wide range of topics which affect the well being of the community, but conspicuously absent from your address was industrial safety and accident prevention. Could it be that we are content with our present achievements?

In 1981, there were 141 deaths resulting from industrial accidents. In 1985, the figures dropped to 70. Are the figures so gratifying that industrial safety is no longer a public issue?

Let us delve more into the facts. In 1981 there were some 67 000 industrial undertakings on record with the Labour Department. It has since grown steadily to over 81 500 in 1985. During that same period, the number of industrial accidents had soared from 45 800 to 50 793.

However, the establishment of the factory inspectorate has remained stagnant at about 200 since 1982 although the Commissioner for Labour has repeatedly indicated an intention to increase the number to 250.

In the meantime, the workload of the factory inspectorate has substantially increased. They have to enforce no less than 24 sets of regulations made under section 7 of the Factories and Industrial Undertakings Ordinance and which cover a wide range of industrial safety. I therefore urge the Government to provide the factory inspectorate with the necessary staff to enable them to do their job properly.

After years of publicity, education and advisory services provided by the factory inspectorate, I feel that it is time that the safety laws should be enforced more vigorously. Those who blatantly breach safety regulations, purposely disregard the lives of their employees and constantly fail to meet their legal obligations should be dealt with more severely. I would also suggest that the courts should take a more serious view of those who hold industrial safety laws in contempt. Such actions are necessary if we are to see a permanent decline in the accident statistics.

As a local contractor and employer of a large labour force, I am conscious of the fact that a fair proportion of the industrial accidents occur in construction sites for a variety of reasons although the industry does place great emphasis on industrial safety and accident prevention. To some extent, the fault lies with the employees who choose to completely disregard their own safety by not using the equipment provided by the employer and wilfully endanger themselves by disobeying instructions in regard to safety and accident prevention. This aspect of the problem should also be looked into by the relevant authorities.

To put the matter into proper perspective, I am sure you will be pleased to know that it has been the Construction Industry Training Authority's policy ever since the establishment of its first training centre in Kowloon Bay some 10 years ago to emphasise the importance of safety. In the past, the principal training programmes offered by the authority consisted of basic craft courses and technician apprentice courses but this has since been extended to include construction safety officer courses which I understand, have been well received and positively supported by contractors. And this will help to raise the safety standard in the construction field.

MR. HUI (in Cantonese): Sir, in early October this year, an explosion in a fur factory in Kwai Chung killed 13 workers and injured many others. This was a disaster for Hong Kong. As a legislative councillor, I believe the Legislative Council should pin down the actual cause of the accident, propose practical

measures to prevent similar accidents and ensure that such measures are implemented.

In the past, the statistics revealed by the Labour Department showed that industrial accidents and accidents in construction sites were decreasing. This led us to believe that industrial safety has been improving. But when we study the figures closely, we will find that, in fact, the injured figures in construction sites are going up annually. Recently, the increase in industrial accidents make us wonder if we have done enough to promote industrial safety in the past. The Labour Department's annual Budget on the promotion and publicity of industrial safety and on the factory inspectorate is very limited. According to approved establishment, there should be 250 factory inspectors in 1984. But since 1982, the establishment of factory inspectors has been frozen at the 200 level. Eight inspectors are now receiving training and it takes two years before they can be in active service. Among the existing 193 inspectors, only 150 of them are on inspection duties. This shows the inadequacy in enforcement of industrial safety. The Budget on industrial safety promotion has been drastically cut since 1983-84 from \$1.3 million down to \$0.75 million in 1986-87. Consequently, the Government has to seek sponsorship from industrialists when publishing some industrial safety leaflets.

Therefore, we are shocked by the retrogressive situation of industrial safety. Apart from our concern for the Cipel Marco Factory accident, we should also worry about the safety of more than 1 million workers. I hope the Legislative Council will not just discuss industrial safety, but should ensure that the Labour Department has done enough in the field of legislation, enforcement and public education.

In this regard, I have the following proposals:

Firstly, the industrial safety campaign has not been accorded sufficient importance. Stepping up industrial safety effort will require the provision of more resources. Industrial safety is closely related to human life and Government should not hesitate to provide the necessary funds. The Government should immediately allocate additional resources to increase the manpower of the factory inspectorate to the approved 250 level and to set up publicity and educational programmes.

Secondly, regarding the penalties, the maximum fine is \$50,000 but the fines imposed by the court are usually only about \$2,000. Countries such as Japan, United States and so on attach great importance to industrial safety. The offenders are liable to facing criminal proceedings or even imprisonment. Hong Kong should adopt the same approach as these advanced countries.

