

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 14 October 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

MR. PIERS JACOBS, O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL

MR. MICHAEL DAVID THOMAS, C.M.G., Q.C.

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

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

DR. THE HONOURABLE HO KAM-FAI, 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 JOHN JOSEPH SWAINE, C.B.E., Q.C., J.P.

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING, 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, J.P.

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

DR. THE HONOURABLE CHIU HIN-KWONG, J.P.

THE HONOURABLE CHUNG PUI-LAM  
THE HONOURABLE HO SAI-CHU, M.B.E., J.P.  
THE HONOURABLE HUI YIN-FAT  
DR. THE HONOURABLE CONRAD LAM KUI-SHING  
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.  
THE HONOURABLE DESMONG 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 TAI CHIN-WAH  
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING  
THE HONOURABLE TAM YIU-CHUNG  
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.  
THE HONOURABLE ANDREW WONG WANG-FAT  
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.  
THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER  
THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.  
SECRETARY FOR SECURITY  
THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
SECRETARY FOR TRANSPORT  
THE HONOURABLE ALISTAIR PETER ASPREY, A.E., J.P.  
SECRETARY FOR LANDS AND WORKS (*Acting*)  
THE HONOURABLE EDWARD HO SING-TIN, J.P.  
THE HONOURABLE YEUNG KAI-YIN, J.P.  
SECRETARY FOR TRADE AND INDUSTRY (*Acting*)

#### **ABSENT**

THE HONOURABLE ALLEN LEE PENG-FEI, O.B.E., J.P.  
THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.  
THE HONOURABLE THOMAS CLYDESDALE, J.P.  
THE HONOURABLE RICHARD LAI SUNG-LUNG

#### **IN ATTENDANCE**

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

**Papers**

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

*Subject* *L.N.No.*

## Subsidiary Legislation:

Import and Export (Strategic Commodities) Regulations Import and Export (Strategic Commodities) Regulations (Amendment of Schedule) Order 1987.....	346/87
Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Commencement of Regulations 2 and 3 and 14 to 22) Notice 1987 .....	347/87
Kowloon-Canton Railway Corporation By-Laws Kowloon-Canton Railway (Restricted Area)(No. 5) Notice 1987.....	348/87
Inland Revenue Ordinance Inland Revenue (Interest Tax)(Exemption)(Amendment)(No.6) Notice 1987.....	349/87
Tax Reserve Certificates (Fourth Series) Rules Tax Reserve Certificates (Rate of Interest)(No. 6) Notice 1987 .....	350/87

## Sessional Papers 1987-88:

- No. 1—Protection of Wages on Insolvency Fund Board—Annual report for the year 1 April 1986 to 31 March 1987
- No. 2—Supplementary provision approved by the Urban Council during the first quarter of the financial year 1987-88
- No. 3—Urban Council, Hong Kong—Accounts for the year ended 31 March 1987 with report and Certificate of the Director of Audit
- No. 4—Urban Council—Annual Report 1987
- No. 5—Hong Kong Tourist Association—Annual report 1986-87
- No. 6—Vegetable Marketing Organisation 1987—Statement of accounts for the year ended 31 March 1987
- No. 7—Fish Marketing Organisation 1987—Statement of accounts for the year ended 31 March 1987

- No. 8—Kadoorie Agricultural Aid Loan Fund—Report for the period 1 April 1986 to 31 March 1987
- No. 9—Hong Kong Housing Authority—Annual report 1986-87
- No. 10—Hong Kong Housing Authority—Estate and general working account for the year ended 31 March 1987 and balance sheet as at that date

**Address by Member presenting papers**

**Protection of Wages on Insolvency Fund Board—Annual Report for the year 1 April 1986 to 31 March 1987**

MR. CHAN KAM-CHUEN: Sir, in accordance with section 13(2) of the Protection of Wages on Insolvency Ordinance, the report for the year from 1 April 1986 to 31 March 1987 is tabled today. The annual statement of accounts prepared under section 11 of the Ordinance is attached to the report as Appendix II.

During the year 1986-87, there were 6 470 applications with wage claims of \$24.2 million from employees of 321 insolvency cases. By 31 March 1987, a total of 5 813 applications were approved with ex gratia payment amounting to \$15.1 million. In most cases, the applicants were able to receive arrears of wages in full and much more quickly than was possible under the existing liquidation or bankruptcy proceedings.

As at 31 March 1987, the fund maintained an accumulated surplus of \$67.6 million comprising \$16.5 million as income prior to 19 April 1985 when the fund was in operation; \$23 million as surplus from 1985-86 and \$28.1 million as surplus from 1986-87. The substantial surplus in the fund's first two years of operation may be attributed to an increase in the levy income on business registration certificates and a relatively low level of wage claims.

During the year under review, the board met five times to examine, among others, the charge of supervision fee by the Government, the investment strategy of accumulated surpluses, and a proposal to extend the scope of the fund to cover wages in lieu of notice.

The question of supervision fee has remained unresolved, despite a number of representations made to the Government and the OMELCO. The supervision fee for 1985-86 was paid with reluctance to the Government which has been urged to refund the supervision fee on completion of an overall review of the inconsistent policy on the charging of supervision fees, from nil to full recovery of cost, for various funds by the Administration.

Approval has been given by the Financial Secretary for the board to make investments on its accumulated surplus. An investment committee was set up on 14 July 1987 to work out the investment strategy. In view of the possible effect of an economic downturn on the fund's resources, it is prudent for the board to take a conservative approach to making investment.

Under the Protection of Wages on Insolvency (Amendment) Ordinance 1987, which came into effect on 3 July 1987, the scope of the fund has been extended to cover seven days wages in lieu of notice or \$2,000 whichever is the lesser. When the legislative amendment was considered by the board, the majority of its members endorsed the proposed extension without an increase in the levy in the coming year.

Sir, I take this opportunity to acknowledge the very valuable support received by the board from various sources throughout the year. Our thanks are due in particular to the employers for payment of the annual levy of \$100, the Inland Revenue Department for the collection of the levy, the Labour Department for the verification and payment of applications and the Education and Manpower Branch of the Government Secretariat, the Legal Aid Department as well as the Official Receiver's Office of the Registrar General's Department for their guidance and advice. The board is also grateful for the support of the OMELCO on the issue of supervision fees.

### **Oral answers to questions**

#### **Theft of vehicles**

1. MR. CHEUNG asked (in Cantonese): *Will Government inform this Council whether there has been any increase in the number of theft of vehicle cases in the last two years and what measures are being taken to combat this crime?*

SECRETARY FOR SECURITY: Sir, the number of vehicles reported missing each year has been declining steadily from 5 353 in 1982 to 2 607 in 1985 and 2 407 in 1986. Based on the first nine months of 1987, the figure for this year should be around 2 270.

The number of missing vehicles subsequently classified as 'theft of vehicles' (as opposed to temporarily taking someone else's vehicle without his permission but with no intention to keep it, classified in law as 'taking a conveyance without authority') has also declined steadily from 1 532 in 1982 to 589 in 1985 and 421 in 1986.

Sir, on the measures taken to combat this crime, many vehicles are taken because of the carelessness of the owners. By means of publicity, police crime prevention seminars and district fight crime campaigns, the public are being constantly urged to lock up their vehicles properly and to take their ignition keys away with them.

The police are also on the look out for missing vehicles and pay special attention to vehicles parked in remote or unusual places. They make frequent checks on back street garages, vehicle repair shops and spare parts outlets for missing vehicles and for stolen vehicle parts.

The Police Crime Prevention Bureau is in close touch with local motor vehicle distributors. In recent years manufacturers have added to the security of private cars and other vehicles by, for example, improving ignition and locking systems.

Sir, I think the figures show that the efforts of the police, with the cooperation of the public, are having some success.

