

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 24 June 1987****The Council met at half-past Two o'clock****PRESENT**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE HONOURABLE THE CHIEF SECRETARY

MR. DAVID ROBERT FORD, L.V.O., O.B.E., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)

MR. DAVID ALAN CHALLONER NENDICK, 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 PETER C. WONG, C.B.E., J.P.

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

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

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

THE HONOURABLE WONG PO-YAN, C.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 STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.

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

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

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

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, O.B.E., 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 THOMAS CLYDESDALE

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.  
THE HONOURABLE HUI YIN-FAT  
THE HONOURABLE RICHARD LAI SUNG-LUNG  
DR. THE HONOURABLE CONRAD LAM KUI-SHING  
THE HONOURABLE MARTIN LEE CHU-MING, O.C., J.P.  
THE HONOURABLE DESMOND 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 PANG CHUN-HOI, M.B.E.  
THE HONOURABLE POON CHI-FAI  
PROF. THE HONOURABLE POON CHUNG-KWONG  
THE HONOURABLE HELMUT SOHMEN  
THE HONOURABLE SZETO WAH  
THE HONOURABLE 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 GRAHAM BARNES, J.P.  
SECRETARY FOR LANDS AND WORKS  
THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.  
SECRETARY FOR SECURITY  
THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
SECRETARY FOR TRANSPORT  
THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, J.P.  
SECRETARY FOR TRADE AND INDUSTRY  
THE HONOURABLE MICHELANGELO PAGLIARI, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER (*Acting*)

**ABSENT**

THE HONOURABLE CHEN SHOU-LUM, C.B.E., J.P.  
THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., Q.C., J.P.  
DR. THE HONOURABLE HENRIETTA IP MAN-HING, O.B.E., J.P.  
THE HONOURABLE TAI CHIN-WAH  
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):

<i>Subject</i>	<i>L.N.No.</i>
Subsidiary Legislation:	
Public Health and Municipal Services Ordinance Public Health and Municipal Services (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 2) Order 1987 .....	169/87
Registration of Persons Ordinance Registration of Persons (Application for New Identity Cards) Order 1987 .....	170/87
Registration of Persons Ordinance Registration of Persons (Application for New Identity Cards) (No.2) Order 1987 .....	171/87
Interpretation and General Clauses Ordinance Specification of Public Offices (Amendment) (No.2) Notice 1987 .....	172/87
Hong Kong Letters Patent 1917 to 1986 Authorisation by the Governor .....	173/87
Public Health and Municipal Services Ordinance Declaration of Markets in the Urban Council Area 1987 .....	174/87
Inland Revenue Ordinance Inland Revenue (Interest Tax) (Exemption) (Amendment) (No.5) Notice 1987 .....	175/87
Tax Reserve Certificates (Fourth Series) Rules Tax Reserve Certificates (Rate of Interest) (No.5) Notice 1987 .....	176/87
Public Health (Animals and Birds) Ordinance Regulation of Movement of Dogs (No.2) Order 1987.....	177/87
Sessional Paper 1986-87:	
No. 62—1986 Annual Report by the Commissioner of the Independent Commission Against Corruption	

**Address by Member presenting paper****1986 Annual Report by the Commissioner of the Independent Commission Against Corruption**

MRS. CHOW: Sir, I am pleased to introduce the 1986 Annual Report by the Commissioner of the Independent Commission Against Corruption, which is

tabled today in this Council. Normally this introduction would have been made by the Chairman of the Advisory Committee on Corruption, Mr. CHEN Shou-lum, but he cannot be present today and I am deputising for him.

The report shows that the 2 574 corruption reports received by the commission in 1986 was marginally more than in 1985 and the highest annual total since 1975. The upward trend in the number of reports received against the private sector has continued, and the figure of 1 060 was the highest-ever number of such corruption reports. It is encouraging to note that more people are prepared to identify themselves when reporting corruption and the 1 664 non-anonymous reports, or 65 per cent of all corruption reports received, is the highest figure ever recorded. As in previous years, the commission received a very large number of non-corruption reports. The figure for 1986 was 2 911, or 53 per cent of all reports received.

Members will, I am sure, welcome the 12.5 per cent drop in corruption allegations against the police—the figure of 629 such reports being the lowest since 1980. The commissioner has remarked specifically upon the greatly improved relations between the ICAC and the police, and the very positive co-operation and good professional relationship which now exists between them.

The review of work of the Operations Department shows that private sector cases were a major feature during the year and investigations into large scale corruption based commercial frauds took up about one third of the department's investigative strength. There is little doubt that the ICAC's investigation of the so-called 'Shanghai' horse-racing syndicate, involving a conspiracy to cheat at gambling, and the commendably firm action subsequently taken by both the commission and the Royal Hong Kong Jockey Club to deal with racing malpractices, caught the attention of the public, amongst whom racing remains a subject of intense interest.

The work of the Community Relations Department broke new ground in 1986 in a number of areas. For many years, the department has worked closely with the Education Department and the academic staff of schools and tertiary institutions in promoting not only the anti-corruption message amongst students, but also a clearer appreciation of social and moral values. In 1986, this was augmented by the introduction of the first structured teaching material for primary schools and also the first formal gathering, organised by the commission, of moral and civic education co-ordinators in secondary schools.

A notable feature of the work of the Corruption Prevention Department in 1986 was the expansion of services to the private sector. There is still some reluctance in that area to seek advice from the ICAC, but this has recently improved as the department's advisory services group has become more established, and it is hoped that the free and confidential services which they offer will become better known and used more widely in the future. To some extent, this has already occurred in the banking industry where the need became

apparent for standard rules of conduct which could be followed by banks and deposit-taking companies throughout Hong Kong. In close co-operation with the Commissioner of Banking and the Legal Department, a code of conduct was formulated which was subsequently published in the Government Gazette towards the end of the year.

In his review chapter in this report, the commissioner has commented on sentences handed down by the courts. Although in 1986 the proportion of actual jail sentences was higher than in 1985, the courts also awarded a higher proportion of suspended sentences—35 per cent as against 27 per cent in 1985. Mr. CHEN and I share the commissioner's view that, from a deterrent aspect, the value of a suspended sentence is not always immediately apparent, although there are obvious cases where such sentences are appropriate. Certainly from the commission's viewpoint there is occasional concern about disproportionate or apparently lenient sentences which are sometimes given by the courts for white collar crimes, which serve neither to deter potential offenders nor to signify the serious nature of corruption offences. But I am pleased to note that there have been a number of cases this year when rather more severe sentences have been awarded on conviction, or on appeal by the Crown.

A final point of interest is the Third International Anti-Corruption Conference which the commission will be hosting in Hong Kong from 2-6 November this year and which will be widely attended by delegates from overseas. I am sure that the ICAC's growing international reputation as a leader in its field will be strengthened by that occasion.

### Oral answers to questions

#### Marine Adviser

1. MR. SOHMEN asked: *The former Director of Marine was seconded to the Hong Kong Government Office in London as Marine Adviser early this year. Will the Government inform this Council about the progress of his work in London to date?*

FINANCIAL SECRETARY: Sir, Mr. Peter CHAN, formerly Director of Marine was appointed Marine Adviser at the Hong Kong Government Office in London in January 1987. Since then

- (a) he has established his office within the Hong Kong Government Office in London;
- (b) he has established working relationships with the Foreign and Commonwealth Office, the Department of Transport, the Hydrographic Department and other government departments in the United Kingdom and with the General Council of British Shipping. He has recently completed an initial round of familiarisation visits;

- (c) he has been appointed Hong Kong's permanent representative to the International Maritime Organisation and has represented Hong Kong at a number of meetings including the Maritime Safety Committee and the Marine Environment Protection Committee; and
- (d) he has been the natural focus of many enquiries concerning Hong Kong and its register from the various sectors of the United Kingdom shipping industry.

Perhaps the most important result of the posting is that Hong Kong now has a professional link directly with those in the United Kingdom who are formulating British shipping policy. As we move towards the establishment of a shipping register separate from that of the United Kingdom, the knowledge of how that policy is conceived and implemented will enable us to better equip ourselves for the future.

MR. SOHMEN: *Sir, the discussion about setting up an autonomous shipping register in Hong Kong commenced in October or November 1985 and it was then anticipated that it would take about five years to implement. Two and a half years have now passed and the process seems to be slowing down. Would the Financial Secretary perhaps explain in what specific respects the presence of the Marine Adviser in London could help to speed up the process again, keeping in mind also that other jurisdictions are progressing with their plans to set up registers at the same time?*

FINANCIAL SECRETARY: Sir, may I begin by saying that it is still the target to establish the register by the end of 1990. There are a number of stages which have to be passed through before we can reach that stage. The most important one, of course, was the Sino-British Declaration which made it possible for Hong Kong to continue to have a register after 1997. The second important step was the fourth meeting of the Joint Liaison Group last year which gave approval in principle to the basis on which the register will be established and there is now a steering group which is establishing the major details. The importance of the role of the Marine Adviser in London is that he is in regular touch with those who are responsible for the policies which are being maintained as far as the United Kingdom is concerned and he will, therefore, be very well placed to identify particular issues which we need to take into account in the forming of a register here.

MR. SOHMEN: *Sir, apart from having a Marine Adviser in London, could the Government advise whether the manpower here in Hong Kong has been strengthened in order to cope with the demand that may be made on the Economic Services Branch in the implementation of this project?*

FINANCIAL SECRETARY: Yes, Sir. There are proposals which are currently being put through the system to strengthen the resources of the Marine Department. The proposal is to set up a technical policy directorate within the department

which will consist of five professional experts together with supporting staff. It is hoped that this will be implemented very shortly.

### **Professional liability insurance**

2. MR. CHENG asked: *Will Government inform this Council whether private consultants commissioned for public projects are required to carry professional liability insurance, and if so what criteria govern the requirement and the maximum period covered?*

SECRETARY FOR LANDS AND WORKS: Sir, engineering consulting firms which are limited liability companies are required by the Government to carry professional liability insurance cover whilst engaged on public projects. Firms which do not have limited liability status are not required to carry professional liability insurance although under the terms of engagement, liability is implicit. Commissions awarded for architects by the Architectural and Associated Consultants Selection Board are not at present required to carry such insurance. The situation is however under review, and consideration is being given to introducing a compulsory insurance requirement for all consulting firms engaged on public projects irrespective of corporate status.

Where insurance cover is presently required, it is usually for the full limitation period as defined in the Limitation Ordinance. This period varies depending on circumstances. For actions based on simple contract or tort, an action must be brought within six years of the date on which the cause of an action arose. For actions based on contract under seal, the period is 12 years from the date on which the cause of an action arose. For claims for damages in respect of personal injury the period is three years. Government's view has been that insurance cover should continue for the duration of each commission limitation period which is normally 12 years. However, because of a continuing trend for professional indemnity insurance costs to escalate, and difficulties in obtaining cover for 12 years, consideration is now being given to limiting the period of cover to six years. This is consistent with practice in some United Kingdom government departments.

MR. CHENG: *Sir, will the Secretary for Lands and Works advise this Council of any difficulties encountered by the consultants as well as the insurance companies in Hong Kong in satisfying Government's requirement in order to be consistent with the United Kingdom's practice?*

SECRETARY FOR LANDS AND WORKS: Sir, as far as I know, not so far. This has presented a less problem so far because most of the consultants who have been required to take up insurance under our agreements were in any case covered by policies before they became limited liability companies and when they were just partnerships. But it is quite clear that the present insurance market is something

of a sellers' market. We understand that there are proposals to cover across the board for six years, and this could produce some difficulties for insurance. Certainly it would be difficult for the consultants who have previous insurance to buy a lump sum for a six-year period. These difficulties will be taken into account before we introduce the system across the board.

### **Legislation on unfair dismissal**

3. MR. TAM asked (in Cantonese): *In view of the fact that the United Kingdom has long-standing legislation on unfair dismissal, will the Hong Kong Government consider the enactment of similar legislation to safeguard employees from being unfairly dismissed?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the basic problem with unfair dismissal legislation is the legal definition of what is and what is not unfair or unreasonable. The experience of the United Kingdom in introducing such legislation does not fill one with confidence in this particular approach to dealing with the problem.

In the United Kingdom prior to 1972 the only protection against unfair dismissal came from the common law, which allowed an employee who was wrongfully dismissed without prior notice or payment in lieu to claim for compensation through the courts.

The Industrial Relations Act of 1971, which came into operation in 1972, attempted to protect workers from unfair dismissal by providing for reinstatement, re-employment or compensation where a worker has been deemed by an industrial tribunal to have been unfairly dismissed.

This Act was repealed in 1974 and replaced by the Trade Union and Labour Relations Act of 1974, the Employment Protection Act 1975 and the Employment Protection (Consolidation) Act 1978, each of which contained similar unfair dismissal provisions.

The effect of all this legislation on unfair dismissal in the United Kingdom is believed to be quite limited because of the difficulty of determining whether an employer has acted fairly, although the industrial tribunals take into account, where appropriate, the provisions of the Code of Practice of the Advisory, Conciliation and Arbitration Service (ACAS) in reaching their conclusions.

Although the United Kingdom legislation provides legal protection against unfair dismissal for employees with at least two years service, the only grounds specified in the law as being unfair are where the employee has been dismissed in connection with trade union membership, because of pregnancy or in breach of agreed redundancy procedures.

In Hong Kong, Sir, there are also provisions, in the Employment Ordinance, which protect employees from dismissal for trade union membership and which protect the jobs of pregnant workers. Indeed, Sir, at the next session of this Council, I will be introducing a Bill to further improve the legal protection of pregnant workers from unfair dismissal.