Thirdly, on top of these, the minimum penalty should be raised to a higher level so that the employers will realise that if they ignore industrial safety, they have to pay a high price. This would force them to pay attention to industrial safety and not to rely on luck and chance.

Sir, some commentators said that industrial safety should be the workers' responsibility. This is quite unreasonable. We should examine whether the workers have the preconditions to shoulder these responsibilities. First, if they make a report on any of the offences committed by the factory, what will be the consequences? Of course, they will be prosecuted or sacked by the factory. In Hong Kong, there is no legal protection against unreasonable dismissal and there is no central pension scheme. Usually, the workers dare not take such action.

Secondly, the workers do not have the relevant knowledge, for example, workers from the Cipel Marco Factory did not fully understand the dangers of using various chemicals. Therefore, to involve the workers in industrial safety, we must provide them with relevant knowledge and adequate job security.

Sir, to sum up, the Government should set up the following measures:

- strengthen the control of factory chemicals;
- publicise the dangers of various chemicals and preventive measures;
- ban workers under the age of 18 from using dangerous chemicals;
- educate workers about safety practices;
- strengthen factory inspection and increase the number of factory inspectors and the penalty for offenders.

Sir, the social service sector aims to promote the welfare of every one in society. Workers are the pillars of Hong Kong's prosperity. To attach importance to the safety of our workers is tantamount to the protection of Hong Kong's only resource, that is, our workforce. As a representative of the social services functional constituency, I hereby call on the Government to actively improve industrial safety to protect the life of more than 1 million workers.

Sir, these are my remarks.

MR. NGAI (in Cantonese): Sir, in November 1980, I was at the opening ceremony of the 'Asian Regional Safety and Accident Prevention Congress'. The officiating guest was the then Governor of Hong Kong, now Lord MACLEHOSE. I remember that a safety training expert pointed out that according to estimate, on average, one person died from an accident at work somewhere in the world every 20 seconds. That expert came from the British Safety Council. To this day I always recollect this astonishing figure whenever people talk to me about occupational safety, occupational health or industrial accidents. I feel a little regretful about not having enough information resources to verify the accuracy of the figure or to find out whether the death rate for people at work has in the past five years got better or worse. In any case this is not the most important issue. I mention here, Sir, this startling figure simply to alert us to the importance of occupational safety. Try to imagine this: supposing that the meeting today of this Council lasts for three hours. By the conclusion of the



meeting, 540 people will probably already have died in accidents at work. I do not mind if people criticise it as exaggerating or deliberately alarmist, for it will at least inspire us to be vigilant.

According to the Labour Department's Annual Report of 1985, there were 50 793 reported cases of industrial accidents last year in which 70 people died. There were a corresponding 53,123 cases in 1984, representing a decrease of 2 330 cases (about 4.6 per cent) last year, whilst the number of deaths remained unchanged.

On the face of it, the rate of accidents last year resulting from industrial activities in industrial undertakings declined by about 5 per cent, but this is no cause for us to feel gratified or complacent, since every industrial accident is bound to bring in its train casualties and losses, most of which are irreplaceable.

Hong Kong is about to embark on the development of a high-level technology industry and has therefore much to learn and to adapt to in the prevention of new working dangers and of accidents that might be brought about by new technologies. The reason for this is that with the diversification and complexity of today's technology, the factors that might threaten occupational safety and health have correspondingly become more diversified and more difficult to tackle. In other words, the disciplines of safety management and accident prevention are becoming more technical and professional.

Sir, occupational safety and health are the joint responsibilities of the Government, the employer and the employee. The Labour Department has conducted investigations into the 70 cases of fatal industrial accidents that occurred last year. The results of the investigations show that over 80 per cent of the accidents could have been avoided if the management or the deceased workman or both parties had taken appropriate safety measures. Reading these survey figures, I find that many of these tragedies result from the reluctance both of the employer and the employee to follow the requirements of the law and from their complete ignorance of the Labour Department's educational publicity and advice.