MR. CHEUNG (in Cantonese): *Sir, the Secretary said that the number of missing vehicles was declining steadily. Is it the result of a higher detection rate? According to statistics, there were over 2 900 missing cars last year but only 200 were found.*

SECRETARY FOR SECURITY: Sir, I think the main reason is that cars are being better built and they are more difficult to take away without having the proper equipment, that is, the key, to do it; and secondly, as I say, the public are paying much more attention to the need to lock up their cars and take their ignition keys away with them. I think that, Sir, is the main reason why the number of missing vehicles has declined so steadily.

MR. POON CHI-FAI (in Cantonese): *Sir, could the Administration inform this Council, in the theft of vehicles, whether there are international groups that are sending stolen cars to Hong Kong and, if so has the Administration contacted the relevant countries to find a solution to the problem?*

SECRETARY FOR SECURITY: As far as I am aware, Sir, the answer to that is 'no'.

MR. MARTIN LEE: *Sir, of all the cars stolen last year, how many of them were, in fact, stolen while they were properly locked?*

SECRETARY FOR SECURITY: I am afraid, Sir, I have not got that point of detail with me. (See Annex I)

### **Changes to the Legislative Council**

2. DR. LAM asked: *In the light of recent expressions of doubt as to whether or not there is sufficient time to implement any changes to the existing Legislative Council for the 1988 elections, will Government confirm to this Council that if it be thought that changes should be introduced, including partial direct elections, then there would be ample time for their implementation by September 1988?*

CHIEF SECRETARY: Sir, the Government is confident that, if decisions were taken to adopt any of the options included in the Green Paper which involve changes to this Council in 1988, such decisions could be implemented in time for the next legislative session.

MR. DESMOND LEE (in Cantonese): *Sir, we have a project here; only half of the steel bars were put in and yet the project can still proceed. So, thinking along the same lines, if we have about 50 per cent of the people who want direct elections, can the Administration go ahead and implement direct elections next year?*

HIS EXCELLENCY THE PRESIDENT: The first part of your question, Mr. LEE, bears no relationship to the original question and therefore would not be in order. The second part of the question, Chief Secretary?

CHIEF SECRETARY: Sir, I think it would be far too early to pre-empt the outcome of the Green Paper exercise, the report on which has yet to be published.

### **Taxi voucher scheme**

3. MRS. NG asked (in Cantonese): *Will the Government inform this Council how effective the pilot taxi voucher scheme for the disabled has been since its introduction on 1 April 1987?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the pilot taxi voucher scheme is one of a number of ideas we are exploring to help the physically disabled integrate better into our community. Its purpose is to see whether the provision of a taxi trip each week for social and recreational purposes will help social integration and, if so, whether a voucher scheme would be practicable both from the point of view of the disabled person and of the taxi driver. As Members know, we already have special transport arrangements to help the physically disabled get to and from their places of work.

The pilot scheme applies to people 15 and over who are wheel-chair bound, whose family income is below the median level for Hong Kong and who do not own a tax exempt car. Of a total of about 1 000 wheel-chair bound people in Hong Kong, 245 have successfully applied to join the scheme.

The pilot scheme started on 1 April and will last until 31 March next year. Preliminary indications are that the taxi trade is finding the voucher scheme somewhat difficult to operate. In most countries where similar schemes have been successful taxis are owned and operated by large companies, but in Hong Kong more than 90 per cent of taxis are operated by owner drivers. We are looking at ways to simplify the scheme to encourage more taxi drivers to take part. If these prove impracticable, we will consider other ways of encouraging the integration of the physically disabled into our society.

MRS. NG (in Cantonese): *Sir, in the reply mention is made of the fact that the taxi trade thought that the scheme was difficult to implement. What are the difficulties? Is the Administration aware of them and has it found a solution?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the main difficulty from the taxi drivers' point of view has been the comparatively small number of places where they can cash their vouchers. They can only cash them at the moment in five offices of the Transport Department. A number of alternative ways of solving this problem have been looked at and are still being looked at. A number of suggestions have been made as to where they might cash their vouchers, as, for example, in Social Welfare Department district offices, post offices or Jockey Club off-course betting centres, or even in petrol filling stations, but so far in discussion with the organisations concerned, it seems that to enable that to happen we would have to set up an accounting system which apparently would be more troublesome and more costly than the scale of the scheme justifies. Other ideas which are being looked at now are to see whether the taxi drivers could use their vouchers to pay bills to the Treasury, or to the Transport Department. We still have not got the answer to that one. It is possible that will work out and will help the taxi drivers. Another factor which may help the taxi drivers is that the three main taxi owner associations have now agreed that they would accept vouchers from taxi drivers and cash them in bulk, so we hope that that will help to make the scheme easier for the taxi drivers.

MISS DUNN: *Sir, is there any indication that this pilot scheme is, in fact, having the opposite effect of deterring taxis from taking all disabled persons for the reasons the Secretary just gave?*

SECRETARY FOR EDUCATION AND MANPOWER: Yes, Sir, at first this seemed to be the result. When the scheme was first introduced taxi drivers were quite hostile to it and some of them did, in fact, appear to be turning away disabled people, but I think this was partly because they were unfamiliar with the scheme. There was a stage when the committee monitoring the scheme did, in fact, even suggest abolishing it for this reason. But more recently, taxi drivers seem to have got more used to the scheme and the committee felt that it was worth continuing the experiment until the end of the year.

### **Overstaying of Filipino domestic helpers**

4. MRS. CHOW asked: *Will Government inform this Council how many Filipino domestic helpers have been prosecuted for overstaying in the last three years, what is the success rate of these prosecutions, and what action is Government taking to prevent and detect overstaying?*

SECRETARY FOR SECURITY: Sir, from January to September 1987, 281 Filipino domestic helpers have been prosecuted for overstaying in Hong Kong. They were all convicted of the offence. As a preventive measure, the Immigration Department issues guidance notes to foreign domestic helpers to help them understand the conditions under which they are permitted to take up domestic work in Hong Kong. These conditions include those relating to the length of time they are permitted to remain in Hong Kong. In the note it is clearly stated that it is an offence in law for them to remain in Hong Kong longer than the period stipulated. In respect of contracts that are terminated before they are completed, under the terms of the employment contract, both the employer and the employee are required to inform the Immigration Department immediately of the termination.

As regards the detection of overstaying, the Immigration Department investigates any suspicions that a helper has overstayed. The department also visits places where it thinks foreign domestic helpers who are overstaying may be working.

MRS. CHOW: *Sir, what has been the average sentences handed down by the courts for the 281 convictions mentioned in paragraph 1?*

SECRETARY FOR SECURITY: Sir, I am afraid I have not got the answer to that question with me, but I will give it to my hon. Friend in writing. (See Annex II)

MR. PETER C. WONG: *Sir, of the 281 helpers prosecuted and convicted since 1985, may I ask what follow-up actions have been taken by the Immigration Department?*

SECRETARY FOR SECURITY: In respect of those successfully prosecuted, Sir, they were returned whence they came and there is not a hope that they will ever be allowed to come back under a domestic helper's contract again.

MR. YEUNG: *Sir, what in the opinion of the Immigration Department are the places where foreign domestic helpers who are overstaying may be working?*

SECRETARY FOR SECURITY: There is quite a variety of places, in fact, Sir, in which they are working but they tend to concentrate on places like bars and shops.

MR. CHAN KAM-CHUEN: *Sir, have any employers been prosecuted for not notifying the Immigration Department on termination of a contract, as this may be an effective measure for prevention and detection of overstay?*

SECRETARY FOR SECURITY: No, Sir, there has not in fact been any prosecution of employers failing to inform the Immigration Department but, of course, if they fail to do so under the terms of the employment contract, then they too will find it extremely difficult to get permission to employ another domestic helper.

### Curfew hours at Kai Tak Airport

5. MR. LI asked: *At present all non-scheduled flights at Kai Tak Airport are subject to daily curfew hours from 12.30 pm to 4.30 pm. When did the Government last review these curfew hours, and has consideration been given recently to reducing the curfew period?*

FINANCIAL SECRETARY: Sir, as a general rule, non-scheduled passenger flights are not permitted during the restricted period of 12.30 pm to 4.30 pm. This restriction was last reviewed in January of this year and it was concluded that no change should be made for the time being.