In addition, there are provisions in the laws of Hong Kong which entitle an employee with two years' service who is dismissed through no fault of his own to severance pay. Hong Kong law also provides for long service pay, a provision which does not exist in the United Kingdom legislation and which was introduced in Hong Kong as a more efficient and effective alternative to unfair dismissal legislation.

On 4 December 1985 when moving the Employment (Amendment) Bill which introduced long service payments, the then Secretary for Education and Manpower said and I quote—'unfair dismissal legislation has been considered but the experience in other countries, in particular the United Kingdom, in this field of legislation had shown that it would be extremely difficult to define what constituted unfair or unreasonable dismissal.' He went on to say that the long service payment proposals, which had been developed as a practical alternative to unfair dismissal legislation, had been based on the premise that the dismissal of an elderly, long serving employee without some form of provision for his future is itself unreasonable and that a statutory requirement for an employer to make a payment to a dismissed employee based on his age and length of service would achieve much the same result as an employee's entitlement to monetary compensation under the United Kingdom's unfair dismissal legislation while avoiding the need for complex and expensive procedures to establish that the dismissal had been unreasonable.

Sir, I see no reason to change the views expressed in 1985. I believe we have provided Hong Kong employees with a fair and reasonable measure of protection against unfair dismissal while avoiding the expensive measures which the United Kingdom has introduced with questionable success. Further improvements to the long service payment scheme are now under consideration and if introduced, will provide further protection to employees dismissed through no fault of their own.

MR. TAM (in Cantonese): *Sir, under the existing legislation, the Government feels that there is sufficient protection against unfair dismissal. However, I think it must be noted that under the existing legislation, the employer does not have to give any reason for dismissing his employees and all that he needs to do is to give seven days' wage in lieu of notice. Is this really sufficient protection? On the other hand, long service payment is only for employees who have served a company for a long period and there are a lot of restrictions and the qualifying service is something like five to 10 years. So unless Government is willing to modify this legislation to make it similar to the United Kingdom legislation for unfair dismissal, that is, those who have served for more than two years will qualify for long service payment, the situation cannot be improved. What does the Government think about this?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, these are all questions of fairness and indeed fairness is the basic problem with legislation on unfair dismissal establishing what is and what is not fair. Provisions in the Hong Kong laws were established by this Council on the advice of the Labour Advisory Board and presumably were considered by some parties at least to have been fair.

MR. PANG (in Cantonese): *Sir, could the Secretary tell us whether he thinks legislation against unfair dismissal is necessary in Hong Kong?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as I said in my main reply, we have introduced a number of measures as a more efficient and effective alternative to legislation on the lines of the United Kingdom legislation.

### **Written answers to questions**

#### **Community Relations and Publicity Bureau and measures to improve relations between police and public**

4. MR. POON CHI-FAI asked: *Will the Government inform this Council whether the number of complaints against police officers has decreased since the establishment of the Community Relations and Publicity Bureau by the Royal Hong Kong Police; whether the authorities have conducted any comprehensive review on the effectiveness of the bureau; and whether there are any concrete measures to further improve relations between the police and the public?*

SECRETARY FOR SECURITY: Sir, basically the purpose of the Community Relations and Publicity Bureau (CRPB) is to improve the relations of the police with the community in particular and its publicity generally. The detailed charter of the CRPB is at Appendix A.

Part of this effort has been actively to inform people of what their rights are in relation to the force and what they should do if they want to complain. This effort may well have contributed to more complaints being made against police officers. The CRPB was established in 1973. Statistics on complaints against the police are readily available only from 1977 and are at Appendix B. Complaints have roughly doubled from 2 247 in 1978 to 4 535 in 1986. Another contributing factor which cannot be ignored is the increase in the size of the force. Thus per head of the strength of the disciplined members of it, the increase between 1978 and 1986 was around 45 per cent.

On the second part of the question, the Force Inspection Services Wing inspects comprehensively the CRPB every two years. The last inspection was in March this year and lasted two weeks.

The answer to the third part of the question is that the CRPB keeps its community relations activities under constant review in its search for new methods to improve their effectiveness. These reviews have resulted in the introduction of a number of successful ventures including the Junior Police Call (which encourages and improves communication and mutual understanding between the police and the youth of Hong Kong), the Neighbourhood Watch Scheme (which is a scheme designed to promote closer co-operation between neighbours to prevent crime) and the Neighbourhood Co-ordinator Scheme (which promotes grass root liaison between the police and the community at the district level). Measures likely to be introduced further to improve relations between the police and the public include increased training on courtesy and community relations for all police officers and the valuable information we hope to obtain from the third crime victimisation survey which will assist in further improving these relations. The close contact between district police commanders and the 19 district fight crime committees will also continue to be maintained.

#### APPENDIX A

##### *Community Relations and Publicity Bureau*

The role of this bureau is—

- (a) to foster and to maintain good relations between the police force and the public at all levels;
- (b) to liaise, to co-ordinate and to monitor efforts of district commanders and police community relations officers (PCROs) in respect of all aspects of community involvement;
- (c) to provide briefings and training for PCROs and their staff in their work on community relations duties;
- (d) to plan and to implement the police recruitment and crime prevention publicity campaigns; and to plan and organise fight crime related activities;
- (e) to assist in publicising the Road Safety Campaign;
- (f) to work in close liaison with the Information Services Department in the production and dissemination of publicity material;
- (g) to plan and to co-ordinate all Junior Police Call and police related youth activities; and to plan, organise and present in conjunction with the Radio Television Hong Kong the JPC television programme and the 'Voice of JPC' radio programme;
- (h) to plan and to organise the production of 'Police Report' (English), 'Police 15' (Chinese), and 'Crimewatch' (Chinese), television programmes, for the purpose of advising the public on crime prevention and general police matters, and of making appeals to them to assist in solving serious and difficult crimes;

- (i) to co-ordinate all requests for police assistance from television and film companies in connection with filming in Hong Kong;
- (j) to plan, to advise and to liaise with police formations, the Radio Television Hong Kong and the Information Services Department on the production of films which reflect a correct image of the force;
- (k) to arrange and to co-ordinate visits to the force by official guests, and prepare programmes and supply escorts for official visitors; and
- (l) to provide speakers for lectures or seminars on community relations to members of the force and to the public.

## APPENDIX B

*Complaints Against Police 1978-1986*

	1978	1979	1980	1981	1982	1983	1984	1985	1986
Total No. of complaints	2 247	2 290	2 595	2 937	3 473	4 241	4 166	4 325	4 535
No. substantiated	237	333	295	340	416	488	405	385	377
No. of complaints of offensive language	124	133	123	164	127	169	193	227	272
(% of total no. of complaints)	(5.5%)	(5.8%)	(4.7%)	(5.6%)	(3.6%)	(4%)	(4.6%)	(5.2%)	(6%)
No. of complaints of misconduct / manner	465	372	472	527	654	714	710	918	967
(% of total no. of complaints)	(20.7%)	(16.2%)	(18.2%)	(17.8%)	(18.8%)	(16.8%)	(17%)	(21.2%)	(21.3%)

*Note:* CAPO was established in 1974, however, full complaint against police statistics were not kept until the UMELCO Police Group was created, at the end of 1977.

**Language standards of school children**

5. MR. DESMOND LEE asked: *Since the establishment of the Institute of Language in Education, has the Administration monitored the standard of school children in English and Chinese languages and, if so, what are the findings?*

SECRETARY FOR EDUCATION AND MANPOWER: The Education Department began to use tests of attainment to monitor the educational standards of children in Primary 4 to Primary 6 classes in English and Chinese in 1976, six years before the Institute of Language in Education began operation. Monitoring of standards at the Secondary 3 level in both languages by means of attainment tests began in 1979, three years before the institute began operation. Attainment testing of Secondary 1 and Secondary 2 children started this year and will begin for Primary 1 to Primary 3 children in 1988.

After the abolition of the Secondary School Entrance Examination in 1978, there was a steep decline in attainment in English for three years. However, there was a considerable improvement in standards after 1981 with the highest

attainment being achieved by the cohort of children who studied in Primary 4-6 in 1984-1986. The pattern for Chinese is similar in that there was a drop in standards in primary schools in the mid-1970s with the lowest point reached in 1981 in Primary 4 to 6, followed by an improvement during the mid-1980s. In Secondary 3 English and Chinese classes, there was a decline in standards between 1979 and 1981 which has been arrested and since 1983 some improvement has been shown. Thus it appears that since 1982 (when the Institute of Language in Education was established) the standard of school children in English and Chinese has improved at all levels.

Although these results are encouraging, it is unlikely that they have resulted from the establishment of the Institute of Language in Education which only began in 1982 to improve the language abilities of teachers of English and Chinese and the results of whose work in the performance of students will only become visible in the longer term.

The improvement in language standards in recent years is likely to be the result of a series of measures introduced by the Education Department including the revision of the English Language Primary and Secondary Syllabuses in 1981 and 1983 respectively; the introduction in 1982 of remedial teaching of Chinese and English and the provision of additional teachers for this purpose; the introduction of the wire-free induction loop system also in 1982 to improve listening skills; and the regular language courses offered to in-service teachers by the Advisory Inspectorate of the Education Department.

Nevertheless, the Institute of Language in Education is playing a very important role in improving language standards at the primary level. Since its establishment in 1982, the institute has trained a total of 2 718 primary school language teachers, representing approximately 22.5 per cent of the total number of all non-graduate language teachers. The institute began training secondary school non-graduate language teachers in September 1986.

### **Tax advantage enjoyed by persons aged over 60**

6. MR. CHAN YING-LUN asked: *Will Government inform this Council why persons aged 60 or over are required to pay income tax and whether consideration would be given to increasing the tax allowances for the elderly?*

FINANCIAL SECRETARY: Sir, in Hong Kong, liability to pay direct tax is based on the principle of ability to pay. The graduated salaries tax rates are designed to differentiate between the taxpaying abilities of individuals and families with different incomes. Because it is the level of a person's income, rather than age, that determines the person's ability to pay, there appears to be no reason why a person aged 60 years or more should enjoy a tax advantage over a person aged less than 60 years.

Persons aged 60 years or more are entitled to the same personal and family allowances available to all taxpayers. Accordingly, aged persons on low incomes generally have no liability to tax. The level of personal and family allowances is reviewed regularly. The basic dependent parent allowance was most recently increased to \$9,000 for the year of assessment commencing on 1 April 1986.

## **Government Business**

### **First Reading of Bills**

**BROADCASTING AUTHORITY BILL 1987**

**COMPANIES (AMENDMENT) (NO.2) BILL 1987**

**BANKRUPTCY (AMENDMENT) BILL 1987**

**INSURANCE COMPANIES (AMENDMENT) (NO.2) BILL 1987**

**PILOTAGE (AMENDMENT) BILL 1987**

**SUPREME COURT (AMENDMENT) BILL 1987**

**WASTE DISPOSAL (AMENDMENT) BILL 1987**

**SUPERVISION ORDERS (RESIDENTIAL REQUIREMENTS) BILL 1987**

**KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT) BILL 1987**

**ROAD TRAFFIC (AMENDMENT) BILL 1987**

*Bills read the First time and ordered to be set down for Second Reading pursuant to Standing Order 41(3).*

### **Second Reading of Bills**

**BROADCASTING AUTHORITY BILL 1987**

THE CHIEF SECRETARY moved the Second Reading of: 'A Bill to provide for the establishment and functions of a Broadcasting Authority and for matters incidental thereto or connected therewith'.

He said: Sir, I rise to move the Second Reading of the Broadcasting Authority Bill 1987.

On 25 November 1986, the Attorney General informed this Council of the Government's decisions on the major recommendations in the Broadcasting Review Board Report. One of the main recommendations accepted by the Government was the creation of a Broadcasting Authority with responsibility for the control and regulation of wireless television, radio and cable television broadcasting. The Broadcasting Authority Bill, which is before Members, provides the legislative framework necessary for the creation of this authority.

Sir, the Bill provides for the establishment of a Broadcasting Authority as a body corporate comprising up to 12 members to be appointed by the Governor. It will assume the powers and functions currently vested in the Television Advisory Board and the Television Authority which will cease to exist. Of the 12 members, three will be public officers. The chairman will be appointed from among the non-official members. The terms of office of the non-official members will be for a period of up to three years; but, members will be eligible for reappointment. The new authority will therefore provide for greater public participation in the regulation of the broadcasting industry. In contrast, the Television Advisory Board at present consists of an official chairman, three official members and three non-official members.

Initially, the Broadcasting Authority will only be concerned with wireless television broadcasting and the administration of the Television Ordinance. Its responsibility will be extended to cover radio and cable television when new legislation for these services have been drawn up. The authority will mainly be responsible for the submission of recommendations on the granting, renewal or revocation of television licences, the preparation of codes of practice on programmes, advertising and technical standards, the issuing of directions to television licensees and the examination of programme materials intended for broadcast. It will be empowered to impose financial penalties for any breach of licensing conditions. In carrying out its functions, the Broadcasting Authority will be assisted by the Commissioner for Television and Entertainment Licensing, who will be the principal executive officer of the authority.

Provisions are included in the Bill to require members of the Broadcasting Authority to disclose their interest in any matter under discussion. The authority will be classified as a public body under the Prevention of Bribery Ordinance, Cap. 201. Appeal against a decision of the authority would be by way of a petition to the Governor in Council.

The authority may establish advisory committees with co-opted members to examine any aspect of broadcasting. In particular, the authority is expected to consult widely on programme standards. A complaints committee will be established under the authority to investigate complaints against breaches of the provisions of the television licences, codes of practice or the Television Ordinance and to advise the authority on the appropriate action to take.

The complaints committee will comprise five members of the authority but other persons may be co-opted to the committee. This would enable the committee to benefit from the expert advice of individuals who are knowledgeable in particular subjects. The committee will be empowered to require the submission of film materials for review and to inspect the books and records of the licensees.