The Hong Kong Government has in recent years taken an active and progressive role in enacting and implementing legislation concerning occupational safety and health. There are more than 20 regulations under the Factories and Industrial Undertakings Ordinance (Laws of Hong Kong, Chapter 59) covering the safe operation of dangerous machineries, the use of protective equipment, fire prevention equipment, notification of occupational diseases, safety measures to be taken in special working environments, and so on. The Carcinogenic Substances Regulations recently passed in this Council are a new instance of this series of regulations. In addition to these regulations, Hong Kong already has legislation dealing with air pollution, dangerous goods, boilers and pressurised containers, radioactive substances, gasholders,

pneumoconiosis, and so on. As I have already mentioned, technological developments have brought new challenges to our industrial safety legislation, and the number of laws relating to occupational safety will definitely increase with time. The Administration therefore should not slacken in its legislative role and should regularly review and amend relevant regulations to keep up with the constant progress of time so that the objectives of safeguarding workmen's lives, safety and health can be achieved. I must, however, stress here that the enactment and amendment of any relevant legislation should only be implemented in accordance with practical standards and after wide consultation. More important, the responsibilities and penalties applicable to both the employer and the employee must be clearly defined, otherwise it will merely create more financial burdens to society without achieving its purpose.

When we talk about the Government's role in industrial safety, we cannot leave out publicity and education. We can see from the annual report of the Labour Department that the quantity and quality of its work and achievements in this respect has already reached a reasonably high standard.

All I wish to point out here is that, as far as education and training in industrial safety is concerned, all training courses and seminars at present organised by the Labour Department or the relevant certificate courses given by the Hong Kong Polytechnic are only for mid-level management personnel. There is no sign that any higher diploma course or degree course in industrial safety will be organised in Hong Kong for high-level management personnel to enable those who are interested in industrial safety to further their studies and to improve the academic standards and professional status of those working at the higher management levels, thus facilitating the implementation of safety measures in their industrial undertakings through issuing professional instructions and advice to workers for the compliance with relevant rules and regulations.

Sir, as the representative of a group of employers, I should like to point out that there are generally three things that an employer is expected to do to ensure the safety of his employees. They are: first, to provide a safe working place; secondly, to design safe working procedures; and thirdly, to employ competent and responsible employees who comply with the safety instructions. I believe that almost every employer would think that he could fulfill these three basic responsibilities. But when it comes to actual enforcement, I think only a few could really achieve their ends. For this reason, as I have already said, the Government should strengthen its legislative work to give employers more definite regulations to follow so that they cannot fail to take safety measures seriously.

I have said that in order to ensure industrial safety the co-operation of all three parties is needed, and the role of employees in this respect must not be overlooked. To put it simply, it is the responsibility of employees to observe safety rules while at work, to obey the lawful instructions of their employers and

to use the safety facilities provided for them. They should receive no sympathy when accidents happen to them as a result of their own negligence, laziness or desire for convenience.

All that I have said about the responsibilities of both the employer and the employee sound very familiar. Judging, however, from the tens of thousands of accidents at work every year, I believe that unless both employers and employees have a high sense of industrial safety and make unsparing efforts to carry out their own duties, all publicity and education carried out by the Government will be in vain.

In order to launch a successful industrial safety campaign, the first thing to do is to make each and every person in an industrial undertaking realise the importance of the campaign to them and make them personally involved in it. I consider that a campaign of this kind should be a long-term one with no fixed time limit, because there are always higher and different goals to attain. I therefore advocate the establishment of an 'Occupational Safety and Health Council' in Hong Kong to co-ordinate activities in relation to occupational safety and health and to promote positively this long-term campaign.

In fact, Sir, the functional constituency from which I come, that is, the Chinese Manufacturers Association of Hong Kong, as early as 1976, urged the Government to establish such a safety council and suggested that membership of the council should comprise mainly representatives from the industrial sector (including the construction industry) to tackle the overwhelming number of industrial accidents compared with non-industrial accidents. As regards the initial and operational expenses of the council, the larger part should be subsidised by the Government in more or less the same way as the Hong Kong Productivity Council while the remaining part should come from a tax levied on each reported case under the Employees' Compensation Ordinance and from fees for the services provided by the council.

Sir, industrial safety is an important element of industrial development. If it has been neglected in the past, it is entirely due to ignorance or indifference. We have now seen great improvements in Hong Kong's legislation and enforcement in this area. In order to facilitate development in the future and keep up with industrial diversification and modernisation by technology, an 'Occupational Safety and Health Council' should be established without delay. We absolutely cannot allow any industrial accident in which 10 or more people are killed or injured ever to occur again.

MR. TAM (in Cantonese): Sir, all along Hong Kong has a very high industrial accident record. A number of councillors have already furnished the Administration with statistics concerning industrial accidents and I would like to supplement some points. Between 1980 and 1983, for four consecutive years, the average daily accident figure was 191.8 cases and then in 1984-85, the casualty and fatality rate was 219 cases per day. And as far as construction industry is

concerned, the casualty and fatality rate for every 1 000 workers is 295 per 1 000 workers. This is 10 times that of the figures in the United Kingdom. So how then could our society treat the loss of lives and limbs of these people so lightly.