MR. LI: *Sir, how many other major international airports have such curfew or restriction as Kai Tak?*

FINANCIAL SECRETARY: I am afraid I do not have that information. I think it is not unusual for airports with limited capacity to have some restrictions because in general terms one tries to give some preference to scheduled services.

MR. DESMOND LEE: *Sir, will Government consider giving exemptions to Hong Kong-based airlines from the curfew restrictions?*

FINANCIAL SECRETARY: I am afraid, Sir, that that is not possible. There are restrictions in the Chicago International Convention. Under article 11 of that convention discrimination against or preferential treatment of airlines is prohibited, so all airlines, whether home-based or foreign, must be treated equally.

MR. CHEONG-LEEN: *Can the Financial Secretary confirm that this review is carried out annually and, if not, why?*

FINANCIAL SECRETARY: No, Sir, it is not carried out annually. It is perhaps carried out every day. We look at the situation at the airport at all times. There will, in fact, be a significant development next year when Stage V of Kai Tak is completed in September, and we intend to have a review at that time.

MR. SOHMEN: *Sir, I have to declare an interest as the Managing Director of Hong Kong Dragon Airlines Ltd. Could the Financial Secretary explain the rationale behind the distinction in having two separate curfew periods—one that applies and, in fact, discriminates against the Hong Kong-based airlines as Area 3 operators. That period is from 1230 to 1630; as against the second period which applies from 1300 hours to 1600 hours which affects only those non-scheduled operators outside Area 3.*

FINANCIAL SECRETARY: Yes, Sir. Basically, the rationale for that distinction is that it is perhaps more difficult for airlines flying in from further afield to predict with accuracy their time of arrival; there are more likely to be various delays for one reason or another, so we give a little leeway to aircraft coming in from further afield—that is to say, outside Area 3.

MR. CHEONG-LEEN: *Sir, could the Financial Secretary further clarify his answer to my supplementary? Because in his reply to the main question he said that the last review was carried out in January but in his answer to my supplementary he said this review is carried out daily.*

FINANCIAL SECRETARY: I have to apologise. The beginning of my answer was perhaps a bit flip. We do look at the situation in the airport at all times but the last formal review was certainly in January of this year; the next formal review will be when Stage V comes into operation.

### **Child abuse**

6. MRS. FAN asked: *Will Government inform this Council the number of child abuse cases recorded in the last three years, the number of people prosecuted as a result of these cases, and what measures are available to educate and rehabilitate parents who have abused their children, other than imposing deterrent custodial sentences?*

SECRETARY FOR HEALTH AND WELFARE: Sir, during the three years from July 1984 to June 1987, the Social Welfare Department and the voluntary agencies handled a total of 725 new child abuse cases involving 884 children (315 cases in 1984-85, 234 in 1985-86 and 175 in 1986-87). At the end of June 1987, there were 403 active child abuse cases involving 454 children.

Police records show that during the past three years, an average of about 40 persons each year were prosecuted as a result of child abuse cases. The figures were 53 in 1984, 43 in 1985 and 34 in 1986. There were 40 cases in the first nine months of this year.

Parents who have abused their children are provided with counselling by social workers, who may refer them for treatment by clinical psychologists and psychiatrists if necessary. In addition, educational programmes on parenthood and supportive groups are organised to enhance parents' knowledge and skill in bringing up their children. In handling child abuse cases the social worker tries to get down to the root of the problem and to help the family as a whole to prevent further abuse.

MRS. FAN: *Sir, there seems to be an increase in the number of prosecutions of child abuse cases. Can the Secretary explain the possible reason for this increase and whether he considers that this reflects a worrying trend?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not think that the figures that I quoted really show any significant increase. There were 53 in '84, falling, in fact, to 34 in '86, and about 40 cases this year in the first nine months, which indicates they may be up to about 50 again altogether. I do not think that this indicates any worrying trend. There are, of course, from time to time some very sad cases which we all regret but the figures certainly do not seem to indicate that child abuse is particularly on the rise.

DR. HO: *Sir, I understand that the Social Welfare Department has laid down for use by its own social workers a set of working procedures involving other government departments to handle cases of child abuse. I wonder whether this set of working procedures has proved effective and when these procedures were last reviewed?*

SECRETARY FOR HEALTH AND WELFARE: Sir, it is my understanding that these procedures have generally proved satisfactory and I am sure that, like the airport curfew arrangements, they are kept under review continuously by the department in consultation with the welfare agencies.

MR. HUI: *Sir, could Government inform this Council how an abusive parent could be prevented from committing again the same offence on the same child or on another child in the light of a recent case where the mother was convicted of abusing a second child when the first child died a year ago as a result of child abuse?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I would hope that in circumstances of this kind the agency or the case work centre which was handling the original case would keep a close eye on the family so that they could as far as possible ensure that any indication of further abuse came to light very quickly.

MR. EDWARD HO: *Sir, in what forms are the education programmes for parenthood carried out? Are they supported by Government or by voluntary organisations? And what are the responses from parents joining these programmes?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the programmes I referred to are mostly organised by the Child Protective Service Unit, which is part of the Social Welfare Department. These are for parents who have been involved in child abuse cases. There are also more general programmes which are organised by the Social Welfare Department and certain voluntary agencies as part of the family life education arrangements. I think it is very difficult to say exactly what effect these programmes have although the indications are that child abuse is not on the rise. But generally I think the family life education services seem to be welcomed by families. They are certainly very popular.

**Industrial productivity and labour shortage**

7. MR. SOHMEN: *Recently many industrial groups have spoken about acute labour shortages and the Government has repeatedly stated its policy against the import of labour as suggested by some. The Government has said that increasing productivity should be the proper long-term solution. Will the Government inform this Council what it has done in the past five years to assist local industries to conduct research and development work to improve productivity and what efforts it will make to try and attract additional locally available manpower into the labour pool?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, in addressing the issue of productivity growth in manufacturing the Government relies on the advice of the Hong Kong Productivity Council (HKPC) and the Industry Development Board (IDB). Both bodies in turn depend on the findings of a series of techno-economic studies of our major industries, which seek amongst other things, to investigate the determinants of and constraints upon the growth of our major industries, including productivity growth. In the five years 1982-83 to 1986-87, we have committed about \$7.2 million and spent about \$4 million on these studies.

Where productivity growth has been constrained by technological barriers, the Government may commission specific research and development projects, with the aim of providing our industries with technology that would help them to increase the quality and efficiency of their output. Many of these studies to break down known research and to adapt them to our industrial environment. A little over \$5 million has been spent on these projects over the past five years.

Research and development, however, represents only a small proportion of the Government's effort in promoting productivity growth in manufacturing. The HKPC is the principal public sector agency for providing productivity enhancement services, which usually take the form of training courses, consultancies and bureau services. Over the five years 1982-83 to 1986-87, expenditure by the HKPC totalled \$246 million, rising from \$33 million in 1982-83 to \$77 million in 1986-87. Of this amount the Government contributed some \$170 million (or about 70 per cent) by way of subvention.

Whilst the increase in the HKPC's expenditure reflects considerable expansion in its activities, even greater effort will be made in the future to encourage productivity growth in manufacturing. This effort is reflected, first, by an ambitious development programme recently endorsed by the IDB. Within this programme there is a proposal to house the HKPC in a purpose-built centre in Kowloon Tong by 1990, for which the HKPC will be lent some \$120 million. More importantly there are proposals to fund the HKPC with additional capital and recurrent grants, totalling \$72 million over the next three years, towards the cost of developing and providing a wider range of productivity enhancement services, for use by the textiles and garments, electronics and metals fabrication

industries. Separately, detailed proposals are being formulated for the establishment of a centre based in the Hong Kong Polytechnic to serve the needs of the plastics conversion industry.