The Bill also makes a number of consequential amendments to the Television Ordinance and the subsidiary legislation to transfer powers and functions from the Television Advisory Board and Television Authority to the Broadcasting Authority.

Section 13(1) of the Television Ordinance, requires that the terms and conditions of new licences will have to be submitted to the Executive Council for approval 12 months before the expiry date of the existing licences which is on 31 December 1988. It is, therefore, necessary that the Bill be enacted as soon as possible to enable the Broadcasting Authority to start work on drawing up the terms for the renewal of the two commercial television licences.

To sum up, the Bill aims to provide for the establishment of a Broadcasting Authority which will allow for a greater public participation in the control and regulation of the broadcasting industry so as to ensure that the programmes provided meet the need and aspiration of the community.

Sir, I move that the Broadcasting Authority Bill 1987 be now adjourned.

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

*Question put and agreed to.*

## **COMPANIES (AMENDMENT) (NO.2) BILL 1987**

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

He said: Sir, I move that the Companies (Amendment) (No.2) Bill 1987 be read the Second time.

The purpose of this Bill is to amend the Companies Ordinance in relation to the accounts of liquidators, the funds of companies in liquidation invested by the Official Receiver and the fees payable in winding up proceedings.

Under the Companies Ordinance, all accounts of liquidators of companies in compulsory liquidation are required to be audited by the Official Receiver. This has become very time-consuming and is in many cases unnecessary. To remedy the situation, clause 2 of the Bill makes the official Receiver's audit of liquidators' accounts a discretionary rather than a mandatory requirement.

Clause 4 of the Bill amends section 295 under which interest on investments of more than \$100,000 is apportioned between the company in liquidation and General Revenue. The present practice is to adjust the rate fixed by the Financial Secretary from time to time for the benefit of the creditors of the company in liquidation consistent with changes in interest rates according to a complicated formula so that General Revenue would be left with an amount equivalent to a rate of about 1.5 per cent per annum. The proposed amendment will avoid the need for such adjustments in future as it provides that 1.5 per cent per annum on such investments, or such other rate as may be fixed by the Financial Secretary, will be paid to General Revenue and that the balance will be payable to the company for the benefit of the creditors.

Clause 5 of the Bill amends section 296 to make it clear that fees can be validly charged in relation generally to the services provided by the Official Receiver's Office, and that they need not be specific to the administrative or other costs incurred in any particular company liquidation.

Similar problems arise under the Bankruptcy Ordinance. I shall deal with them when I move the Second Reading of the Bankruptcy (Amendment) Bill 1987 later this afternoon.

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.*

## **BANKRUPTCY (AMENDMENT) BILL 1987**

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

He said: Sir, I move that the Bankruptcy (Amendment) Bill 1987 be read the Second time.

The purpose of this Bill is to amend the Bankruptcy Ordinance in relation to the accounts of trustees in bankruptcy, the fees payable in bankruptcy proceedings and the service of creditors' bankruptcy petitions.

Under the Bankruptcy Ordinance, all accounts of trustees in bankruptcy have to be audited by the Official Receiver. This has proved to be very burdensome for the Official Receiver and in many cases unnecessary. As in the case of the Companies (Amendment) (No.2) Bill 1987, this Bill amends the Bankruptcy Ordinance to make the Official Receiver's audit of trustees' accounts a discretionary rather than a mandatory requirement.

Clause 4 of the Bill provides that fees can be validly charged in relation generally to the services provided by the Official Receiver's Office and that they

need not be specific to the administrative or other costs incurred in any particular bankruptcy.

The Bill also amends section 9 by introducing a requirement for the personal service of bankruptcy notices and bankruptcy petitions with provision for substituted service by court order in appropriate circumstances. This will replace the present procedure whereby such petitions can be served by post, which has been found to be unsatisfactory in that on some occasions the petitions are not received by the person on whom they are to be served.

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.*

### **INSURANCE COMPANIES (AMENDMENT) (NO.2) BILL 1987**

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

He said: Sir, I move that the Insurance Companies (Amendment) (No.2) Bill 1987 be read the Second time.

The main object of this Bill is to give the Insurance Authority discretionary powers to refuse an application by a company to become an authorised insurer on grounds not specified in sections 8(2) and (3) of the Insurance Companies Ordinance.

Section 6 of the Insurance Companies Ordinance provides that no person shall carry on insurance business in or from Hong Kong other than a company authorised under section 8 of the Ordinance, the Corporation of Lloyd's or an association of underwriters approved by the Governor in Council. Under section 7 of the Ordinance, any company which wishes to carry on any class of insurance business may apply to the Insurance Authority for authorisation. Section 8(2) of the Ordinance stipulates that the authority shall not authorise a company if any director or controller of the company is not a 'fit and proper' person. Section 8(3) specifies that the authority shall not authorise a company unless the company satisfies certain conditions relating to its net assets, capital and management.

The requirements in sections 8(2) and (3) were intended to be the minimum requirements. If the Insurance Authority had to authorise any applicant who satisfied these minimum conditions, it would be difficult to exercise effective quality control over entry to the local insurance market. This could result in a proliferation of low quality insurance companies in Hong Kong. In the interests of potential policy-holders, clause 2 of the Bill inserts a new section 8(1) to

provide the authority with express power to refuse authorisation on grounds not specified in sections 8(2) and (3).

As a safeguard against any possible abuse of this power, clause 3 of the Bill provides that any company whose application has been refused by the authority under the new section 8(1)(b)(ii) may appeal to the Financial Secretary. In the event of such an appeal, the authority would be required to furnish his reasons for refusal to the Financial Secretary who would review the case and make an independent and final decision.

The Insurance Authority has drawn up administrative guidelines which spell out in general terms the authorisation criteria. These guidelines will be made available to companies proposing to apply to become an authorised insurer.

The Insurance Advisory Committee, the Insurance Council of Hong Kong and the Life Insurance Council have all been consulted and have expressed full support for the proposed amendments.

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.*

## **PILOTAGE (AMENDMENT) BILL 1987**

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

He said: Sir, I move that the Pilotage (Amendment) Bill 1987 be read the Second time.

The purpose of this Bill is to amend the Pilotage Ordinance to revise the membership of the Pilotage Advisory Committee and to provide the Pilotage Authority with certain powers to improve the operation of the Ordinance.

The Pilotage Authority is established under the Pilotage Ordinance to regulate and control pilotage in Hong Kong. The Ordinance provides that the Director of Marine shall be the Pilotage Authority and that the authority shall be advised by the Pilotage Advisory Committee. Since the enactment of the Ordinance in 1972, there has been no change in the membership of the committee. In order to cater for the interests of new private sector groupings which have emerged in recent years and to provide the necessary technical support to the committee, this Bill proposes various changes in membership. As a result of such changes, membership of the committee will be increased from 11 to 13.

This Bill also seeks to improve the operation of the Pilotage Ordinance in two respects—first, by removing the present need for certain apprentice pilots to undergo two separate medical tests during the course of the year; and second, by exempting certain types of hampered vessels from the requirement of compulsory pilotage, where these vessels are under the control of local certificated crew who can reasonably be expected to be familiar with Hong Kong waters.

At present, a person applying for registration as an apprentice pilot is required to pass a medical test. When he completes his apprenticeship, which will normally take less than 12 months, and applies for the issue of a pilot's licence, he is required to pass an examination to determine his competence as a pilot and a second medical test. Taking into account the short time span between the two medical tests, the latter requirement is considered unnecessary. It is therefore proposed to dispense with the second medical test where an apprentice pilot can prove that he has, within the previous 12 months, passed a similar one. It is also proposed to empower the Director of Medical and Health Services to set fees for these medical tests in the same way as he currently sets fees for the Medical Examination Board.

As for the exemption of certain types of hampered vessels from compulsory pilotage, the present requirement is that hampered vessels of 300 gross registered tonnage or over are subject to compulsory pilotage. This requirement was intended to ensure that hampered ships arriving in Hong Kong, which have no person on board with local knowledge of the Hong Kong waters, are obliged to make use of a pilot. It was not intended to apply to local vessels licensed under part IV of the Shipping and Port Control Ordinance or to hydrofoils or jetfoil on, for example, the Hong Kong-Macau run. As both categories of vessels are required to be in the charge of masters in possession of certificates of competency issued by the Marine Department and who are familiar with the conditions of the waters of Hong Kong, it is proposed that compulsory pilotage for such vessels should be waived.

The proposed amendments mentioned above have been drawn up in close consultation with the Hong Kong Pilots Association, the Ports Committee, the Ports Operation Committee and the Pilotage Advisory Committee. All support the proposals.

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.*

## **SUPREME COURT (AMENDMENT) BILL 1987**

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

He said: Sir, I move that the Supreme Court (Amendment) Bill 1987 be read a Second time.

The purpose of this Bill is to improve and streamline the practice and procedure of the Supreme Court which is comprised of the High Court and the Court of Appeal.

The Supreme Court Ordinance in its present form derives essentially from the Supreme Court (Consolidation) Act 1925 of the United Kingdom. Although the United Kingdom legislation has been substantially amended over the years and was consolidated by the Supreme Court Act in 1981, few corresponding amendments have been made to the Hong Kong Ordinance. Accordingly, there are now substantial differences between the two pieces of legislation. By 1984 it had become apparent that a thorough review of the Supreme Court Ordinance was required to ascertain whether any of the amendments to the United Kingdom legislation should be adopted in Hong Kong.

Sir, one of the advantages to Hong Kong of having a legal system based upon the common law is that we are able to take advantage of experience of developments of the law in other common law jurisdictions. And where, as with the Supreme Court Ordinance, a Hong Kong Ordinance is based on a United Kingdom precedent we are able to decide whether to amend our law in the light of United Kingdom experience. No one suggests that Hong Kong should slavishly adopt all United Kingdom reforms. Any amendment that is proposed on the basis of developments in the United Kingdom must be evaluated in the light of local needs and Hong Kong's special circumstances.

Sir, in 1984 a sub-committee of the Supreme Court Rules Committee, being a panel of judges and legal practitioners, was established under the chairmanship of the hon. Mr. Justice KEMPSTER to undertake a thorough review of the Rules of the Supreme Court and to ascertain whether the amendments introduced to the United Kingdom legislation and consolidated in the 1981 Act also should be made to the Hong Kong Ordinance. This Bill derives from the sub-committee's work. Virtually all of the substantive changes to the law recommended by the sub-committee, with one notable exception that I shall address later, have been included in this Bill. The Bill incorporates some changes suggested by developments in the United Kingdom jurisdiction and includes other proposals of the sub-committee which appear to be sensible, to reflect desirable trends and to clarify the law.

Sir, for their part the chairman and members of the sub-committee deserve our gratitude and appreciation. I would like to take this opportunity on the behalf of the Government to express our thanks to Mr. Justice KEMPSTER and the other members of his sub-committee for all their efforts.

The proposal made by the Kempster Sub-committee that has not been included in the Bill is a recommendation that the High Court should be empowered to grant 'interim declarations' against the Crown at an early stage

of proceedings. This form of interim relief is intended to have the effect of temporarily restraining the Government from taking a disputed action until the matters in issue between the affected citizen and the Government can be finally determined at the trial.

In excluding this proposal from the Bill the Government has not rejected it outright. There are difficulties with the proposal and it has been decided that it should be further discussed by the Judiciary, by the legal professions and other interested parties in the community before a final view is taken. A discussion paper with more details of the proposal and the arguments for and against it will soon be made available to these groups.

Sir, whilst I appreciate that the Bill will primarily be of interest to lawyers I should like to outline briefly some of the more important, substantive changes that it will introduce.

Many of the provisions are aimed at making more efficient use of judicial manpower. For instance the range of cases in which two-member, rather than the usual three-member, Courts of Appeal may sit to determine appeals will be extended to those cases where the parties agree that a two-member court is sufficient, where one of the members of a three-member court is unable to continue, and to other categories of cases prescribed by the Chief Justice. Another provision will require a party seeking to appeal to the court from a statutory tribunal (such as the Immigration Tribunal and the Lands Tribunal) first to obtain leave to appeal from the court; thereby weeding-out some unmeritorious appeals.

Other amendments are intended to effect housekeeping and organisational changes within the Supreme Court. Provisions will be introduced to permit the Chief Justice to appoint one or more Justices of Appeal as 'vice presidents' to head the three divisions of the Court of Appeal. The Bill will also change the court's name from 'the Supreme Court of Judicature' to 'the Supreme Court of Hong Kong' and the Bill will provide that only persons who are qualified to be appointed as judges of the Supreme Court may be appointed as Chief Justice. Presently there is no qualification for that important office.

Most of the provisions of this Bill will clarify and improve the practice of the court. The Bill will introduce provisions to overcome existing defects in the court's power to order a debtor's property to be charged as security for his debts, to grant the court wider power to attach monies owed to a debtor by a third party to be used in payment of creditors, and to codify the existing common law governing the court's power to provide relief against forfeiture of leases when a tenant has failed to pay the rent on the due date.

Sir, a number of legal anomalies and archaic remedies will be abolished. The court will be given a wider, more flexible power to award interest on claims for debt or damages. The powers of the court to award costs against parties will be moved from the rules to the Ordinance to ensure their validity. Recently a

number of academic articles have cast doubt upon whether the court is empowered to undertake judicial review of administrative actions. To avoid all doubt, the Bill will place into the Ordinance a provision specifically granting such a power to the court.

Sir, there are many other changes in civil procedure effected by this Bill. Hon. Members will find that they are summarised and explained in the accompanying briefing material, and in the Explanatory Memorandum and its appendices.