Of course, the promotion of industrial safety should be the responsibility of employers and employees as well as the Government. However, Hong Kong's situation is unique. We have a lot of small sized factories and the employers are reluctant to make long-term investment in these small factories. Therefore, the importance of industrial safety is often neglected and henceforth, the Government has a very important role to play in industrial safety. Unfortunately, the Government's achievement in this field leaves much to be desired.

First of all, on publicity. Through the six committees under the auspices of the Committee on Industrial Safety Accident Prevention of the Labour Advisory Board, the Government has launched a wide range of activities, for example, large scale variety shows, television and radio programmes, seminars as well as training courses. Large scale activities have a positive publicity value. It will help to enhance the concept of industrial safety among workers. However, these activities are not adequate to spear-head at specific problems and they do not penetrate deep enough into our community. They stress on the message superficially and they fail to deal with the specific problems encountered by the respective trades. For example, workers are not made aware of the potential dangers of their jobs. As for seminars and training courses, most of the participants are from the middle management and are not the front line workers.

So, to deal with the aforementioned problem, I feel that Government ought to examine the publicity direction for industrial safety by carrying out a survey to make up for the existing shortcoming:

- (1) We should strengthen the direct link between Government and workers by setting up an advisory and complaint unit on industrial safety and also to provide extended hours of hot line and face to face advisory services so that the workers would be able to make enquiries or to lodge complaints during and outside office hours.
- (2) We should encourage the factories to set up industrial safety monitoring teams with representatives from employers, management as well as workers, so that at all times, workers will be reminded and supervised of the safety measures.

Of course, we should also launch large scale activities so as to enhance the concern of the general public towards industrial safety. We should rely on the help of the media as well.

Secondly, I would like to address on the problem of industrial safety legislation. At the moment in Hong Kong, we have 24 sets of regulations concerning industrial safety. However, not all the trades are covered by these regulations. The existing Factory and Industrial Undertaking Ordinance does

not include some of the non-industrial professions. However, the casualty and fatality cases of these non-industrial professions represent 36 per cent of the total accident record. A number of standard international industries have not been included either, for example, a year ago we had an accident in a restaurant involving an explosion of a dim sum cart which had caused much concern in our community. I learn that the United Kingdom have already enacted legislation to protect the workers of their operational safety and health and also those people who would be affected by their work. I feel, therefore, that the Government should once again study how we can protect workers of non-industrial undertakings as well.

Furthermore, the legislations cannot catch up with the fast changing circumstances in the industrial sector in Hong Kong. The legislative procedures take a long time to complete. For example, the code of practice concerning dangerous chemicals which is being drafted now. In fact, three years ago, after the Man Po Chi Factory toxic gas accident, the trade unions had already requested the Government to enact legislation of this nature. This again illustrates that Government has not been alive to the changes in industrial technology. I feel that Government should be more concerned about the potential dangers of certain trades, particularly, the newer ones. At this stage, I would also like to comment on the dangerous chemicals' code of practice. Professor POON has pointed out that even though the code of practice is very detailed and includes a lot of information concerning the nature and the safety aspects of the chemicals, factory employees and employers are not aware of the chemical composition of the chemical raw materials or reagent. The code of practice would not be much help to them. I share Professor POON's view and I, too, believe that we should request the manufacturers to label the chemical substances on the container and also to include information regarding safety procedures as well as the correct way to use these chemicals. Some people said that this will be a breach of commercial confidentiality. However, if that is the case, then I think we should have a general description of the chemical components. This will also be acceptable. Though the Secretary for Education and Manpower has mentioned that it will be difficult to control imported materials, I must emphasise that our request is reasonable because most of the western countries already have such regulations. I hope Government will consider our request once again.

Thirdly, I would like to deal with enforcement matters. The factory inspectors are the front line workers in enforcing these legislation. However, as they do not have adequate manpower, their work is not ideal. In fact, I have questioned the Administration a number of times. I request to increase the manpower resources of factory inspectorate, but all the replies given have not been satisfactory. Because of the manpower constraint, the factory inspectors are not able to carry out comprehensive and frequent inspections, for example, in the construction sites. I believe that if we can increase the number of factory inspectors, we would be able to increase the frequency of inspection and we can

even carry out surprise inspections so that the employers would not easily breach the regulations. Besides, the inspections will be more thorough and the factory inspectors can also take up the responsibility of educating the workers concerning the safe operation of plant and equipment.