The second main initiative in encouraging productivity growth in manufacturing lies in the vigorous marketing of the industrial support services provided by the HKPC, the Industry Department and other organisations. The department has already launched a pilot Industrial Extension Service and will review its operations in due course, with a view to determining whether there is a permanent need to maintain such a service. The results so far, as reflected by manufacturers' interest and willingness in gaining access to these services, are highly encouraging.

In addition to these measures for improving industrial productivity, the Government is maintaining a dialogue with the Federation of Hong Kong Industries to consider what other measures might be introduced to help alleviate the current labour shortage.

The Census and Statistics Department is carrying out a special survey with a view to identifying whether there are any specific groups of people who have tended to stay out of the labour market and, if so, what might induce them to take up employment.

The Health and Welfare Branch and the Social Welfare Department are discussing with the Federation of Hong Kong Industries the possibility of industry establishing additional day-care facilities for children, as a means of attracting more housewives to take up employment.

Other measures are also being examined to see whether greater use can be made of the existing workforce. On the advice of the Labour Advisory Board, the Government is seeking to amend the Women and Young Persons (Industry) Regulations to permit greater flexibility in the calculation of the amount of overtime work which can be undertaken by women under these regulations. At present, except with the special permission of the Commissioner for Labour, the overtime allowance is calculated by reference to the industrial undertaking as a whole. It is proposed that the present provision should be relaxed to give employers the option to calculate overtime by reference either to the whole undertaking or to different parts of it or to individual female workers. This will help employers to make fuller use of the existing overtime quota.

Sir, I would be misleading this Council were I to give the impression that the foregoing measures would immediately cure the current labour shortage. They will not. This is because the problem is not one which lends itself to a quick fix. In the short term, the solution to the problem lies in the efficiency of the adjustment mechanism in the labour market, and it is hoped that the various short-term measures that I have outlined would help the process of adjustment to become more efficient. In the longer term, the Government believes that sustained productivity growth, coupled with flexibility of adjustment in the labour market, provides the only real and lasting solution.

MR. SOHMEN: *Sir, the Secretary for Trade and Industry has correctly said that the problem of labour shortage is not one that can be resolved very quickly. Therefore, is Government prepared to consider a proposal I made a little while ago to import foreign workers specifically for the construction industry, bearing in mind that the participation by female workers is not very likely but any delays, particularly in public housing projects, could have undesirable social and economic consequences, and also bearing in mind that in the construction industry the importation of labour could be on the basis of single persons; they could be housed at the sites and they could be repatriated at the termination of each construction project. It is therefore more manageable than in many other industries, provides an easier solution and also frees workers for other industries?*

SECRETARY FOR TRADE AND INDUSTRY: *Sir, I think it would be difficult for Government to contemplate any scheme for the importation of relatively unskilled labour in favour of one industry over others. Any scheme which contemplates the importation of relatively unskilled labour for one industry would have implications for other industries. Under existing policy, Sir, there are ways and procedures for allowing the importation of small numbers of skilled workers. But where we are dealing with substantial numbers of relatively unskilled workers the Government would have to give very careful consideration to the possible socio-economic consequences involved. By and large the attitude of the Government to any proposal to import large numbers of relatively unskilled workers is that this could create consequences which this community may not wish to accept. In the first place, it would make for serious difficulties in immigration control. People imported in large numbers may overstay, disappear, or gain permanent residence. Any acts allowing large numbers to be imported could also give rise to rumours that the rules were being relaxed in favour of large numbers of people being imported. In addition to this, there are other considerations: large numbers of workers imported into Hong Kong would create pressure on our social infrastructure. It could create difficulties for labour relations because it would lead to a dilution of the benefits which the local labour force is entitled to enjoy at a time of relative prosperity. In terms of other industries, it would have implications for Hong Kong's image overseas and it could cast serious doubt on the Hong Kong certification of origin system. And I think this Council is aware of the threat of the protectionist sentiment in our major overseas markets.*

*So in a nutshell, Sir, the Administration would have great difficulty accepting a proposition that it should open the floodgates.*

PROF. POON: *Sir, with reference to paragraph 2 of the answer, would the Government feel that \$5 million over a period of five years is sufficient to support research and development, especially when we are talking about going up-market and high tech? If not, why did the Government not do a bit more to support R & D?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the figure of \$5 million has to be treated in perspective. In the early 1980s neither the Industry Development Board nor the Industry Department had the benefit of the techno-economic industrial studies that I mentioned earlier. We did not know at that time what areas of research and development it would be useful to embark upon. With hindsight, Sir, we think we know the way ahead. In the recent series of initiatives put to the IDB we are proposing that the Hong Kong Productivity Council should in future undertake a number of specific R & D projects with a view to looking into promising new technologies that have potential for industrial application in the medium-to long-term. These projects would enable the HKPC to acquire an understanding of the technologies involved and to see how they are being applied elsewhere, to assess the potential for applying these technologies in manufacturing in Hong Kong, to disseminate information about these technologies, and to recommend whether further support services might be required. In future we contemplate a rate of expenditure by the HKPC of something like \$2 to 3 million a year.

MR. SOHMEN: *I take it from the Secretary's reply to my principal question that Government has not yet made an assessment of the likely success rate of attracting presently unemployed, under-employed or economically inactive personnel to the labour force to determine what percentage of the present vacancies, which are estimated, I believe, at 65 000, could be expected to be successfully filled in the short term.*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the short answer to that question is no, we have not yet identified which parts of the economically inactive population might be induced to work and to fill the vacancies that have been reported. This is why the Census and Statistics Department is now undertaking a special study to find out in the current survey on households why people have dropped out of the labour force, what would induce them back to work, and, if they are already working, why they have changed jobs. We expect the answers to be available at the beginning of 1988 and on the basis of the information received I think we would be in a better position to exercise a judgment as to where we stand.

DR. CHIU: *Sir, will the Government inform this Council whether it has conducted any research regarding the prevalence of hawkers and what efforts have been made to divert this locally available manpower to the labour pool?*

SECRETARY FOR TRADE AND INDUSTRY: As far as I am aware, Sir, we have not yet looked into the activities of hawkers.

MR. NGAI: *Sir, what is the rationale behind the Government's refusal to the industrial community's request for appointing a committee to study the labour shortage problem? Does the Government consider the existing situation not serious enough to require our attention for taking such a step?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the Government regards the problem as serious and one which requires continuous monitoring and study. The only reason why we have not set up a committee is that there is no need to do so. We are maintaining a close dialogue with the Federation of Hong Kong Industries and other industrial organisations.

MR. CHEONG-LEEN: *Sir, as is already happening in other Asian countries such as Japan and Singapore, will the Administration take positive steps to encourage and expand the use of robotics in increasing industrial activity and efficiency so as to alleviate the labour shortage in the long run?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the short answer is yes. The Hong Kong Productivity Council has already been provided with capital as well as recurrent grants to enable manufacturers to be given advice on automation systems. Additionally, the two universities have joined forces and have been provided with a grant of \$4 million to undertake a study on what robotics and automation systems would be suitable to our own industrial circumstances.

HIS EXCELLENCY THE PRESIDENT: I have a large number of Members who want to ask supplementary questions. Could I ask Members, please, to keep their supplementary questions brief so that we do not take an excessive amount of time on this one question.

MR. CHUNG: *Sir, the Secretary has mentioned about industrial support services provided by the Hong Kong Productivity Council. Could the Secretary inform the Council what these industrial support services are and whether these services are available to medium-and small-sized industrial undertakings or whether they are available only on request and on fees payable?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the industrial support services provided by the Hong Kong Productivity Council take, as I said earlier, the form of training courses, seminars, bureau services and consultancies. The Hong Kong Productivity Council provides a service on request to all manufacturers, not just small-and medium-sized ones, on the payment of appropriate fees. Its recurrent expenditure, of course, is assisted quite substantially by the Government.