Sir, this Bill has been the subject of wide consultation in legal circles. The Kempster Sub-committee canvassed the views of the Chief Justice, the Judiciary, the Chairman of the Bar Association, each firm of solicitors in Hong Kong and the Law Faculty of Hong Kong University upon its proposals. The Bill in draft was later circulated to the Bar Association and to the Law Society and sent to Mr. Justice KEMPSTER and to the Rules Committee for their consideration. The Bar Association and the Law Society have, in general, expressed their support for the Bill and for the proposals it contains. The Government's Law Officers including the Crown Solicitor, the Registrar General and the Director of Legal Aid have also expressed their support.

Sir, with the support of those persons I commend this Bill to the Council.

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

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

*Question put and agreed to.*

## **WASTE DISPOSAL (AMENDMENT) BILL 1987**

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: 'A Bill to amend the Waste Disposal Ordinance'.

He said: Sir, I move that the Waste Disposal (Amendment) Bill 1987 be read the Second time.

The purpose of this Bill is to amend the Waste Disposal Ordinance to give effect to a 10-year livestock waste control programme. The storage and disposal of livestock waste will be controlled by means of the provisions of the Bill, and by regulations to be made after the Bill has been enacted.

There can be no doubt that livestock waste is a major cause of pollution of our streams, nullahs and coastal waters, and it has been estimated that it is responsible for about 70 per cent of all stream pollution in the New Territories and about 50 per cent of the total organic pollution entering the sea. Those of us who remember the attractions of our inland and coastal waters as they were 30 years ago have been very much saddened by the drastic deterioration of the

quality of these waters, which has been caused largely by the indiscriminate disposal of pig and poultry wastes into the streams. It is also potentially a serious health risk. Parts of the Beas River are virtually a solid mass of animal waste, while the major nullahs through Yuen Long, Tuen Mun and Sha Tin are so heavily polluted as to be almost useless for recreational or amenity use; and several popular public beaches may have to be closed to swimmers because the water is not considered safe for bathing. For all these reasons action to clean up our watercourses is long overdue.

The livestock waste control scheme divides the Territory into two groups of areas. It is the Government's considered view that livestock farming is incompatible with urban development, particularly at the sort of densities which are common in Hong Kong and it is therefore proposed that livestock farming should be prohibited in the whole of the Urban Council area and also in the major urban centres of the New Territories. In the rest of the Territory the keeping of livestock and the disposal of livestock waste will be strictly controlled. These controls will be introduced in phases over a 10-year period, with a grace period of one year before the first controls come into effect.

It is inevitable that the scheme will affect the livelihood of some livestock keepers. Farmers in the prohibited areas will, of course, have to cease livestock keeping. And some farmers in the controlled areas will not be able to comply with the controls due to physical or financial constraints and will also have to cease business. For this reason, the farmers so affected will be eligible for ex-gratia payments. The original proposal was that the rates of payment should be the same as those hitherto used for development clearances. At the suggestion of Finance Committee, the Administration has reviewed the allowance rates and recommended that they should be increased by about 30 per cent. These revised rates were approved by Finance Committee last Wednesday.

Extensive consultation has been carried out with district boards and the livestock farmers and the proposals have been discussed at length with the Joint Committee of Agricultural and Livestock Keeping Associations which consists of 15 farmers and related agricultural associations. As a result of this consultation a number of changes have been made to the original proposals, including the provision of a waste collection service which initially will be subsidised from public funds. There has also been consultation with the Environmental Pollution Advisory Committee and the Legislative Council ad hoc group.

Sir, the Bill before Council seeks to implement the scheme by the inclusion of two new parts in the Waste Disposal Ordinance. The first of these is Part IIIA, which provides for the designation of 'livestock waste prohibition areas', in which the keeping of livestock (which for the purposes of the Ordinance is defined as 'pigs and poultry') will be forbidden, and also of 'livestock waste control areas', in which it will be an offence to keep livestock unless regulations relating to the collection, storage, treatment and disposal of the waste produced

are complied with. These regulations will be made by the Governor in Council after the enactment of the Bill, under the regulation-making powers contained in section 33 of the principal Ordinance. Details of the prohibition and control areas are set out in the First, Second and Third Schedules, together with the dates on which they will come into effect. The Fourth Schedule exempts certain persons from the controls of the Bill, including operators of markets, abattoirs, and food shops, and keepers of very small numbers of livestock.

The second new part is part VA, which provides for enforcement matters, including powers of entry, the obtaining of information and the analysis of samples.

Clause 13 of the Bill empowers the Governor in Council to amend the Schedules and the Governor to amend the dates on which the various areas will come into effect. We are at present considering whether to propose the advancing of the effective date for the Mui Wo area, in view of the problems being caused by livestock waste at the Silvermine Bay beach.

Sir, this Bill and the related draft regulations are the result of many years of detailed work and the extensive consultation with all those affected. I am sure that Members will agree that it is high time that firm action is taken to deal with this pollution problem before it is too late; to give some indication of the scale of the problem, it has been estimated that 50 000 tons of livestock waste is currently being discharged every month into our watercourses, and it is therefore essential that controls should be introduced as soon as possible. Some people's livelihoods will inevitably be affected, but we are confident that the new compensation rates recently approved by the Finance Committee of this Council are fair and reasonable.

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

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

*Question put and agreed to.*

## **SUPERVISION ORDERS (RESIDENTIAL REQUIREMENTS) BILL 1987**

THE SECRETARY FOR SECURITY moved the Second Reading of: 'A Bill to provide for the establishment of houses for the residence of persons who are released from detention under supervision, to amend the Prisons Ordinance therefor, and to make other consequential and ancillary provisions in connexion there-with'.

He said: Sir, I move the Second Reading of the Supervision Orders (Residential Requirements) Bill 1987.

The Correctional Services Department is now running three hostels for persons released under supervision under section 5 of the Drug Addiction Treatment Centres Ordinance, section 109AA of the Criminal Procedure Ordinance, section 5 of the Detention Centres Ordinance and section 5 of the Training Centres Ordinance. The requirement to live in these hostels is normally imposed on those who either have no home to return to upon release from detention or are in need of a more restrictive type of supervision than those who can be released under supervision and allowed to live wherever they like.

It is clear in the present legislation that the Commissioner of Correctional Services is empowered to make rules governing the conditions of residence of these ex-inmates while under supervision. But at present there is no legislative provision whereby residents of these hostels who are in gainful employment can be charged for their board and lodging. And there is no provision for the general administration and designation of these hostels. It is to provide for these requirements that the Supervision Orders (Residential Requirements) Bill 1987 is now before this Council.

The Bill seeks to provide for the Secretary for Security to designate those hostels and to provide for the Commissioner of the Correctional Services to administer them. It also seeks to provide for residents who are in employment to be charged a token sum for their board and lodging. The sum to be charged is \$200 a month. Visiting justices have already been visiting these hostels once a month and the Bill contains amendments to the Prison Rules to give legal footing to this important established arrangement.

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.*

### **KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT) BILL 1987**

THE SECRETARY FOR TRANSPORT moved the Second Reading of: 'A Bill to amend the Kowloon-Canton Railway Corporation Ordinance'.

He said: Sir, I move that the Kowloon-Canton Railway Corporation (Amendment) Bill 1987 be read the Second time.

Members will recall that the main legislative framework of the Light Rail Transit (LRT) System in the form of amendments to the Kowloon-Canton Railway Corporation Ordinance was enacted in July last year. On the basis of the approved legislation, much progress in the construction of the LRT system has been made. In slightly more than a year's time, the LRT system, which is

one of the most modern of its kind, will commence operation in the north-west New Territories.

To facilitate the introduction of the LRT service, a more detailed legislative framework is required. One operational area which requires further legislation is the designation of stops for the LRT and its feeder buses. The Bill seeks to empower the Governor in Council to make regulations for the designation of KCRC's LRT and bus stops on a road. These regulations are required to enable the Commissioner for Transport to exercise control over the siting of KCRC's LRT and bus stops to ensure efficient traffic management and road safety.

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

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

*Question put and agreed to.*

## **ROAD TRAFFIC (AMENDMENT) BILL 1987**

THE SECRETARY FOR TRANSPORT moved the Second Reading of: 'A Bill to amend the Road Traffic Ordinance'.

He said: Sir, I move that the Road Traffic (Amendment) Bill 1987 be read the Second time.

Together with the Kowloon-Canton Railway Corporation (Amendment) Bill which I moved just now, this Bill seeks to introduce a regulatory framework governing the operation of the Light Rail Transit (LRT) system. It amends the Road Traffic Ordinance to make provision for its application to the light rail vehicles of the LRT system. For this purpose, the definitions of 'vehicle', 'driver' and 'road' are amended, and a definition of vehicles to be used on the LRT is added.

Although the LRT will operate on its dedicated reserve for the greater part of its track, it will cross road junctions and will mix with other road traffic on certain sections. Since accidents on the LRT may involve other vehicles entering the LRT reserve, it is necessary that drivers of light rail vehicles comply with those sections of the Road Traffic Ordinance regarding the duty to stop in case of accidents, the preservation of evidence in case of serious accidents and the obligation to give information to the police when traffic accidents or offences occur. This is achieved by clause 3 of the Bill. The clause also extends the regulation-making powers in the Ordinance so that regulations may be made to apply to the LRT.

Since light rail vehicles at road junctions may operate under different speed limits, clause 5 of the Bill empowers the Commissioner for Transport to exempt light rail vehicles from a general speed limit on a road, to impose a different speed limit on them and to erect signs for that purpose.

To enable the police to deal with emergencies on the LRT, clause 6 of the Bill empowers a police officer in uniform to give directions to the driver of a light rail vehicle where there is an emergency on or near the LRT system in order to save or protect life or property in imminent danger or to clear any obstruction to the railway system.

The above package of measures serves to ensure that the operation of the LRT will be compatible with other activities on the road.

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

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

*Question put and agreed to.*

## **PENSION BENEFITS BILL 1987**

### **Resumption of debate on Second Reading (3 June 1987)**

MR. CHAN KAM-CHUEN: Sir, the Civil Service in Ancient China, recruited by examination and with permanent tenure, is undoubtedly the oldest system. The Civil Service of Hong Kong modelled after the British system, is efficient and is a contributing factor to the stability and success of Hong Kong.

For those law-abiding and hardworking civil servants, I always support that they should be well paid not only during their service but also that they should have reasonably good retirement benefits after their long and loyal service to the Crown and to the public.

This Bill primarily provides for a new pension benefits scheme for future civil servants appointed after 1 July 1987. It also provides an option for joining this new scheme for some 175 000 civil servants, of which over 98 per cent are local officers.

On the whole, this new scheme has many improvements over the present one. The major ones are pension to be made a right instead of a privilege; due to higher life expectancy, staff can now work to age 60 which means they can earn five more years of their highest salaries and fringe benefits of their career; and deferred benefits for those who resign after completing 10 years service.

Despite all these improvements the ad hoc group met five times since late May 1987—two meetings with staff representatives to hear their worries. Those various points will be reflected in the speeches of my colleagues the hon. Hilton CHEONG-LEEN and the hon. TAM Yiu-chung. The other meetings were with the Administration for clarification and blow-by-blow comparison with computation for both schemes. I would like to take this opportunity to thank the Secretary for the Civil Service and his team for their co-operation in compiling

these comparisons with speed, comprehensiveness and efficiency as well as the legal advisers on both sides who went through the legal aspects of this Bill with a fine tooth comb which enable us to report back to the Legislative Council in-house meeting within schedule.

As convenor of the ad hoc group, I just concentrate on two major points of staff concern and I request the Chief Secretary as Head of the Civil Service to reply and allay the fears, real or imaginary, of the staff:

- (i) As the source of funds for pension payments is from 'General Revenue', would their pension benefits be affected when there is a deficit in the 'General Revenue'.
- (ii) If pension is a right, aggrieved civil servants may appeal to court against a decision by the Governor to cancel or reduce their pension on conviction of certain offences or disciplinary proceedings but the legal costs would be too high for a low pay civil servant. This point has been discussed at length between the Administration and the ad hoc group. The Administration has agreed in principle that the existing appeal procedures in this Bill could be further improved. However, due to time constraint and the complexity of this issue, both sides felt that more time should be given to refine the appeal procedure, that is, besides the Public Services Commission, an appeal tribunal could be set up without legal cost to the appellant.

It is hoped that the Administration would give this matter an undertaking and priority treatment. With these observations, Sir, I should conclude my speech in supporting this Bill. But as this is a bilingual legislation and I have not said something appropriate in Cantonese, may I now say '君乘駿馬我乘驢,回頭尚有推車漢' meaning that the Government gentleman is riding on a stallion, that is with lump sum plus pension, and I am riding on a mule, that is just with lump sum, and when we turn around, there is still a man pushing a cart, that is, those workers who do not have any retirement benefits.

MR. CHEONG-LEEN: Sir, I would like to support this Bill with a few brief remarks.

Although the text of the new Bill is complex, Sir, it is mostly built on the existing foundation of civil service pension principles and practice, and brought up-to-date since the scheme was introduced nearly 40 years ago.

As the Chief Secretary said when introducing the Bill, the Chinese authorities had been informed of the new pension scheme and had indicated that they found it fully acceptable. This fact should allay the concerns of those civil servants whose pensions will continue to be paid after 1997.

Annex I of the Joint Declaration clearly states:

'The Hong Kong Special Administrative Region Government shall pay to such persons who retire or complete their contracts, as well as to those

who have retired before 1 July 1997, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, and irrespective of their nationality or place of residence'.

Civil servants will no doubt welcome the new provision which will allow them the flexibility to commute up to 50 per cent of their pension for a lump sum instead of 25 per cent as well as another new provision that pensions are made a right rather than a privilege.