I must reiterate that the existing frequency of inspection is very low. Sometimes it is once every six months or once every 54 months. I also learn that some of the factories are only inspected once every five to six years. As the less dangerous factories may change their trades to dangerous trades, I think we should plug the loophole by increasing the frequency of inspection and the comprehensiveness of the inspection.

Fourthly, I would like to talk about remedial measures. Remedial work can be divided into two aspects. Firstly, it is the punishment for employers who breach safety regulations and secondly, it is the compensation to the employees.

Regarding employers' penalties, I understand that quite often, the employers disregard the loss and lives of employees because the existing penalties are too light. So I feel that we should impose heavier penalty so as to have a deterrent effect on these people. In fact, recidivists should also be given a heavier penalty.

Regarding employees' compensation, I feel that right after an industrial accident, the victim or his family will be in great need of cash to pay for the medical bills and funeral expenses and to maintain their livelihood. However, compensation claims take a very long time. The procedures are very complicated and they have to wait for a very long time before they can receive the compensation. I hope the Government will review this matter and to alleviate the hardship on victims as well as its family.

I will now address on the issue of occupational safety council. The proposal to set up the occupational safety council was raised many years ago but the problem of funding has yet to be solved as the Chinese saying goes 'everything else is ready, all we need now is money'. I think that both the industrial sector as well as our community will stand to benefit if we set up this council. So the Government as well as employers should support the funding of this council. As the insurance sector would also benefit, I think they should contribute a part as well. If we have less industrial accidents, I am sure the insurance company will stand to gain from it as well.

Finally, I would like to talk about the effects of the trade unions and labour organisations regarding the promotion of industrial safety. They have been taking very positive steps to foster industrial safety. For example, they participate in the work of the sub-committee of the Committee on Industrial Safety and Accident Prevention of the Labour Advisory Board and they also launch a number of district wide activities to enhance the concept of a safe working environment. Now, take the Federation of Trade Unions, for example, they will be organising a fund raising walk in connection with industrial safety. Through the walk, they are going to raise fund to provide medical check-up on occupational health to workers.

Sir, I would like to point out that the trade unions as well as labour organisations will continue to contribute to the enhancement of industrial safety but we do not have a simple solution to this problem. We need concerted action on all parties concerned. For example, we should educate both the employers and employees and we should enact more legislations covering more industries and we should increase the manpower resources of the factory inspectorate and step up frequency of inspection as well. So I feel that with the co-operation of the employers, the Government as well as workers, trade unions and labour organisations, we would be able to reduce the number of industrial accidents.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the horrifying accident in the fur factory at Kwai Chung has reminded us all that industrial safety is literally a matter of life and death. This debate is therefore particularly timely and I would like to thank Members who have spoken this afternoon for the constructive suggestions which they have made.

Dr. IP has spoken about the causes of industrial accidents. Clearly, we must have a proper understanding of the cause of accidents if we are to act effectively to prevent them. Much useful work has in fact been done in this area by the Labour Advisory Board's Committee on Industrial Safety and Accident Prevention and its six industry-based sub-committees.

Mr. TAM went on to speak about comparative accident rates here and in the United Kingdom and Mr. CHAN, Dr. IP, Mr. HO Sai-chu and Mr. Hilton CHEONG-LEEN have referred to the increase in non-fatal accidents in recent years. There is a multitude of variable which make international comparisons of accident statistics notoriously difficult, but I do certainly accept that the accident rate here is high compared with that in the United Kingdom and there is every need to continue and strengthen our efforts to bring this down.

It is the trend of the accident figures in any particular place which provides a better indicator of progress and the increase referred to by Mr. HO and Mr. CHEONG-LEEN appears all the more worrying for this reason. There are, however, two important points which need to be made about these figures.

The first is that the published industrial accident statistics make no distinction at present between serious and minor accidents and there is I think room for an improved presentation of those statistics. There are problems of definition here, but from next year serious accidents—defined by reference to length of absence from work or degree of incapacity suffered—will be separately recorded.

The second point is that there has been over the past two or three years a significant increase in the reporting of accidents which hitherto went unreported. Two factors have been at work here. Firstly, a simplification in 1983 of the procedure for claiming compensation in respect of minor accidents and, secondly, the introduction in 1984 of compulsory compensation insurance.