MRS. NG (in Cantonese): *Sir, in the eighth and ninth paragraph of the question mention is made of female workforce, which is a large workforce. Is the Government prepared to change the salaries tax system in Hong Kong so that they can be given separate assessment or special personal tax allowance in order to attract them to join the workforce?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, we have not considered any such proposal because it had not been made in the context of our dialogue with the industrial organisations and personally I am not satisfied that it is relevant.

HIS EXCELLENCY THE PRESIDENT: I will take four more supplementaries which I already have on the list. Mr. TAM Yiu-chung.

MR. TAM (in Cantonese): *Thank you, Mr. Chairman. Sir, is it Government's intention that good labour relations will increase productivity? If so, what is being done in that regard?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, it is quite obvious that harmonious labour relations are conducive to productivity growth. They are also conducive to improving the quality of our manufacturing output. I am sorry I do not have the information on the second part of the question, Sir, but my colleague, the Secretary for Education and Manpower, may be able to reply.

HIS EXCELLENCY THE PRESIDENT: Secretary for Education and Manpower, do you wish to add on that point?

SECRETARY FOR EDUCATION AND MANPOWER: I think there is a limit to what I can add. The Labour Relation Service of the Labour Department does what it can to promote good labour relations, and, as Mr. TAM knows, the Labour Advisory Board did establish a year or two back a Labour Relations Subcommittee which also looks at what methods can be used to promote labour relations in industry.

MR. PANG (in Cantonese): *Sir, I would like to know why many people in industry have opted out of the market and whether the Secretary for Trade and Industry has discussed with the employers about the low level of wages which cannot act as an incentive for attracting people to rejoin the market?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, in our discussions with the Federation of Hong Kong Industries and other industrial organisations we discovered that had the factors which affected the supply of labour over the past few years, particularly in the years of 1981 to 1986, had been in part an increased propensity on the part of those aged between 15 to 19 to remain in education, partly a tendency on the part of the middle-aged to retire and partly a slight decline in the number of adult male workers. Now, these declines have been largely offset by a very significant increase in the participation of adult females. As regards the second part of the question, movement in real per capita payroll, which is wages and fringe benefits combined, in the period 1982 to 1987 have been fairly even in all the sectors of the economy. If we take manufacturing, the average annual growth rate of per capita payroll has been of the order of 5.6 per cent. In the same period the growth in the wholesale/retail, restaurants and hotels sector has been something of the order of 4.2 per cent, whilst in the case of the financial services the growth rate has been of the order of 5 per cent. I think we should be under no misapprehension, Sir, that any particular sector has been underpaying its workers.

MR. DESMOND LEE: *Sir, can the people of Hong Kong regard the current labour shortage as a phenomenon signifying success in maintaining full employment?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, I think the obvious answer is yes, but at the best of times and in any market we are faced with issues of both supply and demand. There can be no question of achieving perfect equilibrium permanently.

### **Legislation on child negligence**

8. MR. HUI asked: *The Secretary for Health and Welfare said in this Council on 28 May 1987 that it was very doubtful whether legislation was the answer to the problem of children being left alone while their parents were out. However, in the light of the tragedy involving a young boy and his sister, aged 5 and 4 respectively, who were burnt to death in a fire that broke out in their locked Sau Mau Ping home on 25 August 1987, will Government inform this Council whether it will reconsider the possibility of introducing legislative controls on child negligence and whether additional resources will in the meantime be made available to provide more and better services such as subvented day nurseries, temporary care and home-help services to needy families?*

SECRETARY FOR HEALTH AND WELFARE: Sir, in the light of public concern over the recent tragedy at Sau Mau Ping, the Working Group on the Protection of Women and Juveniles Ordinance has recently reconsidered the need for legislation to make it an offence for parents to leave their young children unattended at home. But for the reasons given in my earlier replies in this Council on 28 May and 3 December 1986, we remain of the view that legislation in this area would be neither practical nor enforceable.

We therefore propose to step up family life education programmes to educate parents about the dangers of leaving children alone and a special poster has been produced to publicise measures which should be taken to ensure safety at home. Families who have difficulty in taking care of their children are encouraged to make use of facilities in child care centres and to approach the Social Welfare Department for financial and other assistance. At present there are over 28 000 places in child care centres, and an additional 1 600 places are planned for this financial year. Home help service is also available for families in special circumstances, and this too will be steadily expanded. In addition arrangements are also being made with the co-operation of mutual aid committees and voluntary agencies for neighbours to help providing temporary care for children on a mutual aid basis.

MR. HUI: *Sir, a number of voluntary welfare agencies has been experimenting on the provision of organised play and homework supervision for half-day kindergarten and primary school children, who need care and attention. If such an experimental service proves to be successful and economical, will Government consider providing subvention for this purpose?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am sure that the Director of Social Welfare would be only too glad to discuss any constructive suggestions of this type with the agencies concerned.

MR. YEUNG: *Sir, what measures will be taken by the Government to step up family-life educational programmes and in this connection is Government prepared to distribute the said special poster to homes in public housing estates?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the family-life education system provides quite a variety of different programmes connected with child care. We have already this afternoon touched on the question of child abuse. But the Social Welfare Department is looking at the programmes to try and ensure this particular problem is given proper prominence and I am sure that we can arrange to distribute the posters as Mr. YEUNG suggests.

MRS. TAM: *Sir, knowing from the answer that an additional 1 600 places in child care centres are planned for this financial year, which is good news, but will the Government inform this Council whether there is still a shortfall in these child care centre places. If so, how many, and what is the plan of the Government to meet such a shortfall?*

SECRETARY FOR HEALTH AND WELFARE: Sir, it is very difficult to estimate the shortfall. We have no reliable figures but in most areas child care centres are fully utilised, which indicates that there is still considerable demand. There is a programme of providing an additional 16 child care centres, standard centres of a hundred places, each year and this is the main way in which we are hoping to cope with this particular problem.

DR. HO: *Sir, will Government consider broadcasting announcements of public interest on television in prime times to help publicise the danger of leaving children unattended in their homes?*

SECRETARY FOR HEALTH AND WELFARE: Yes, I will certainly consider that useful suggestion.

**Written answers to question****Civil and criminal liability for falling air-conditioner's**

9. MR. POON GHI-FAI asked: *Will Government inform this Council in cases where air-conditioners fall from buildings, thereby injuring or putting at risk passers-by, what statutory provisions there are to determine who should be held responsible (both civilly and criminally)?*

SECRETARY FOR LANDS AND WORKS: Sir, as regards statutory provisions relation to criminal liability, section 4B of the Summary Offences Ordinance is relevant. If a person drops or allows an air-conditioner to fall to the danger or injury of any person in or near a public place, he commits an offence and is liable to a fine and imprisonment. If this occurs during the course of repair or decoration of the building, the principal contractor on the site and the contractor carrying out the repair or decoration also commit an offence. However, the contractor would not be convicted, if he could prove that he could not reasonably have prevented the air-conditioner from falling or that he had taken reasonable measures to prevent such an occurrence.

It may not always be an easy matter to define who is liable under the first part of section 4B despite the absolute nature of the offence. No difficulty arises where a person can be identified as having dropped an air-conditioner, but it would not always be so simple to identify, and prove that a person had allowed an air-conditioner to fall, especially in the not uncommon situation whereby premises are let and sublet. It would be necessary to establish who was responsible, under the terms of the lease or sublease, to maintain the part of the building which failed (if that was the case) and whether there was any specific provision for maintenance of fixtures installed by tenants.

Although the Summary offences Ordinance is the most relevant provision on criminal liability, other offences could be applicable depending on how the air-conditioner came to fall or be dropped from a building. It is conceivable that a person who dropped an air-conditioner from a building could be guilty of murder or attempted murder, if the requisite intent could be proved. In less extreme cases, manslaughter, inflicting grievous bodily harm or the various levels of assault could be relevant.