I also believe that adjusting the normal age of retirement from 55 to 60 is in keeping with social and economic conditions in Hong Kong.

It is understood that this new Bill will not apply to staff of the Judiciary, for whom separate arrangements of retirement benefits are being looked into.

Suggestions have been made that the Government should set aside part of the general revenue for pensions by way of protection against fluctuation of the general revenue or changing economic and other conditions. The Administration holds the view that clause 6 of the Bill which states that 'there shall be charged on and paid out of the general revenue all sums of money as may from time to time be granted by way of pension benefits' provides the best insurance, since it implied the Government's obligation to pay pension benefits and it had to discharge its obligation.

It has been estimated, Sir, that by the early part of the next century, in view of the average age of the Civil Service being relatively young, the annual expenditure on pensions would amount to 40 per cent of personal emoluments. Even though it is claimed by the Administration that in the long run the new pension scheme could bring about a saving of 8 per cent (although initially the payments would likely be increased), I would like to take this opportunity to emphasise the importance of prudent policies at all times by Government in regard to the use of manpower and financial resources. Prudent control of the size of the Civil Service and steady progression in the privatisation of services provided by Government wherever it is economic and in the public interest to do so are matters which should never be lost sight of if Hong Kong is to remain a prosperous and dynamic community.

MR. TAM (in Cantonese): Sir, since the acceptance of the new pension scheme by China last November, the Administration has introduced a series of amendments to the legislation. The Administration claims that staff unions have been consulted and most civil servants are happy with the new scheme. However, after the First Reading of the Bill, some staff unions still have comments on the Bill and made several requests. I list these requests as follows:

First, according to clause 29, a civil servant appointed by the Governor has the power to cancel, suspend or reduce the pensions of convicted civil servants. Now according to the spirit of the Bill, pension is a right not a privilege. Therefore some staff unions are of the view that unless civil servants have

violated laws related to corruption they should not be given double penalty. Now the proposed legislation is reasonable if it applies to serving civil servants. But if they violate the laws after leaving the service, they are not making use of their position in the Civil Service for personal gains and therefore, benefits accumulated in the past should not be affected.

Second, pension factors are inconsistent. Before 1 April 1987, the pension factor for officers on Model Scale I is 1/800 but that of MPS officers is 1/675. The Government has plans to standardise the factor to stand at 1/675 after 1 April this year for officers on both pay scales. Now in order to have parity of treatment, there are two ways of handling the pension: first, no change, that is, officers on MPS should not have their factor changed. Second, the pension factor for Model Scale I officers should be changed to 1/675 to tie in with the factor for MPS officers. There is inconsistency in the proposed scheme as far as pension factors are concerned. What are the reasons for that?

Third, according to clause 30, pensioners who find employment within two years of their leaving the Civil Service need to have the approval of the Governor. Now this is appropriate to middle and upper rank officers but not ordinary officers. The reason is that the former category of officers may have access to internal information of the Government but ordinary civil servants have to find work after retirement to supplement their meagre pension. Very often, they have to fill in the vacancy once appointment is offered and if they have to wait for approval from the Governor they will have to wait for a long time. So some staff unions suggest that for ordinary or lower grade civil servants, permission from the Governor should not be required.

Fourth, the term 'funds of the colony' should be changed to 'funds of Hong Kong' and not 'general revenue'. This is because some staff unions are afraid that when Government encounter financial difficulties, their pensions may be affected. So the Government should clearly stipulate that if there are financial difficulties, the Government will make use of the reserve funds to pay out the pensions.

Fifth, clause 25 clearly discriminates against female officers because except under very special circumstances the dependents of female officers will not be able to get dependent pension. This is not the case for male officers. Is this not unfair to the female officers?

Sixth, dependents of officers who die on duty can obtain dependent pension. But since 1965, the lowest rate for dependent pension has not been adjusted and some staff unions think that there should be a regular review on the lowest rate.

Seventh, it is reasonable for officers aged 49 or over be given three years to consider whether they want to change to the new scheme. Some staff unions also oppose to the deletion of the stipulation that officers aged 45 can ask for early retirement. And according to clause 27, 'if there is wilful suppression of important facts' then the officers will be penalised. 'Important facts' should be clearly defined.

Lastly some staff unions are in favour of having a one-off commuted gratuity as soon as an officer retires and to have the pension later.

Mr. Chairman, pensions are very important and in order that the Bill can be implemented on 1 July, I will give the Bill my support. But I hope the Administration will respond to the points that I made.

CHIEF SECRETARY: Sir, I am most grateful to Mr. CHAN and to the ad hoc group of OMELCO members who have been responsible for examining the Pension Benefits Bill. As I said when introducing the Bill, pensions legislation tends to be complex and I appreciate the amount of time and care devoted by the ad hoc group to studying the Bill's provisions. I have also noted the points made by Mr. CHEONG-LEEN and Mr. TAM and will make reference to them in my speech. Sir, Members will not be surprised to hear me say that I fully share Mr. CHAN's view that civil servants should not only be well paid but should also receive reasonable retirement benefits. Work horses put out to grass can reasonably expect a daily ration of sugar lumps. Mr. CHAN's wise and understanding comments clearly demonstrates the importance he places on the significant role civil servants play in our community and will be well received by the public service as a whole. Sir, I believe the Pension Benefits Bill will achieve the aims referred to by Mr. CHAN.

I should now like to comment on the staff concerns which have been referred to and which have been conveyed to the ad hoc group.

I will first deal with the circumstances in which pensions may be cancelled, suspended or reduced. At present, pensions may be withdrawn or reduced where a pensioner is convicted of any criminal offence. This is a very wide-ranging provision. Under the new arrangements, however, such action can only be taken where someone is convicted of an offence of an extremely serious nature, including offences under the Prevention of Bribery Ordinance. More-over, in general, the offence must be connected with the pensioner's work in the Civil Service and must be so serious that it causes grave damage to Hong Kong or to the Civil Service. There has thus been a considerable relaxation of the present rules and I do not consider any further relaxation of the disciplinary provision is justified at this stage.

As regards the provision whereby a pension can be cancelled if someone has wilfully suppressed facts material to the grant of a pension, this is an existing provision and does no more than prevent a person obtaining a pension by false pretences. It is a necessary safeguard, Sir, to ensure that a pension is not granted or may be withdrawn where it is found that the information which led to the award of the pension was untrue and the person concerned was aware of it.

The second and related area of concern to which Mr. CHAN has drawn particular attention was with the appeal procedures in the Bill. With pensions being made a right any person who feels aggrieved at the cancellation, suspension or reduction of his pension may now have recourse to the courts.

I accept, however, that this should only be the ultimate channel of appeal and that there should be other procedures available in the first instance. It is therefore proposed, after consultation with staff, to introduce arrangements for the appointment of a body to advise the Governor, where appropriate, on appeals against decisions to cancel, suspend or reduce a pension taken under delegated authority.

There has also been a reference by Mr. TAM and others to the proposal to replace the phrase 'funds of the Colony' with the term 'general revenue' in certain sections of the legislation. In the first place, I should make it clear that the existing legislation already provides that pensions are generally paid from general revenue and the reference to funds of the Colony appears only in sections dealing with officers transferred from or to other British territories: this is probably because these sections are based on a model applicable to most British territories among which there may be different terms for Government monies. Legal advice, Sir, is, however, that the phrase 'funds of the Colony' has no precise definition and provision should be made for all pensions to be paid from general revenue. I am also advised that there can be no greater security for pensions than to provide for them to be paid from general revenue.

Mention was made of the period which officers have to opt to transfer to the new pension scheme and staff's suggestion that these should be open-ended. It is considered, however, that the present option period of five years for younger officers, which is already an increase over the original period of three years, is adequate. Some cut off point is essential for long-term financial and staff planning purposes and in my view five years is already generous. I do nevertheless accept, Sir, that the period of one year provided for older officers may be too short and consideration will be given to providing these officers with a somewhat longer period in which to opt to transfer to the new scheme.

It has also been remarked that some of the provisions relating to dependent pensions are different for men and women with advantages sometimes to the men and sometimes to the women. The provisions for dependant pensions generally follow those in the Widows' and Children's Pensions Ordinance which is the subject of a separate review. This review will examine the provisions for dependants' pensions generally and will, I am sure, result in recommendations to update the provisions relating to such pensions and to remove any existing anomalies, which have been referred to this afternoon.

Mr. TAM has referred to what he sees as an inconsistency in the pension factors. This is not the easiest of subjects to explain orally but I shall do my best to do so. Under the existing scheme there are different pension factors for pensionable and non pensionable staff, in each case related to a retirement age of 55. The factors are 1/600th for pensionable staff and a mixture of 1/800th and 1/600th for non pensionable staff. Under the new scheme, as originally devised, the factors were related to a retirement age of 60 and adjusted therefore to 1/690th for pensionable staff and to a single combined factor of 1/840th for non

pensionable staff. However following representations from staff these factors were improved to 1/675th for pensionable staff and 1/800th for non pensionable staff. At the same time it was agreed to bring the pension factor for non pensionable staff into line with that for pensionable staff with effect from a current date. The pension factor of 1/800th for the non pensionable staff does not mean that such staff are being permitted to retain their former pension factor, as I think Mr. TAM has been led to believe. That 1/800th was one of the two factors enjoyed by non pensionable staff under the existing scheme is co-incidental. Moreover the inconsistencies in pension factors between pensionable and non pensionable officers which existed in the past will disappear with the introduction of a common pension factor.

As to the point about exempting junior staff from the requirement to seek prior permission to take up post-retirement employment, the point made by Mr. TAM, is something we can certainly take a look at although I do not think this constitutes any real hardship.

It is certainly our intention that in future the rate of minimum dependant pensions should be subject to a periodic review.

Sir, as regards Mr. TAM's request that the existing arrangements for early retirement at the age of 45 should be retained I am not entirely clear whether this relates to the existing or the new pension scheme. Under the new scheme there are different arrangements for early leavers which would still allow officers to leave at 45 but involves their waiting for their pension benefits until their normal retirement age. And no change is contemplated to these arrangements. Under the existing scheme the arrangements for voluntary early retirement at the age of 45 are retained. The only change that has been made to the existing scheme in this connection is to delete the provision whereby officers could be compulsorily retired simply for having reached the ripe old age of 45. I am sure that no one would wish to retain this obsolete provision but I believe there has been some misunderstanding among staff that this deletion affects the arrangements for voluntary retirement. It does not.

Mr. TAM's suggestion that officers eligible for a deferred pension should be paid their commuted pension benefits immediately is also, I am afraid, not acceptable. Such a measure we believe would not contribute to the stability and continuity of the Civil Service.

Finally, while staff requests for further improvements to the new pension scheme are understandable, I must point out that the scheme has already been modified substantially to meet many of the points so raised. The present package is a reasonable, even a generous one in some eyes. What is more, now I should stress this point, Sir, it is entirely optional and no serving civil servant has to transfer to the new pension scheme if he does not wish to do so.

Sir, at the Committee stage I shall be moving five amendments to the Pension Benefits Bill. However, these are all technical corrections and do not affect the substance of the Bill.

*Question put and agreed to.*

Bill read the Second time.

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

**PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL  
1987**

**Resumption of debate on Second Reading (10 June 1987)**

*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.

**PENSION BENEFITS BILL 1987**

Clauses 1, 3 to 6, 8 to 10, 12 to 35, 37 and 39 to 55 were agreed to.

Clauses 2, 7, 11, 36 and 38

CHIEF SECRETARY: Sir, I move that clauses 2, 7, 11, 36 and 38 be amended as set out in the paper circulated to hon. Members.

*Proposed amendments*

**Clause 2**

That clause 2(1) be amended in the definition of 'pensionable emoluments' by substituting 'means' for 'includes'.

**Clause 7**

That clause 7 be amended by substituting the following for paragraph (a)—  
'(a) in the case of a deferred pension—

- (i) where he is a serving officer, when he attains the age of 55 years;
- (ii) where he is a Scheduled Officer who is appointed or reappointed to service under the Government on or after 1 July 1987, when he attains the age of 60 years or the age prescribed by an order under section 10(3) which is applicable to the rank or grade held by him at the time when the deferred pension is granted, whichever is the earlier, and
- (iii) where he is an officer appointed on or after 1 July 1987, other than a Scheduled Officer, when he attains the age of 60 years, or earlier than in accordance with sub-paragraph (i), (ii) or (iii) if the Governor so directs and at a time specified by the Governor;’.

### Clause 11

That clause 11(1) be amended—

- (a) by deleting ‘or’ where it secondly occurs in paragraph (i);
- (b) by substituting ‘10 years; or’ for ‘10 years.’ in paragraph (j); and
- (c) by adding the following new paragraph—
  - ‘(k) upon his retirement on attaining the maximum pension specified in section 21.’.

### Clause 36

That clause 36(t) be amended by amending the paragraph so that the following replaces the proposed subsection (3) of section 17 of the Pensions Ordinance—

‘(3) Where a pensioner dies after retirement from service under the Government, there shall be paid a death gratuity of an amount equal to—

- (a) in case any pension and gratuity are already paid to him—
  - (i) his annual pensionable emoluments; or
  - (ii) the commuted pension gratuity which he would have received on retirement had he opted for reduction of his pension by 25 per cent under regulation 23 of the Pensions Regulations,
 whichever is the greater, less the pension and gratuity already so paid, but excluding any additional pension granted under regulation 31 of the Pensions Regulations,
- (b) in case neither a pension nor a gratuity is so paid—
  - (i) his annual pensionable emoluments; or
  - (ii) the commuted pension gratuity which he would have received on retirement had he opted for the maximum reduction of his pension under the said regulation 23, plus

(Cap. 89,  
sub. leg.)

(Cap. 89,  
sub. leg.)