Taking these various factors into account, the marked decline in fatal accidents over the period 1981 to 1985 and the fact that there has been no appreciable increase in the number of accidents involving permanent incapacity provide, I believe, a better indicator of the real overall trend.

I should like to take up the point which a number of speakers—Dr. IP, Mr. TAM, Mr. HUI Yin-fat, Mr. HO Sai-chu—have made about the inadequacy of penalties. There is in fact provision, in the Factories and Industrial Undertakings Ordinance, for a prison sentence for failure to comply with a magistrate's order, although it has never in practice been necessary to resort to this provision. I will look into whether we should also introduce custodial sentences for other safety offences, perhaps for repeat offenders.

In general, it is true, penalties are financial rather than custodial, but the maximum levels of fine provided for are quite substantial. These were increased as recently as 1981, the new maximum fines being five to 10 times higher than the old ones. It is, however, a matter for the Judiciary to decide what level of fine is appropriate in a particular case.

While the average fine in all types of prosecution has increased in recent years from about \$1,300 in 1981 to about \$2,900 last year, it remains very low in relation to the maximum penalties provided for in the law. In 1985, for example, penalties for serious offences, such as failing to guard machinery, averaged only 14 per cent of the legal maximum and for less serious offences, such as failing to provide a trained first aider, penalties averaged only 3 per cent of the legal maximum.

I appreciate that a magistrate must take many different factors into account in assessing penalties, but from my limited viewpoint as an official responsible for industrial safety I do feel that the present average penalties are not really adequate to deter dangerous practices. Heavier fines would, I believe, make employers take safety more seriously. Unless there is a willingness to impose such fines, there would be little point in increasing further the maximum fines already provided for. However I see difficulty with Mr. HUI's idea of introducing minimum as well as maximum fines since there are occasions when facts emerge in court which really do justify a lenient penalty in a particular case; but I would certainly welcome a substantial increase in the general level of fines imposed.

Mr. HUI has also said that we do not devote enough resources to industrial safety. Since it is a matter of life and death I think everyone concerned with industrial safety must share Mr. HUI's wish to see more resources devoted to it. There is a sense in which one can never spend too much. Unfortunately, the demands on Government's resources are almost without limit and spending on industrial safety must compete with many other deserving programmes. It is all the more important, therefore, that we ensure that the resources we do have are spent to the best possible effect.



Mr. HO, Mr. TAM and Mrs. Pauline NG have argued specifically for an increase in the number of factory inspectors. While the responsibilities of the inspectorate have increased significantly in recent years, in terms both of the number of premises to be visited and the number of provisions to be enforced, the size of the inspectorate has also increased: from 120 in 1977 to 205 now. This includes six posts created since I referred to the matter in this Council on 29 October. A further three posts are to be created shortly and more will be created next year. I cannot predict when we shall reach the target figure of 250, but we shall continue to move towards it.

Obviously, I should like to see a substantial increase in the size of the inspectorate, and an increase in the frequency of inspections, but in view of resource limitations we must be realistic. The situation in Hong Kong does not in fact compare unfavourably with that in other places. The ratio of inspectors to workers is slightly better in Hong Kong than, for example, Singapore or the United Kingdom, both of which take industrial safety extremely seriously. Members will read in the press that Mr. David EVANS, deputy chief factory inspector in the United Kingdom Health and Safety Executive, commented on this point during his visit to Hong Kong last week. As Mr. EVANS said, the ratio of one inspector to 414 premises here is about double the British ratio of one to 833.

The figures are not, of course, strictly comparable, as circumstances here and in the United Kingdom differ considerably. There is a greater degree of geographical dispersion in the United Kingdom, so that sometimes an inspector has to spend a whole day just visiting one or two factories. On the other hand, as Dr. Henrietta IP has pointed out, we have a much higher proportion of small factories.

However, it is not necessarily the case that these require more attention. The Labour Department's rating system, which takes account not only of size but also of the nature and degree of hazard, the number of people at risk and the attitude of management, assesses many of the smaller factories to be in the least dangerous category. It is for this reason that they are inspected relatively less frequently, with a maximum interval between inspections of four to five years. I would point out that in the United Kingdom, the interval may be as long as seven to eight years in the case of low-risk factories. It would, of course, be possible to increase the frequency of inspection of low risk factories at the expense of more dangerous ones, which are inspected much more frequently, but in my view this would be a retrograde step.

It is true that a number of industrial undertakings are still situated in non-industrial buildings, but the types of undertaking allowed to operate in such premises are strictly controlled and these are again generally in the least hazardous category.