As regards statutory provisions relating to civil liability, in such cases the Occupier's Liability Ordinance is relevant. Under this Ordinance, the occupier of premises owes a common duty of care such as to ensure that visitors will be reasonably safe in using the premises for the purposes for which they were invited or permitted by the occupier to be there. So, where an air-conditioner falls from his premises, and injures a visitor in circumstances resulting in a breach of the common duty of care, the occupier could be held liable.

The landlord could also be held liable if he has a contractual responsibility to maintain the air-conditioner and has failed to do this, as a result of which failure, the air-conditioner drops or falls from his premises thereby causing injury or damage.

An occupier or landlord may also be liable for negligence under common law for injury to passers-by, or damage to property caused by a falling air-conditioner as a result of the air-conditioner not being properly maintained or secured. However, if the damage or injury was caused by the defective fitting of the air-conditioner, the person who carried out the fitting might be liable. Provided that the occupier or landlord had acted reasonably in entrusting the work to an independent contractor and had taken steps to satisfy himself that the contractor was competent and that the work had been properly done, the occupier or landlord would not be liable.

### **Counterfeit banknotes**

10. MR. SOHMEN asked: *Will the Government inform this Council:*
- (a) *what amount of counterfeit banknotes, in Hong Kong dollar as well as in other currencies, has been seized by the police and or customs officers so far this year;*
  - (b) *what was the amount for the same period last year;*
  - (c) *has there been an upward trend over the past few years; and*
  - (d) *what has been done to keep the problem under control?*

FINANCIAL SECRETARY: Sir, (a)—(c) It is not our practice to release statistics of this nature.

(d) A specialist division of the Commercial Crime Bureau is responsible for the suppression of counterfeit banknotes and other secure documents. The division has been successful in neutralising a number of well-organised syndicates during the past year and in July 1987 five persons were convicted for conspiracy to manufacture HK\$1,000 banknotes and were sentenced to five years imprisonment each. The division is continuing to conduct enquiries of both an overt and covert nature into these counterfeit syndicates.

### **Taxi licences**

11. DR. LAM asked: *In a recent taxi licence tender exercise, a large number of successful tenderers withdrew their applications resulting in a much smaller number of taxi licences being issued than originally intended; whilst a number of*

*those who genuinely wished to have a licence were not able to get one. Will Government inform this Council whether it has looked into the reasons for the withdrawals and what these reasons are?*

SECRETARY FOR TRANSPORT: Sir, in the recent taxi tender exercise for 100 licences which closed on 17 July 1987, 394 tenders for 513 licences were received. Accepted tenders for the 100 licences ranged from \$608,700 to \$596,000 for each licence. However, after the results of the exercise were notified to tenderers on 28 August 1987, six successful tenderers (for 68 licences) did not settle payment of full premia within the prescribed period of 14 days.

As the decision of not paying the full premia was made by the tenderers themselves, it is difficult for the Government to ascertain their reasons. One possible reason could be the decline in market price of taxi licences soon after the announcement of the results of the last tender exercise. Another reason could be the preliminary views expressed by some district boards in recent months on a taxi policy consultative paper from a Sub-committee of the Transport Advisory Committee which touched upon methods to minimise speculation in the issue of taxi licences, including the possibility of restricting their transfers. It would appear that some people saw these views as a constraint on the market value of taxi licences.

### **Dripping air-conditioners**

12. MR. POON CHI-FAI asked: *Will Government inform this Council how many cases of complaints concerning dripping air-conditioners causing a nuisance to the environment have the Government received in the past five years, how many of these cases have been prosecuted and what are the average as well as the maximum penalties imposed?*

SECRETARY FOR HEALTH AND WELFARE: Sir, between 1 April 1983 and 30 September 1987, a total of 6 732 complaints were received concerning dripping air-conditioners. Remedial action was taken on most of these cases after verbal warnings were given or nuisance notices were issued. In two cases prosecution was necessary, resulting in one offender being fined \$200 and the other \$250.

### **Oral answer to question**

### **Forged submissions to Survey Office**

HIS EXCELLENCY THE PRESIDENT: Mrs. Selina CHOW, you have a late question which under Standing Order I have allowed?

13. MRS. CHOW: *Yes, Sir. May I first of all thank you for allowing this late question which has just been prompted by the urgency and the enormous public interest in the matter. The question is, will Government inform this Council how many complaints of forged submissions have been reported to the Survey Office to date? What is the nature and content of these submissions? How will they affect the accuracy and credibility of the Survey Office report about to be submitted to the Governor in Council?*

CHIEF SECRETARY: Sir, up to yesterday the Survey Office had received 101 reports from individuals and the submissions which purported to have come from them had, in fact, been sent without their knowledge. The office received 72 further reports of a similar nature this morning. I can assure Members that any submission which is reported to have been falsified will be excluded from the Survey Office report. The accuracy and credibility of the report will not therefore be affected. As the submissions have been falsified and are to be excluded from the report, it would not be appropriate for me to disclose the nature or their contents.

MRS. CHOW: *Sir, may I ask what steps have been taken by Government to ensure the overall truthfulness of submissions?*

CHIEF SECRETARY: Sir, I think the fact that this matter has come to light is evidence of the fact that the system which has been initiated by the Survey Office is working well. The Survey Office already has a practice of acknowledging receipt of all submissions in writing and to advise recipients of the acknowledgments to contact the office if they have not sent the submissions. In addition to that, Sir, as Members will know, the Survey Office attempts to verify all submissions which are sent to the office by checking the name against the original identity card number, so I think, as I mentioned at the beginning, the fact that this has come to light is evidence of a good system.

MRS. TAM (in Cantonese): *Sir, since we have found such falsified submissions, would the Administration consider postponing the publication of the report so that you can have enough time to investigate?*

CHIEF SECRETARY: Sir, the Survey Office will have acknowledged all submissions by the end of this current week. With public co-operation, any further false submissions will have come to light by the middle of next week and that should provide sufficient time for the Survey Office to weed them out and exclude them from their report. If too many false submissions have been made, it may be necessary to consider an extension of the reporting deadline. I do not expect, Sir, that this will be necessary and we hope to lay the Survey Office report in this Council on 4 November.

MR. MARTIN LEE: *Sir, is it intended to refer all these false submissions to the police for investigation?*

CHIEF SECRETARY: Sir, as I understand the matter, the Survey Office are seeking legal advice as to whether they should refer this matter to the police. Of course, individuals who have had false letters put in their name are quite at liberty to complain to the police about this and the police will investigate the matter, but as I say the status of the Survey Office is something we are seeking legal advice on at the moment.

MR. DESMOND LEE: *Sir, since all options listed in the Green Paper are genuine options, would Government consider taking action against those people who submit views to the Survey Office which are not genuine, if the culprits can be discovered?*

CHIEF SECRETARY: Sir, I think I adequately covered that question in my previous answer.

## **Government Business**

### **First Reading of Bills**

#### **EXECUTIVE AND LEGISLATIVE COUNCILS (MEMBERS) BILL 1987**

#### **INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1987**

#### **SUPPLEMENTARY APPROPRIATION (1986-87) BILL 1987**

#### **DENTISTS REGISTRATION (AMENDMENT) BILL 1987**

#### **ROAD TRAFFIC (AMENDMENT) (NO. 2) 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**

#### **EXECUTIVE AND LEGISLATIVE COUNCILS (MEMBERS) BILL 1987**

THE CHIEF SECRETARY moved the Second Reading of: 'A Bill to change the name 'Unofficial Members' of the Executive and Legislative Councils in various Ordinances'.

He said: Sir, I move that the Executive and Legislative Councils (Members) Bill 1987 be read the Second time.

Members will recall that in his Address to this Council at the beginning of the 1986—87 session the late Governor, Sir Edward YOUDE, announced the decision to discontinue the title of ‘Unofficial’ and also to rename UMELCO (the Office of the Unofficial Members of the Executive and Legislative Councils) to ‘OMELCO’ (the Office of the Members of the Executive and Legislative Councils).