(Cap. 305.) any increase which would have fallen to be paid had section 4(2) of the Pensions (Increase) Ordinance applied to the gratuity as it applies to a commuted pension gratuity within (of 1987.) the meaning of the Pension Benefits Ordinance 1987, whichever is the greater.’.

### Clause 38

That clause 38 be amended by adding the following to the amendment contained in subclause (d)(iii)—

‘(4) Where an officer is granted a pension under section 6(2) of the Pensions Ordinance and opts under regulation 23 of the Pensions Regulations to receive a gratuity (in lieu of part of his pension), then as regards the period beginning on the date on which the pension is granted and ending on—

- (a) the day immediately preceding the day on and from which, assuming he does not sooner die, he could, subject to the provisions of this Ordinance, expect payment of the pension to be made, or
- (b) in case he so dies, the day on which he dies, subsection (1) shall apply to the gratuity in the same manner as it applies, as regards that period, to a basic pension mentioned in that subsection.’.

The amendments were agreed to.

Clauses 2, 7, 11, 36 and 38, as amended, were agreed to.

Schedule was agreed to.

## **PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1987**

Clauses 1 to 4 were agreed to.

Council then resumed.

### **Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

PENSION BENEFITS BILL 1987

had passed through Committee with amendments and the

**PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL  
1987**

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

*Question put on the Bills and agreed to.*

Bills read the Third time and passed.

4.00 pm

HIS EXCELLENCY THE PRESIDENT: As we have an adjournment debate, Members may wish to have a break at this point.

4.25 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

4.25 pm

**Adjournment**

*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 in the debate, I propose to exercise my discretion under Standing Orders to allow Members adequate time to complete their speeches and also adequate time for the official Member to reply to these speeches before putting the question on the adjournment.

**Area committees, mutual aid committees and owners' incorporation**

MRS. NG (in Cantonese): Sir, the government system of Hong Kong is unique in many ways. One of its unique features is a broad spectrum of grass root organisations which form the very foundation of our consultative machinery. Area committees and mutual aid committees and owners' corporations can be said to be key components of this foundation. The purpose of this afternoon's debate is to highlight the valuable contributions which area committees, mutual aid committees, owners' corporations have made towards improving our living environment and at the same time explore possible ways to enhance their role in keeping with further developments of the District Administration Scheme. Our colleagues will speak on different topics related to the issue for Government's consideration.

Area committees and mutual aid committees were first formed in 1972 and 1973 respectively to promote public participation in the Keep Hong Kong Clean Campaign and the Fight Violent Crime Campaign. However, with active support and assistance given by the Government, the span of responsibilities and activities of the area committees and mutual aid committees have broad-ened steadily over the years. Area committees are now actively involved in identifying and solving local problems related to environment improvement and traffic management as well as in providing feedback on government policies. On the other hand, mutual area committees are playing an essential role in community building by fostering a spirit of mutual care in each neighbourhood. Having said this, however, there remain a number of areas in which possible improvements could be made to the existing system and I shall be addressing them separately together with my colleagues.

*Area committees*

Following the establishment of district boards in 1982, area committees have become gradually part of the district liaison network through which the Government gather public views. We have 80 in the urban areas and 25 area committees in the New Territories and the Government has tried to gather public views through these area committees. I became a member of an area committee in 1979 and I know the operation of area committees very well. I think it is now an opportune moment for the Government to consider whether, and if so, how, the consultative role of area committees could be strengthened further. I think the government should encourage area committees to discuss territory-wide issues and to take a more positive initiative to consult area committees on major issues which may affect the populace within their responsible areas.

A linkage is maintained between district boards and area committees by way of cross membership. District board members are usually appointed to serve on the area committees of their respective constituencies. This arrangement has worked well over the past. Nevertheless, it might be desirable to formalise this relationship by allowing district board members to become ex-officio area committee members of their own constituencies. They will then be responsible for follow-up actions on area problems and, if necessary, they will be able to refer the cases to the appropriate district board sub-committees. This will formalise the role of district board members and will give a clearer division of duties between district boards and area committees. To complement this change, more area committee members could be allowed to join district board sub-committees. Since one of the main functions of area committees is to provide a training ground for further community leaders, this will open up opportunities for potential talents to gain a better insight into the structure and operation of district boards. I understand that it is already an established practice for outside experts to be co-opted as members of district board sub-committees. So this proposal will therefore entail very minor changes to the present practice.

As a result of the hard work and dedication of area committee members, they have established gradually a firm image in the community. But I think the Government should still support it by extra manpower and financial resources. And so I suggest that the Government should provide area committees with office premises so that area committee members can have more contact with the general public.

*Mutual aid committees*

A recent review conducted by the City and New Territories Administration concluded that the Government should render mutual aid committees adequate support to ensure they continue their existing functions effectively. Based on this general premise there are two main points which I would like to make.

The present subsidy to mutual aid committees is \$600 per quarter and was last revised in July 1985. Two years have already lapsed. I think the Government should conduct a review on the level of subsidy to mutual aid committees as soon as possible.

Similar to area committees, mutual aid committees will need their own office premises. At present a total of 1 286 office premises are provided to mutual aid committees in public housing estates. These premises usually occupy an area of between 10 to 15 sq m, but we know that this area of 10 to 15 sq m is simply inadequate. I hope that the relevant government departments will review this.

I support the CNTA's recommendation that there should be staff increase in district offices. We know that we have 92 vacancies for temporary community organisers and 103 vacancies for Executive Officer II. I hope that the Government will try to increase the number of staff as soon as possible so that area committees and mutual aid committees are able to perform better. I know that the salaries of the temporary community organisers have not been revised for many years and this contributes to a high turnover rate among the TCOs. I hope the Government will really address this issue and revise or adjust the rate as soon as possible.

Finally, I would like to use the slogan of the Civic Education Committee, that is, show our concern for society through words and deeds, and I hope that all the members of the area committees, mutual aid committees and owners' corporations will work towards this goal.

MR. POON CHI-FAI (in Cantonese): Sir, area committees, mutual aid committees and owners' corporations are important grass root organisations in the promotion of district administration. If we are to have successful district administration, we need to have a comprehensive and well-organised grass root frame-work. Only by doing this can we promote essential policy to the grass roots and to effectively convey to the central Government the local people's views and messages.

At present, if we enhance and improve such grass root structures and give a further impetus to district administration, it will enhance the stability and prosperity of Hong Kong. In order to have a better or more comprehensive framework of grass root structure, Government should pay attention and take remedial measures in the following aspects:

First, the linkage between the grass root structures and administrative work. For a long time, there has been restriction on the growth of the Civil Service and administrative work done by the staff is not really tied to the grass root bodies. We have been experiencing a lack of executive officers and temporary community organisers. In the past year, I have acted as a bridge between the central Government and the local bodies and I have heard the complaints. Now we know that financial resources are restricted and that there are many demands for funds, but since area committees, mutual aid committees and owners' corporations play an important role in district administration, the Government should increase the manpower of the relevant offices so that they will have good linkage with the local bodies and be able to help and encourage these grass root bodies in their work. And also government departments should as far as possible send representatives to the meetings of the grass root bodies.

Second, I would like to talk about temporary community organisers. Now, because of a lack of staff in government departments, many or most of the temporary community organisers are part-timers. They have not received professional training and this has affected their work. Therefore I suggest that the Government should employ full-time community organisers to gradually take the place of the temporary community organisers. We can employ the full-time community organisers on contract terms and they need not be within the civil service establishment. Judging from their performance, we can then decide whether we will renew the contracts. Now, we know that if we have full-time community organisers, it will lead to greater expenditure. But as a whole, society will benefit. This is a worthwhile social investment.

Third, grass root leaders. Newly constructed housing estates are mostly found in the New Territories. The youngsters in housing estates will usually move out when they get married and members of the grass root bodies are aging. These members have experience but they lack the vitality of the youngsters and may not be representative of the youngsters. Therefore the Government should provide an opportunity for youngsters to work as members of the grass root bodies.

Fourth, I would like to talk about the premises of grass root bodies and the expenditure or the funds available to them. We know that if the Government concentrates all its resources on a small number of services, the other services that do not receive the funds will suffer. But since we know that there are justifications for the existence of the grass root bodies, the provision of funds to enable them to carry on with their activities is really an important matter. But the Government at present only provides \$600 per quarter to mutual aid

committees. The sum is meagre indeed. On average it is \$200 per month. It cannot really meet water, electricity and telephone charges. As regards the maximum provision of about \$1,000-\$2,000 for the organisation of activities, once again this sum is not adequate because we must bear in mind inflation and also the many activities that need to be organised. Therefore, the Government should review as soon as possible the recurrent expenditures of these bodies in organising activities. Now, to add to the sense of belonging of these grass root bodies and to provide a fixed venue for them in the promotion of district administration, Government should as far as possible, provide premises to these bodies at suitable locations. If independent premises cannot be provided, then as far as possible arrangements should be made to designate fixed venues in district offices or other venues for these bodies to do their liaison work and to organise activities.

Fifth, I would like to talk about the personal safety of members of these grass root bodies and Government's attitude towards them. Now, every mutual aid committee, area committee and owners' corporation carry out work that is related to the area. Sometimes their work clashes with the interests of some local people. Therefore, sometimes they are treated in a hostile manner or are intimidated. The other night I heard a member of an area committee telling me that members of the committee were intimidated because they suggested the pulling down of certain objectionable signboards and unauthorised structures or because they provided certain information on how to fight crimes. The safety of their family members was also threatened. Well, in a place where we have the rule of law, each and every citizen should enjoy personal safety and property rights. Now, because of the nature of the work of these grass root bodies the Government should study the matter and come up with strategies to protect these members so that they have no worries and can continue to speak their views on what is right and to carry out improvement plans to the area. Now, in helping these grass root bodies to solve local problems, the Government should take a more positive attitude. If there are problems which cannot be solved, the Government should provide satisfactory explanations so that these people will not feel that the Government is not attaching importance to them.

Sir, I have talked about the problems faced by the local grass root bodies. Dr. Conrad LAM and I are concerned about the question of the aging of the members of the grass root bodies, the problem of the premises for these bodies, as well as Government's attitude towards them. We hope that the Government will deal with these problems carefully and take improvement actions. These are my remarks.

MR. CHEONG-LEEN: Sir, in the recent review by the City and New Territories Administration of the District Administration Scheme it was concluded that the approximately 110 area committees and the 7 200 mutual aid committees and owners' corporations in the Territory were performing a constructive role in community development and promotion of civic responsibility.

When the first area committees were established 15 years ago, their primary task, as mentioned by my colleague, Mrs. Pauline NG, was to promote public participation in the Keep Hong Kong Clean Campaign and Fight Violent Crime Campaign. Today, the area committees are active bodies very much involved in local problems, having to do with environmental improvement, law and order, public transport, and so on. Government departmental representatives from the police, the Urban Services Department, Regional Services Department, Transport Department, CNTA and so on regularly attend their meetings and they act as a valuable bridge between government departments and residents living within the area which usually has a population of 40-50 000 residents per area.

There are usually elected district board members on area committees and they act as links with district boards, which play, as we all know, an influential advisory role to Government at district level. Area committee chairmen and other members of area committees are sitting on many district board sub-committees and the CNTA are also appointing members from area committees to sit on management committees of community centres, and this is something which should be encouraged. Districts, of course, may be large or small, with populations varying from 200 000 for the smaller districts to about 600 000 for the larger district. When I refer to 'district', I am referring to district or districts, but the area committee districts are of course smaller. Many area committees are receiving project funds or are co-operating with both the district board and the Urban Council for their projects, especially in the fields of recreation, environmental improvement and community development. This practice should be encouraged and closely co-ordinated by the CNTA.

Besides area committees, the 7 200 mutual aid committees and owners' corporations, have been playing an active role in taking care of environmental and building management problems and in supporting the Government in resolving various community issues at the district level.

A problem which has arisen in the last few years is the serious shortage of liaison staff within the CNTA who are to keep a close and regular contact with the area committees, the MACs and the OCs. The situation is becoming more acute in view of the tendency for area committees to establish sub-committees in parallel to the sub-committees structure of the district boards. There is also continuous pressure for the establishment of MAC committees or owners' corporations in new buildings. The shortage of liaison staff has been attributed to the zero growth policy of Government in the last few years. As this policy is now somewhat relaxed, the CNTA should now put in a strong and justifiable bid for additional executive officers and temporary community organisers to strengthen the vital liaison work between CNTA and area committees, MACs and the OCs and to achieve the target of forming at least 300 new mutual aid committees and OCs a year. I have also come across a number of MACs and OCs where the management committee has become somewhat moribund for a

variety of reasons and these are instances which call for stronger liaison support from the CNTA staff.

Parallel to strengthening the CNTA liaison staff should be the establishment at a faster rate of more building management co-ordination teams in order to provide technical advice and assistance to MAC committees and OCs in the management of their buildings. At present there are only four such teams. I believe the number should be increased as quickly as possible to meet urgent needs for improved multi-storey building management in urban areas and in the new towns. I am glad to hear that after repeated requests in the past two years, the Wan Chai District has finally been able to get a team.

I also think the time has come for Government to urge all new multi-storey buildings to have an MAC or owners' corporations established within a certain period of time, for example, say, after a new building is more than half occupied. The strengthening of links between government departments and area committees, MACs and OCs, can be enhanced once additional staff are recruited. This becomes all the more necessary with the recent or pending passage through the Legislative Council of Bills concerning air and noise pollution. As living standards keep on rising, our residents in multi-storey buildings are becoming more conscious of the need for a higher quality of life where they can enjoy a cleaner and better managed home environment and reduced air and noise pollution in their multi-storey buildings. And further-more, it should not be forgotten that active and responsible multi-storey building management committees inspire more civic awareness and a greater sense of community responsibility.