Dr. IP has referred to the gravity of fire-related offences. The figure of 2 500 prosecution in fact refers to the past five years rather than last year alone, but I can confirm that this is an area to which the inspectorate always directs particular attention. I am not aware of a study comparable to that of hand injuries undertaken by Professor LEUNG, but I can nevertheless assure Members that all fire-related incidents are very thoroughly investigated by both the Labour Department and the Fire Services Department.

Mr. CHAN has suggested that workers should be trained in first aid. There is in fact a requirement already in the safety regulations that trained first aiders be available on site. St. John's Ambulance and the Red Cross do regularly conduct first aid classes for workers and the Labour Department issues workers a free booklet giving hints on first aid.

Mr. CHAN has also referred to a particularly nasty accident in which an employee of the telephone company working in a manhole was scalded to death by boiling water from a broken waste pipe, which cascaded across the pavement. The coroner added a nine-point rider to his verdict addressed, among others, to a number of government departments. These are being followed up and I shall ensure that this follow up is co-ordinated as necessary.

Mr. HUI has spoken of the need to follow up the fur factory accident. I would like to assure Members that this is being done by a number of government departments. Two OMELCO panels have also held meetings on this subject.

Mrs. NG and Mr. NGAI Shiu-kit have both urged the need for more training in industrial safety. The Labour Department has plans in hand to increase the training staff of the Industrial Safety Training Centre and this will make it possible to increase the number of training courses being provided. Mr. NGAI has suggested the introduction of a higher diploma or degree course in this subject. While there is as yet no course at this level, the Hong Kong Polytechnic has this year introduced an advanced industrial safety course at certificate level. This is an encouraging development.

Mr. TAM has proposed the setting up of a hot line to encourage the reporting of unsafe practices. There is already a special telephone line, with an automatic recording facility for use outside office hours, and this has been well used for reporting accidents, but not many people have used it to complain about unsafe practices. The Labour Department is therefore planning to instal a new line specifically to deal with complaints and to provide advice. The availability of this new service will be given wide publicity and this will emphasise that the complainant's identity will be kept confidential. I am grateful to Mr. TAM for giving me the opportunity to draw attention to this new service this afternoon.

I hope that this hot line and, in particular, the confidentiality of the service, will go some way towards meeting Mr. HUI's concern that employees may be victimised for reporting unsafe practices on the part of their employers. There is a provision in the Factories and Industrial Undertakings Ordinance specifically

prohibiting disclosure of the identity of any person making a complaint, but the reluctance of employees to come forward is understandable and I certainly hope that the hot line will be helpful in overcoming this reluctance. In my view it is vital that workers should feel confident that they will not be victimised for giving the Labour Department information about unsafe practices.

Mr. TAM and Dr. IP have also proposed that importers of potentially dangerous chemicals should be required to provide safety data sheets. Such a measure would usefully complement the Labour Department's proposals, now in preparation, to require the proper labelling of such chemicals in use in the workplace and would assist proprietors in complying with these regulations. An inter-departmental working group has been established to examine the feasibility of requiring provision of safety data sheets.

There are now some 24 sets of regulations under the Factories and Industrial Undertakings Ordinance dealing with the subject of industrial safety. Mr. NGAI is quite right in drawing our attention to the need for careful consultation in the framing of such regulations and to the need to ensure that regulations once made are kept up to date as circumstances change.

It is because of rapid changes in technology and in industrial processes that we—and most western industrial countries—are moving away from detailed and specific regulations, which may be overtaken very rapidly by events, towards an approach which states the objectives to be achieved but is more flexible as to how to achieve them.

I appreciate that there may be concern on the part of employers that such an approach, by not specifying measures to be taken, could leave them open to arbitrary prosecution. I can assure them that this is not the intention. The Labour Department's primary concern is to advise and to assist employers to comply with the regulations. Prosecution is normally reserved for cases of blatant disregard of safety requirements.

The existing regulations on safety apply to factories and industrial undertakings, where the great majority of serious accidents occur. I do, however, take note of Mr. TAM's concern that we should not overlook the question of safety in non-industrial premises.

I agree wholeheartedly with Mr. CHAN, Dr. IP, Mrs. NG and Mr. NGAI's emphasis upon the tripartite nature of the responsibility for industrial safety. Enforcement of legislation by the Government is fundamental, but is not by itself sufficient to ensure industrial safety. It is vital that employers provide a safe working environment and provide adequate training in safety matters for their workers. The employee too does have a role to play and I do not myself entirely share Mr. HUI's view that he cannot be expected to play a significant part in industrial safety. Quite apart from making use of the new hot line to report unsafe practices, he has—as Mr. CHAN and Mr. NGAI have pointed out—a duty to co-operate with his employer in implementing safety measures:

for example, by observing no-smoking signs, by wearing protective clothing provided and by not removing the guards from machinery. If points such as these were scrupulously observed, the accident rate could be cut dramatically.