This Bill now provides for the deletion of the title ‘Unofficial’ from Hong Kong Ordinances wherever it appears, and for its replacement by references to Members of the Executive Council and the Legislative Council. Members will recall that corresponding amendments to Standing Orders were agreed by resolution of this Council at the meeting on 14 July this year.

This Bill therefore completes the process of removing the title of ‘Unofficial’ to the history books. This is a step which I know Members will welcome since the new form emphasises that we are all, whether officials or otherwise, Members together of the same Council.

Sir, I beg to 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.*

#### **INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1987**

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

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

The Bill excludes from liability to Hong Kong salaries tax any income that a person derives from services rendered outside Hong Kong, but only if the income is liable to a tax similar to Hong Kong salaries tax in the territory where he rendered the services and it can be established that tax has been paid there in respect of that income.

Sir, I have to say that this Bill does not go as far as my 1987—88 Budget speech, in which I proposed that the Inland Revenue Ordinance be amended to provide for the automatic granting of time apportionment where, in a year of assessment, an employee renders services outside Hong Kong for a period more than 60 days in total.

Given the more narrowly defined object of this Bill now before the Council, I think it would be helpful if I were to restate my reasons for introducing a time apportionment amendment. The first reason for my Budget proposal was to clarify, or tidy up, what had become an unclear situation. Assessment to salaries tax of employees who render services both within and outside Hong Kong has become a growing area of dispute between the Inland Revenue Department

and taxpayers. The uncertainty in the law needed to be addressed. Secondly, I wanted to provide a measure of relief in double taxation cases, given that an overall review of double taxation by the Commissioner of Inland Revenue, will take some time to complete. And lastly, I wanted to limit the cost to the revenue of my proposal to between \$25 million and \$35 million.

My original Budget proposal would have had the effect of altering the test of source of salary income from the place of employment to the place where services are rendered. Time apportionment would have been granted not only to persons employed elsewhere than Hong Kong as at present, but also to persons employed in Hong Kong who under existing law are not entitled to time apportionment.

Sir, on further consideration, it became clear that a distinction should continue to be drawn between Hong Kong and non-Hong Kong employments, as those terms are presently understood, and that without this distinction the ambit of the proposal might be too broad, could be exploited and would cost the revenue significantly more than anticipated.

And there was another important factor. After I had delivered my Budget speech, the High Court handed down judgment in a tax case concerning a claim for time apportionment. This was the now well-known Goepfert decision <sup>(1)</sup>. In reaching its decision, the court gave valuable guidance as to what determined in a particular case whether time apportionment would be allowed under the existing law. Significantly, after referring to matters which were relevant, the court concluded that the place where services were rendered was not one to be considered and should be ignored.

In the light of these developments, I withdrew my original proposal for further consideration and consultation. Some may ask how a Budget proposal which had been carefully thought through prior to presentation should now require amendment. All I can say is that the results of the further consideration to which I have referred, taken together with the Goepfert decision, demonstrated clearly a need for another look at the solution that I had proposed.

Arising out of the Goepfert decision the Commissioner of Inland Revenue has been able to draw up simple guidelines in the practice notes for determining whether time apportionment should be granted. He can now give section 8 of the Inland Revenue Ordinance an interpretation which will mean that, in practically all cases, a taxpayer will be exempted from liability to pay Hong Kong salaries tax on that part of his income derived from services performed outside Hong Kong where:

- (a) *the contract of employment was negotiated, and entered into, and is enforceable outside Hong Kong; and*
- (b) *he employer is resident outside Hong Kong; and*
- (c) *he employee's remuneration is paid to him outside Hong Kong.*

---

(1) Inland Revenue Appeal #5 of 1986.

Following the judgment, and the interpretation now placed upon section 8 by the commissioner, salaries taxpayers are divided into two distinct categories: first, taxpayers who have a Hong Kong source of employment, and who are taxable on all income from that employment whether they render services in or outside Hong Kong; and second, taxpayers who have a source of employment outside Hong Kong and who are only taxable on income derived from services rendered in Hong Kong.

By way of clarification I would add that both categories are exempted from charge under section 8(1A)(b) and (1B) if they visit Hong Kong for less than 60 days in a year of assessment.

Sir, there is no doubt that the Goepfert case has helped to clarify the position of the second category of taxpayers to which I have referred that is, taxpayers who have a source of employment outside Hong Kong. Such taxpayers will often be employees of multi-national companies who come to work in Hong Kong.

This brings me back to the problem of taxpayers who have a Hong Kong source of employment and who are liable to double taxation as a result of their rendering services outside Hong Kong. This category will not benefit from the guidelines arising out of the Goepfert case. Thus in the absence of an amendment to the law, relief from double taxation would not be available.

It is in this context that I propose the amendment to the Inland Revenue Ordinance set out in the Bill now before this Council. The Bill will apply in relation to the year of assessment commencing 1 April 1987 and all subsequent years of assessment. I must add, Sir, that the rationale inherent in my original proposal remains unaltered. But I believe that the present Bill represents a wiser solution to the problem.

Finally, Sir, may I take this opportunity to thank those Members of Executive Council and this Council who together with representatives of accountants, tax consultants, lawyers and chambers of commerce have given the Administration well-considered and patient advice during the consultation period. Where tax is in dispute we cannot please everyone all of the time. But I believe that this Bill presents the most satisfactory, equitable and certain way forward.

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.*

**SUPPLEMENTARY APPROPRIATION (1986—87) BILL 1987**

THE FINANCIAL SECRETARY moved the Second Reading of: 'A Bill to approve a supplementary appropriation to the service of the financial year which ended on 31 March 1987'.

He said, Sir, I move that the Supplementary Appropriation (1986—87) Bill 1987 be read the Second time.

Section 9 of the Public Finance Ordinance states, 'If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates'.

Sir, the accounts for the financial year 1986—87 have been finalised by the Director of Accounting Services. Actual revenue amounted to \$43,869.6 million and total expenditure to \$39,927.7 million. The final surplus is thus \$3,941.9 million as compared with an estimated surplus of \$3,690 million mentioned in my concluding speech in the Budget debate last April.

The expenditure charged to 57 heads is in excess of the sum appropriated for those heads by the Appropriation Ordinance 1986. This is because sufficient offsetting items could not be found within the heads concerned. In accordance with section 9 of the Public Finance Ordinance, this excess has been included in the Supplementary Appropriation (1986—87) Bill 1987 now before Members. The Bill seeks to give final legislative authority for the amount of supplementary provision approved in respect of particular heads of expenditure by the Finance Committee or under powers delegated by it.

The total net supplementary appropriation required in respect of the 57 head of expenditure is \$2,413.8 million. This excess is largely accounted for by the two salary revisions in 1986 for the Civil Service (\$1,090.3 million) and government subvented organisations (\$480.8 million) and for the payment of personnel related allowances (\$53.7 million). Other major contributing factors include the payment to the Mass Transit Fund to enable the proceeds of a debt repayment by the Kowloon-Canton Railway Corporation to be set aside towards an equity injection for the Mass Transit Railway Corporation in 1987-88 (\$500 million); and the reorganisation of the lands and works group of departments (that is, the Buildings and Lands Department, the Highways Department and the New Territories Development Department) (\$438.6 million).

Savings made in other subheads are due to continued tight control over public expenditure, and I would like to thank the controlling officers and others who have contributed to restraint.

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.*

### **DENTISTS REGISTRATION (AMENDMENT) BILL 1987**

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

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

At present, dentists holding Commonwealth qualifications which are not recognised by the General Dental Council of the United Kingdom cannot be registered for practice in Hong Kong without first satisfying the Dental Council of Hong Kong as to their fitness in terms of academic qualifications, professional experience and skills, and this normally involves their having to pass a qualifying examination. The Dental Council takes the view that persons holding such qualifications should not be required to go through such cumbersome procedures. The Bill therefore seeks to rectify this anomalous situation by providing for dentists holding Commonwealth qualifications recognised by the Dental Council of Hong Kong to be registered on the same basis as those whose qualifications are recognised by the General Dental Council of the United Kingdom.