MR. CHUNG (in Cantonese): Sir, the City and New Territories Administration in its April review document, proposed that in order to tie in with the development of district administration and representative government, we should have a plan to strengthen area committees as well as mutual aid committees and that Government should supply manpower and financial support if necessary for achieving the relevant policy objectives.

One important point is that the document confirmed that the three-tier system of mutual aid committees, area committees and district boards, is an effective component of district administration. Furthermore, if their relation-ship is similar to those of the district boards, Municipal Council and the Legislative Council, then theoretically we can establish the three-tier system of representative government in all multi-storey buildings in Hong Kong.

Multi-storey buildings can be found all over Hong Kong and also have become the basic unit of the social structure of Hong Kong. It is unfortunate however that the majority of the multi-storey buildings are not organised and those that are have not utilised the organisation appropriately for building management.

Owner's corporation is the only authoritative body regarding building management. Therefore, once an owners' corporation is established in a private building, a mutual aid committee will not be necessary. However, under present legislation, owners' corporations, unlike mutual aid committees, do not enjoy the freedom to participate in district management. In the circumstances, the review document, in making mutual aid committee the basic body for developing district administration, has ignored the actual situation in relation to the pattern of multi-storey building management, and also create conflicts in district management policies.

According to the Multi-Storey Owners' Incorporation Ordinance, the responsibilities and powers of owners' incorporations are confined to the management of public areas in buildings, the owners' incorporation's property, the cleansing and maintenance of the building and the enforcement of the provisions of the Deed of Mutual Covenant. Apart from this, any other activity is ultra vires and would not be legally binding. Therefore, owners' corporations, unlike mutual aid committees, cannot relate to welfare matters of the community or individual residents, for example, in the planning and provision of community facilities and services, or to be an effective channel of communication between the Government and people, or to be a network for the collection of public opinion on issues of wide public interest.

In district administration, owners' corporations are deprived of the chance to play the same role as mutual aid committees. I must point out that on the question of the existence of owners' corporations, the Government has long been negligent. Now, we must first of all deal with the problem, of owners' corporations' social status. Only then can we expect multi-storey building organisations to play a bigger role in district administration.

What is satisfying is that area committees, existing between mutual aid committees and district boards, have clearly become a public opinion centre full of driving force and are providing important connection in district administration. This being the case for area committee members, the Government should consider identifying suitable personnel from mutual aid committees and owners' corporations and should consider one objective opinion as to whether the Government could give an allowance to area committee members for them to perform their job.

Sir, I wish to be practical and hope the proposed policy of the review document could be strengthened and implemented. I have the following eight suggestions:

- (1) The Government should first of all make perfect the structure and organisation of the 4 200 mutual aid committees in Hong Kong and extend the idea of mutual aid committees to other buildings without such committees.
- (2) Relax the Multi-Storey Buildings Owners' Corporation Ordinance so that owners' corporations may have similar functions as mutual aid

committees and make owners' corporations an effective channel for expressing opinions and two-way communications. For example, let owners' corporations participate in cultural and recreational activities, community development, environmental improvement or discussions on current issues. However, the required expenditure should be appropriately limited.

- (3) Mutual aid committees should be able to call joint meetings among different districts to discuss district issues periodically. This would enable them to know one another better.
- (4) Strengthening government publicity to guide and encourage young people to take part in multi-storey building management so as to take care of the aging problem of mutual aid committees.
- (5) The CNTA should reserve some seats for owners' corporations, mutual aid committee members in area committees. Ideally, seats reserved should not be less than 40 per cent.
- (6) There should be representatives from more government departments in the meetings of area committees including the Transport Department.
- (7) The CNTA should strengthen liaison with individual buildings. Every electoral district should be provided with multi-storey building management co-ordinating teams to help private buildings set up owners' corporations and help them solve management problems.
- (8) In order to express Government's appreciation of and encouragement of area committees, Government should consider giving reasonable service allowance to area committee members and should also increase subsidy to mutual aid committees appropriately. They should also pay attention to training of persons in charge of area committees, mutual aid committees and owners' corporations so that they can discharge their duties smoothly and contribute to district administration.

Sir, the question of multi-storey building management has a lot to do with the controversial Deeds of Mutual Covenant. It is therefore a complex issue. The Multi-Storey Building Owners' Corporation Ordinance enacted in 1970 should be reviewed and amended in the light of Government's review of the multi-storey buildings Deeds of Mutual Covenant. I will speak again therefore in the next session, in the adjournment debate on Deeds of Mutual Covenant. Sir, these are my remarks.

MR. LAI: Sir, the original purpose of setting up mutual aid committees and owners' corporations was for the promotion of various Government sponsored community projects to improve the living environment at the district level. They have performed an invaluable function in such campaigns as the fight against crime, keep Hong Kong clean, and promoting neighbourhood watch and so on. These organisations should also provide the training ground for potential talents to become community leaders which in turn may provide a pool of potential government appointees to various levels of Government.

All these were very ambitious attempts. However, there is a lot more that can be done to enable the better development of these organisations. First of all, the Government has not provided adequate resources for these grass root organisations to grow. In terms of leadership training, the Government has provided very little to these organisers. There is little follow-up assistance extended to them once the MACs or OCs have been established. They are entrusted with the entire operation of these organisations and have found themselves in deep waters very often. Not only these organisations are left to survive on their own but their further growth is often inhibited by the lack of assistance.

With the development of district administration and representative government, these organisations also take on the role as a consultative machinery. After all, they are the most immediate channel to public opinion but they are not suitably equipped to discharge such roles properly. If they were to perform to the Government's expectation, they must have more support from the Government in terms of finance and co-ordination with government departments.

Firstly, the quarterly financial assistance of \$600 to the MACs is clearly too meagre to be meaningful. With the strict rules regulating disbursement it is not uncommon for the MAC or OC chairment to dig into their own pockets for various expenses. This has led to the problem of attracting interest from the otherwise potential talents to run MACs or OCs.

In terms of co-ordination, Government's employment of part-time temporary community officers to liaise with the MACs and OCs is far from conducive to a close working relationship with them. It is indeed difficult to expect these TCOs, being part-time and temporary workers, to establish any long-term relationship with the organisations with trust and confidence. Their training is also less than adequate to handle the delicate link between the Government and the grass root.

Another major stumbling block for the healthy relationship is the attitude of the Government towards these organisations, as perceived by the latter. Many MAC and OC members feel they are only being used to promote certain projects and may be certain fund-raising projects. Their opinions are however often neglected or cold-shouldered by the Government. This feeling of not being respected would be very demoralising. Some even feel that they are only treated as volunteer workers without any say in community affairs. To improve the relationship between the Government and these associations, MACs and OCs should be given more say in community affairs, in particular affairs of a district and local nature.

As regards area committees, Sir, I wish to draw your attention to the appointment of membership. At present there are no set criteria with respect to the recommendations made by the district office. To realise the function and spirit of district administration, it is important to ensure a fair representation on the ACs. The make-up of the ACs has now given cause for people to question the representativeness of the area committees.

Sir, in discussing the role and possible improvement of these grass root organisations, it is important to ascertain what they are supposed to do and the difficulties in achieving the aim. If we are satisfied that the main function of these organisations are no more than cosmetic then I suppose they do not really need a re-vamping. If we were to see them as a foundation stone upon which our district administration is to be built, more attention and care must be accorded to them. This can be done in a number of ways; financially more resources should be allocated to the MACs to make the job of running less painful. More attention must be paid to the suggestions made by these organisations. They must be made to feel that they are respected and they are not more than just something to be used in carrying out or promoting certain government initiatives. Representativeness must also be ensured to reflect the interests of the district.

Finally, if we were committed to make them an effective channel of communication and a base of grass root organisation, more monitoring and improvement in the liaison process must be carried out. Without active encouragement from the Government they can never become the grass root social and political fibre as they are designed to be.

MR. DESMOND LEE (in Cantonese): Hong Kong is now under a representative system of Government; councillors are chosen by the people to represent them in the deliberation of political affairs and the formulation of policies. Since this system is well received by the people it should be developed with full speed. In order to make this representative system adequately effective, it is essential to strengthen community organisations and improve the communication among these community organisations, councils at different levels and government departments. In this way, the policies of the councils and government departments will meet the wishes of the people. There will be more support for representative government and we have laid strong foundations for further development.

Now, below the levels of district boards we have community and residents' organisations. They include area committees, owners' corporations and mutual aid committees. Members are either appointed by the district office or formed with the assistance of the district office. It is felt that communication with and assistance from Government is extremely limited. Officials are very negative in attitude showing the mentality of the typical bureaucrat, and they perform their duties in a perfunctory manner. For instance, when government department representatives are in area committee meetings, they report similar rigid formalities. These can be much reduced in length or even replaced by written replies so the time can be saved for the answering of impromptu questions. Besides quite a number of area committee members feel government representatives may not be from the most important departments, their ranks are too low and consequently even if a department sends a representative to the meeting, problems cannot be resolved. Generally speaking we see a lot of

stalling, evasion and muddling through. For example, an area committee in Quarry Bay raised the issue of traffic routes in the area and asked the Transport Department to send a representative to attend their meeting. The request was first rejected and it was not until the following meeting, six weeks later, that the Transport Department representative was present. However, by that time the route had been decided on and implemented. There was no point in discussing the issue. Therefore, the Government was criticised for the lack of sincerity in facing problems and working out solutions.

Now that this Government has area committees to communicate with local organisations and residents, the criteria for appointment to area committees are never made public. The residents may feel that not all members are their representatives. Besides, members' addresses and telephone numbers are not published. Local organisations and residents have no way to contact them. I would like to suggest to Government that the appointment criteria be made public and relevant organisations be invited to nominate candidates. Of course, the final decision should rest with Government. As for addresses and telephone numbers, the district office, with the consent of the members, should publish them. Those members who are not willing to have such information published can have letters and telephone messages forwarded to them through the district office. The staff resources of the district office should increase correspondingly to take on the additional task.

There are six items under the terms of reference of the area committees. Up to this point they have been able to completely fulfill only one them, namely, to assist in the promotion of recreational and cultural activities in campaigns sponsored by Government. According to some area committee members, these activities and those organised by the district board or the Urban Council usually overlap. The organisation of these additional activities is not really of any great significance. Other items under their terms of reference, for instance, to act as a forum for the discussion of current affairs and government policy, to advise on local environmental affairs, public facilities and the well-being of local residents, is simply not given due weight. Area committees are not given assistance by Government in this respect and have not been able to adequately perform their roles in these areas. According to area committee members, their work in these areas is much more important than cultural and recreational activities. Government is in fact putting the cart before the horse. Some area committee members feel that their proposals normally are not implemented and they hope that in future you will see to it that they are given a greater sense of satisfaction.

In Hong Kong, there are now 4 259 mutual aid committees and 2 968 owners' corporations, making a total of 7 227. They are usually formed with the assistance of district offices. Since the number is so great and the staff resources of district offices are limited, visits and liaison are irregular. Consequently, it is felt that Government is placing its emphasis on quantity rather than quality. As long as the figures show an increase, it does not matter whether these organisations are effective or not. According to many local residents, many

mutual aid committees exist only in name, and have long ceased to function. As this is voluntary work, young professionals seldom participate actively. Office bearers are usually elderly and retired and they are unable to make the committees function to the full. Besides, when Government subsidises activities, usually committee members have to advance the amount first and then apply for reimbursement. This does not encourage the organisation of activities and the Government should immediately consider improving the situation. The amount of \$600 per quarter is, in fact, too low and we hope there should be an extra allowance for additional facilities, for instance, the buying of table tennis tables, and fans for the office and other facilities should be added.

Also in many older public housing estates, MACs are not given office accommodation. The relevant departments must improve the situation so that MACs in public housing estates can have their offices. Now, the office area of MACs in public housing estates is only 150 sq ft. This is definitely inadequate. Therefore, in the new public housing estates, office accommodation for MACs should be increased to at least 200 sq ft and at the same time they should be provided with the necessary installations and water supply. At present, MACs do not have water supply. However the quarterly subsidy of \$600 includes payment for water charges. It is indeed contradictory. The most important task, of course, is to increase the manpower resources of the district offices, so that they can keep in constant contact with mutual aid committees and help them with their work.

Owners' corporations can only be set up with the participation of 50 per cent of the owners. Consequently they are usually controlled by the developers or the principal owner. Many flat owners are dissatisfied. Besides the management of a building is governed by the Deeds of Mutual Covenant and disputes often arise. Sometimes management is undertaken by a subsidiary company of the developer and the contract can run for 10 years, 20 years or even in perpetuity. This means that the management company can choose to hand back management rights but the owners cannot terminate. I feel that Deeds of Mutual Covenant like these are, in fact, unequal covenants. It is essential to enact legislation to reduce the percentage of owners required for the setting up of the owners' corporations and at the same time certain standard clauses for Deeds of Mutual Covenant should be promulgated and included in all Deeds of Mutual Covenant. Finally, the deeds should not be allowed to award management rights beyond a reasonable period, say, 10 years.

MR. LIU: (in Cantonese) Sir, at a time when the public's attention is focused on political review, the functions and existence of area committees, owners' corporations and mutual aid committees must not be ignored. The reason is that these three local grass root organisations have a long history and social background. They have been most effective in district management and communications between Government and the public. This is particularly so with area committees. Before the setting up of the district boards, they played a very

important role in reflecting public opinion. Today, we have a debate on these three organisations and this is both appropriate and timely. I have been sitting on area committees almost 10 years and I wish to speak from experience and give some suggestions for the Administration's reference.