In the context of safety within the factory, I agree with Mr. TAM's proposal that employers should be encouraged to form safety committees involving both management and workers. The factory inspectorate is in fact planning to form a special promotion unit and one of its tasks will be to encourage the setting up of such committees.

In short, there must be co-operation between Government, employer and employee to foster an attitude of mind favourable to safe practice in the workplace. Mr. HO has spoken of the emphasis which the Construction Industry Training Authority places upon safety in all aspects of its training programmes. This is a good example of what can be done to foster this attitude of mind. A similar policy is followed by the Vocational Training Council and the Clothing Industry Training Authority. Trade unions also have a major part to play. Mr. TAM mentioned in this context the sponsored walk on 21 December organised by the Federation of Trade Unions to raise funds for industrial safety. I wish this event every success and look forward to taking part in it.

Because of the need to promote among employers and employees a spirit of co-operation and of safety-mindedness, our whole approach has been based upon a combination of enforcement, education and persuasion. From my own experience as Commissioner for Labour, I am convinced that this is the right and only really practicable approach.

Many speakers this afternoon have referred to the need for a statutory Occupational Safety and Health Council. This would represent a further development, into an independent authority with executive functions, of the existing tripartite Committee on Industrial Safety and Accident Prevention to which I have referred earlier. The committee, with its six industry-based safety sub-committees, has done a most valuable job since its establishment in 1978, bringing together employers, employees and government officials and putting a great deal of commitment and enthusiasm into the promotion of industrial safety. The proposed Occupational Safety and Health Council would put that work on a more formal footing.

The committee, as Mr. CHEONG-LEEN has noted, set up a working party in 1984 to examine the Safety Council idea. A stumbling block has been the question of how to finance the council, but progress has been made on this and a proposal will indeed be going to the next meeting of the Labour Advisory Board.

I welcome the support which has been expressed this afternoon for this proposal and share the hope that we shall soon be in a position to take the next steps towards implementing it. Meanwhile, I take note of Mr. CHEONG-LEEN's point that it will be necessary to monitor the expenditure in this area of both the council and the Labour Department and to avoid wasteful duplication of effort.

Mr. CHEONG-LEEN has also raised the possibility of establishing at some future date an organisation with responsibility for safety of all kinds and, in particular, for the co-ordination of research, promotion and education in this area. This is an interesting idea and perhaps experience gained with the operation of the Occupational Safety and Health Council will point a way forward.

A final issue, related to industrial safety, on which I should respond is the concern expressed by Mr. TAM about possible hardship arising from delays in the payment of compensation when an accident has occurred. In the case of non-fatal injuries, there should be no serious hardship as the worker will continue to receive two thirds of his regular wage while he is on sick leave. In the case of fatal accidents, for which awards must be made by the courts, there may be a problem if the dependant has difficulty in establishing his or her claim. It is difficult to see a way around this where a genuine problem as to proof of dependency exists, but where financial hardship does result, relief may be obtained under the Public Assistance Scheme.

I should like to conclude my remarks, Sir, by assuring those Members who have spoken this afternoon, and others, that industrial safety is a matter which the Government does take very seriously indeed. I am very ready at any time to examine any ideas or suggestions which Members may have for further improvements to our industrial safety effort and am grateful for those which have been put forward this afternoon and in the course of recent standing panel meetings.

*Question put and agreed to.*

### **Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 26 November 1986.

*Adjourned accordingly at eighteen minutes to Six o'clock.*

*Note:* The short titles of motion bills listed in the Hansard Report have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

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**WRITTEN ANSWER****Annex I****Written answer by the Secretary for Security to Mrs. FAN's supplementary question to Question 6**

I have since consulted the Director of Immigration who advises that overseas domestic helpers are normally not allowed to change employers during the first year of their contract whether or not the original employers give them a release document. If they do change employers, they are required to return to their country of origin before their permitted stay expires.

Application for change of employer during the second year of the helpers' contract will normally be approved. The Director of Immigration considers all cases carefully on individual merits and circumstances. If the previous employer does not provide a release document then the helper is required to return to her country of origin before permission is given for her to work for her new prospective employer.