First, regarding the structure of area committees, it has been suggested that members of the area committees should be appointed by the district board or be appointed by the district office in consultation with the district board. Some even suggest that election to area committees should be introduced. In fact, members have always been appointed by the district office. They are people who are enthusiastic in serving the community and they are well versed in local affairs. These are honorary positions. Members devote their money, their energy and their time to the district. They have so far performed well. I think therefore they should continue to be appointed by the district office. In this way, area committees can continue to represent different sectors and walks of life. If members were appointed by the district board, we would not be able to ensure the independence of the individual members. If election to ACs were introduced, there would be too many elections and the term of office is only one year. It consequently would be a waste of time, manpower and financial resources. Besides people who are enthusiastic in serving the community may not be interested in running for an election. Therefore, I think it is better to retain the existing system.

Second, are the area committees and the district boards effective in fulfilling their existing functions in communication and liaison? I think they are. Area committees reflect their views to the district officer and cross-membership between the AC and the district board also helps in communication. Let us take the example of the Central and Western District. Ever since 1984, when area committee members were co-opted into committees under the district boards, measures have been taken to strengthen the ties between the district boards and the AC and communication between the two is not a problem.

Third, area committee members are most qualified to reflect the views of the grass roots. Area committees hold discussions with local residents frequently and pay door to door visits to local residents regularly. In this way, they learn about the needs of the residents and consequently the importance of the area committees as channels for reflecting the views of the grass roots cannot be ignored.

To sum up what I have said, I think that area committees should continue to exist. There is no need for us to make radical changes regarding the structure and function either. Government has also agreed to give them adequate support so that they can become more effective. I wish to make the following suggestions for improvement:

- (1) Boost staff resources. The district officer should be given adequate staff immediately in order to promote liaison with ACs and MACs and to support their work.

- (2) Increase subsidy. Government should allocate fixed subsidies so that the area committees can organise more activities.
- (3) Official participation. Government departments should treat area committees with greater importance, take the initiative to attend meetings and respond promptly to suggestions.
- (4) A clearer demarcation of responsibilities. There should be a clear demarcation of responsibilities between the ACs and the district boards. ACs should be responsible for cultural and recreational activities on a smaller scale and should reflect local views on how to improve law and order, environmental hygiene and traffic matters. The district boards should be responsible for the whole district.

ACs and MACs are local organisations at grass roots level, and there should be no doubts about the value of their existence. You, Sir, at your first press conference said that you had been most impressed by the work of the ACs, other advisory boards and committees and the MACs in public affairs. This system has been evolved throughout the years and there is also an element of consultation.

It seems therefore that grass root views should be given more consideration and the importance of grass root organisations should be promoted. In this way, the effectiveness of the ACs and MACs will be realised.

In a review of the District Administration Scheme, it was stated that ACs and MACs are performing important functions in the district administrative scheme and recommended that Government should give them adequate support to enable them to continue to perform their functions effectively.

Sir, I hope that such adequate support from Government will be forthcoming in the near future.

DR. TSE (in Cantonese): Sir, for this adjournment debate, with the consent of most of the speakers, I will confine my speech to the roles played by the district boards and the area committees. Undoubtedly, since their establishment in 1981 the district boards have taken up a more and more significant position in the three-tier framework of representative government. This is particularly so after 1985 when the district boards through the 10 elected Legislative Councillors, also have influence on legislation and the formulation of policies. In comparison, area committees, set up by the district offices in various areas pale somewhat in significance. One major reason for this is that the terms of reference of district boards and area committees are very similar. So unless it is handled very carefully, there will be duplication of work or even unhappy incidents with conflicts resulting from inappropriate distribution of responsibilities. Another reason is that because of inadequate manpower, district offices after catering for the needs of the district boards, do not have spare capacity to suitably deal with the affairs of the area committees.

According to my understanding, the terms of reference of the area committees and the district boards are similar on the surface; however, district boards are statutory local bodies in a three-tier system of representative government, district boards have an element of election and district board members are given honoraria so that they can actively engage in duties that are related to the terms of reference for district boards. Area committees are advisory bodies, the members of which are all appointed by the district offices. The major responsibilities of the area committees are to provide grass roots opinions on the handling of area affairs by government departments and to help providing services in the area and implementing of programmes of activities in the area. One noteworthy point is that item F of the terms of reference of the area committees says that area committee meetings are forums for the discussion of current affairs and government policies. These functions are not spelled out in the terms of reference of district boards. In the last year, I attended eight area committee meetings in the capacity of a guest. I discussed with AC members political review, the raising of funds for the Sir Edward Youde Memorial Fund and other issues. At these meetings, however, I did not notice government departments consulting area committees on current affairs or other government policies.

Now, the differences in the terms of reference of area committees and the district boards are becoming more and more blurred in the eyes of members of the public. Recently someone suggested that there should be election to area committees or even that area committee members should all be elected and that the members should be given honoraria. In other works, area committees seem to be regarded as a fourth tier of representative government. I do not think that is a healthy trend. If we go on in this direction, not only will there be unnecessary duplication of work but it will also give rise to local disputes. Therefore, I suggest that the Government should re-define clearly the status and terms of reference of the two in order to enhance the communication between them. Government should consider appointing for each AC one district board member as an ex-officio member to act as a bridge. But more importantly, there should be an immediate increase in manpower and funds to allow the CNTA to give the necessary assistance to district boards and organise well-received activities through area committees. In addition through discussions of AC meeting, the district offices can get to know the views of the silent majority on area affairs, policies and current affairs.

5.25 pm

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, I am grateful to the eight Members who spoke today for their useful comments on area committees, mutual aid committees and owners' incorporations, which form an essential part of our District Administration Scheme.

Area committees and mutual aid committees have come a long way since their inception in the early 1970s. In those days, when the local consultative machinery was still in its infancy, area committees and mutual aid committees

were formed primarily to support the Keep Hong Kong Clean and the Fight Violent Crime Campaigns. Following the introduction of the District Administration Scheme, and having considered the relationship between area committees and district boards, the Government revised the terms of reference of area committees in 1981.

These revised terms of reference have since enabled area committees, among other things, 'to advise on matters affecting the well-being of people living in the area and those working there' and 'to act as a forum for the discussion of current affairs and government policies'. Subjects normally discussed at area committee meetings include local traffic, security and environmental problems. Sometimes territory-wide issues are also discussed. Area committees have thus become an important component in the Government's consultative machinery at the local level. Furthermore, functions organised by area committees such as Area Days and other recreational and cultural activities have helped to build up a sense of belonging among the residents. Area committees also actively participate in the organisation of district functions such as District Festivals.

As a general rule, area committees have been formed to cover an area with a population of about 40 000 to 50 000 people each. There are at present 110 area committees in the Territory—85 in the urban districts and 25 in five of the New Territories districts, namely, Islands, Sha Tin, Tsuen Wan, Kwai Tsing and Yuen Long. In the New Territories as a whole, some of the functions of the area committees are carried out by rural committees.

Mutual aid committees and owners' incorporations are building-based residents' organisations. Like the area committees, they have also progressed beyond their original, rather narrow, objectives. Of course, they continue to take part in campaigns initiated by the Government. Neither have they lost sight of their objectives of building management, security and cleanliness in their own buildings, and of the promotion of a sense of neighbourliness and mutual help among the residents. But the more active mutual aid committees and owners' incorporations have become increasingly forthcoming in expressing their views on area and district issues. This is perhaps a natural development but none the less noteworthy.

The number of mutual aid committees and owners' incorporations has grown steadily at an average annual rate of 120 and 200 respectively in the last five years. At the end of May this year, there were 4 268 mutual aid committees and 2 988 owners' incorporations throughout the Territory. Regrettably, some 750 mutual aid committees are found to be inactive. Some of them have become inactive because of the lack of pressing issues or problems to sustain their interest. Others have found that there is little scope for meaningful activities because of the small number of units and residents involved, most of which are found in old private tenement buildings. Still others have lost impetus because of the absence of new talent willing to take over as office-bearers. The shortage of liaison staff in the district offices may also have been a contributing factor.

As noted by some Members, the recent Review of the District Administration Scheme has reaffirmed the value of area committees, mutual aid committees and owners' incorporations. It is accepted by the community that these bodies are performing effectively in promoting a community spirit as well as providing an invaluable two-way channel of communication between the Government and the local residents. Additionally, they provide a good training ground for leaders at the grass root level.

A number of Members touched on the question of support for mutual aid committees. One of the recommendations contained in the review is precisely that the City and New Territories Administration should be given more staff urgently to strengthen liaison with, and provide support to, area committees, mutual aid committees and owners' incorporations. Another recommendation is that additional financial assistance should be given to area committees and mutual aid committees.

On the question of staffing, it is a fact that the City and New Territories Administration has not had any additional liaison staff for some years. Following the recommendations of the review, the Finance Committee will be asked in the next few weeks to approve the creation of new Executive Officer II posts, to improve our services to these bodies. I hope Members will support these staffing proposals. I have noted Mrs. NG's point about the remuneration for temporary community organisers. This is in fact the subject of a review within the City and New Territories Administration. Mr. POON suggested converting temporary community organisers into full-time staff. As a matter of fact, despite the title of their office, there is already a degree of permanency to their employment in the City and New Territories Administration. Most of them are mature persons and have served for more than two years. They thus provide the useful service complementing the efforts of our full-time liaison staff. There is, therefore, no particular need to change the mode of their employment.

On the question of financial support, a submission will be made through the Five Year Forecast and the 1988-89 draft estimates to increase the provision of the District Office Services Vote. This will enable the district officers to help finance more area committees and mutual aid committees projects. Meanwhile, the quarterly grant to mutual aid committees is being reviewed to ensure that it keeps up with inflation. I should also like to mention that in recognition of the valuable services provided by mutual aid committees, the Chinese Temples Committee has generously agreed to provide an initial grant of \$1000,000 to assist mutual aid committees in setting up their offices and undertaking community building activities.

A number of Members have expressed concern about a possible overlap between the work of area committees and district boards. Although the terms of reference of district boards and area committees may appear to be somewhat similar in certain areas, the two bodies in fact complement rather than duplicate the work of each other.

Area committees and district boards maintain their links mainly through cross-membership. Area committee members are often co-opted to serve on district board committees and provide valuable local input into the deliberations. At the same time, as Mrs. NG has observed, in all the 15 districts which have area committees, elected district board members are appointed to serve on the area committees of their respective constituencies and they have helped to refer area problems to district boards and their committees where necessary. Mrs. NG and Dr. TSE suggested that this arrangement should be formalised by making elected district board members ex-officio area committee members of their respective constituencies. Although this proposal will have essentially the same effect as the existing arrangement, it will introduce an element of rigidity into the system which may not be entirely desirable at this relatively early stage in the evolution of the District Administration Scheme.

Mrs. Pauline NG has also suggested that area committees should be given their own office accommodation. Area committees have no day-to-day management responsibilities and the district offices are already providing them with venues for meetings. They have therefore little practical need for their own accommodation.

Mr. CHUNG touched on the question of an allowance to area committee members. Over the years, the Government and the community of Hong Kong have greatly benefitted from the voluntary service of public-spirited members of the community on various government boards and committees. Among them are area committee members. The fact that the service of area committee members is given on a voluntary basis without remuneration is especially important in that it has helped to highlight the main objectives of area committees, which are to stimulate a community spirit and to encourage public participation and involvement in community affairs. We hope this fine tradition will continue.

Sir, I do not share the rather gloomy view on Government's input to area committees expressed by Mr. Desmond LEE and Mr. Richard LAI. Performance of government officials on area committees, for example, cannot be measured by their seniority alone. At this level, it is often the frontline officers who are best equipped to respond to area committees' queries. As regards the criteria for appointing area committee members, the objective must be to appoint people from a wide cross-section of the community and this includes district board members, and office-bearers of mutual aid committees and owners' incorporations. I would like to assure Mr. LEE that the staff increases under consideration should go some way towards assisting area committees with their tasks. As Mr. POON's question of personal safety of office-bearers has been covered by the reply provided to him by the Secretary for Security on a similar question recently, I do not propose to repeat today.

Both Mr. CHEONG-LEEN and Mr. CHUNG Pui-lam urged the setting up of more district building management co-ordination teams. Four such teams have so

far been established, respectively in Eastern, Yau Ma Tei, Mong Kok and Kwai Tsing, and they have to date provided useful assistance to residents and management bodies in 163 buildings. In view of the effectiveness and popularity of these teams, provision has been made for setting up another three teams this financial year, and more teams will be set up in future as resources permit.

Mr. CHUNG Pui-lam and Mr. Desmond LEE suggested that the Government should make greater efforts to facilitate the formation of owners' incorporations. In this connection, the district boards will be consulted in the near future with a view to changing the law to make it easier for owners' incorporations to be formed.

Mr. Desmond LEE referred to the management problems arising from inadequate provisions in Deeds of Mutual Covenant. Much work has been done on this during the last two years. As a first step, the Government has stipulated in all non-industrial leases granted since February 1986 a condition which requires all Deeds of Mutual Covenant arising from these leases to be approved by the Registrar General, who could then ensure the inclusion of certain standard clauses designed to achieve a better balance of interests between developers and owners.

However, when consulted on the draft standard clauses, the Law Society suggested that instead of standard clauses, a set of guidelines should be prepared to be followed by its members in drawing up Deeds of Mutual Covenant. Such a set of draft guidelines has now been drawn up and the district boards will shortly be consulted on the revised approach.

Sir, I would like to conclude by expressing the Government's deep appreciation to area committees, mutual aid committees and owners' incorporations for the important role they play in our local consultative machinery, and for their excellent work in improving the quality of life for the community as a whole.

*Question put on the adjournment and agreed to.*

### **Next sitting**

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 1 July 1987.

*Adjourned accordingly at twenty-one minutes to Six o'clock.*

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