The Bill also provides that persons in the full-time service of the University of Hong Kong for the purpose of teaching or performing hospital work in the Faculty of Dentistry of the university will be deemed to be registered and will hence be exempt from registration. They will be allowed to perform dental treatment for the purpose of teaching in the faculty. Similar provisions exist in the Medical Registration Ordinance for doctors employed by the medical faculties of the two universities.

Finally, the Bill provides that dentists registered by passing the Dental Council's examination should also be eligible for appointment to the Dental Council and the Preliminary Investigation Committee, and that in the absence of the chairman during council meetings, any member present at the meeting should be eligible for election as the chairman of the meeting.

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)(NO. 2) 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)(No. 2) Bill 1987 be read the Second time.

The Bill amends two provisions of the Road Traffic Ordinance. The first is the offence of allowing a person without a requisite licence to drive a vehicle. Under Section 42(3) of the Ordinance, this offence is at present limited to the registered owner of the vehicle. It does not cover the situation where someone other than the registered owner allows an unlicensed third party to drive the vehicle. In such cases, no one can be charged with the offence.

This is clearly unsatisfactory on traffic safety grounds. Accordingly, the Bill widens the liability for the offence from the registered owner to anyone who allows an unlicensed person to drive a vehicle.

The second amendment concerns certificates issued by the police giving records of convictions of offences under the Road Traffic Ordinance. Section 75(5) of the Ordinance empowers the Commissioner of Police, upon payment of a fee, to issue to the holder of a driving licence a record of all convictions in respect of that person. However, this provision does not cover for the issue of a certificate if the applicant has not committed any offence under the Ordinance.

To rectify the situation, the Bill amends this section to empower the Commissioner of Police also to issue certificates showing that a person has a record of no conviction of offences under the Ordinance.

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.*

**WASTE DISPOSAL (AMENDMENT) BILL 1987****Resumption of debate on Second Reading (24 June 1987)**

MR. CHEUNG (in Cantonese): Sir, the Waste Disposal (Amendment) Bill 1987 was introduced into the Legislative Council on 24 June 1987. In view of the complexity of the Bill and the effect the animal wastes control scheme would have on livestock farmers, the ad hoc group formed to study the Bill decided that it should examine the Bill in detail and that more time should be given to enable Members to study the various issues thoroughly and also to meet with the parties affected by the Bill.

Since the introduction of the Bill, the group has held a total of eight meetings, including two meetings with the Joint Committee of Agricultural and Livestock Keeping Associations and five meetings with the Administration. A visit to the demonstration farm at Ta Kwu Ling was also conducted on 24 August 1987. I have also met privately with the farmers' representatives on four occasions to exchange views. Generally speaking, I and other members of the ad hoc group have been greatly impressed by the efforts of the farmers to keep a cool head in understanding and discussing the various problems in the process of negotiation.

During the course of examining the Bill, it becomes evident to the ad hoc group that the Administration is (a) determined to deal with the water pollution problem in the Territory, and (b) sincere in providing a viable alternative to farmers to continue livestock farming in control areas.

The ad hoc group is in full support of the principle that our environment should be protected and agrees that those farmers who wish to continue livestock farming in control areas should be allowed to do so, provided that they meet the effluent control standard. For those who cannot comply with the new requirements, Government should consider granting them ex gratia allowances and assisting them to re-establish in another business. We are glad that the Administration has, acting on the advice of the ad hoc group and the Finance Committee of this Council, agreed to increase the rates of ex gratia allowances by 30 per cent and to introduce a grant and loan scheme totalling about \$130 million over a period of 10 years to provide farmers with funds to install treatment facilities to meet the new control standard.

Having said the above, it should be pointed out that the ad hoc group also feels that the Administration's enthusiasm in pushing for the passing of the Bill has not been matched by its efforts in providing the necessary background information to facilitate Members' examination of the Bill. For example, when the ad hoc group asked for a written explanation as to why it was necessary to set a relatively high effluent control standard of BOD 50 mg/l:SS 50 mg/l and how it was estimated that 70 per cent of the farmers in the Territory would use the dry muck-out waste treatment method, which was much cheaper than the wet muck-out method, the response from the Administration was very slow indeed. One would have thought such kind of basic ground work should have been completed long before presenting the proposed control scheme to the Executive and the Legislative Councils. But the fact is, despite repeated requests made at meetings, the Administration did not provide the ad hoc group with the relevant papers until late August. After studying the papers, the ad hoc group still has some reservations as to whether such a stringent effluent control standard is necessary.

As for the demonstration project, we have urged the Administration as early as in April, during one of the meetings to discuss the Consultative Paper to Control Pollution Caused by Animal Wastes, to set up demonstration farms

urgently so that the farmers can be shown as soon as possible how they can comply with the control standard. It is regrettable that our advice had not been followed up expeditiously and it was not until August that work on the demonstration project was commenced. This results in the embarrassing situation that until today, two of the three projects are not yet fully operational.

At this point, I would like to comment on the public relations aspect of the Bill and how the public, particularly the farmers who are affected, perceive the way in which the Administration has handled its PR. Despite the fact that a channel of communication has been established between the Administration and the farmers, it is obvious, at least in the eyes of the public, that the communication is not very effective. The farmers have all along been objecting to the control standard of 50:50. First, they doubt whether such a high standard is necessary. Second, they do not think it is feasible. Third, they believe it would be very costly. I must say the Administration has taken much too long to provide satisfactory explanations to the farmers because to date the result of the demonstration project is still only a possibility. The flow of information from the Administration to the farmers is also very slow. For example, it has taken a long time for the Chinese translation of the code of practice and the manual to be made available.

On the other hand, I have detected a great deal of mistrust in the farmers towards the Administration. No doubt the officials concerned must have explained to the farmers the details of the Bill. It is therefore incredible that, to quote just two examples, as recent as 5 October when we met the farmers, they still had the impression that the provisions in the Bill included the disputed 50:50 standard and that these would take immediate effect when the Bill is passed today. Although the ad hoc group has reassured the farmers that the control standard has yet to be finalised, that it would only become law by way of subsidiary legislation to be made after the Bill is passed, and that the provisions in the Bill will not come into effect before 24 June 1988, such misunderstanding has already caused strong reactions from the farmers over the past weeks.

I trust that the Administration will learn its lesson and improve upon its communication with the farmers in order to regain their trust. I am sure a lot of preparation is needed in the months ahead before the provisions in the Bill take effect. I can also see that a lot of technical problems will arise in the implementation of the control measures. Life will be much easier for all concerned if the Administration sees to it that an effective dialogue is maintained with the farmers.

Looking ahead, I am glad that the Legislative Council in-house meeting has agreed to allow the ad hoc group to continue to examine the regulations. It is the group's view that unless the Administration can demonstrate the technical feasibility and economic viability of the 50:50 standard, it would be unfair to require the farmers to comply with it. I am even more glad to learn that the Administration has agreed to discuss the regulations with the group before they are finalised.

I would like to take this opportunity to call on the farmers to continue their discussion with the ad hoc group and the Administration. I am confident that with the co-operation of the parties concerned, we will be able to arrive at a satisfactory control standard.

As for the Bill itself, the ad hoc group generally feels that the spirit of the Bill is acceptable but a few points should be dealt with by Committee stage amendments, as follows:

- (a) putting back the implementation date to 24 June 1988 that is, one year after the First Reading of the Bill;
- (b) providing a compensation clause for wrongful seizure of livestock; and
- (c) allowing seven clear days advance notice to be given to the farmer before Government applies for a seizure warrant so that he can prepare his case to be heard before the court.

I hope that the three amendments mentioned above will further safeguard the interest of the farmers. My colleague Mr. TAI Chin-wah and the Secretary for Health and Welfare will move these amendments later on.

With these remarks, Sir, I support the motion.

MR. PETER C. WONG: Sir, the Waste Disposal (Amendment) Bill 1987 provides the necessary legal framework for the Government's 10-year livestock waste control programme. It is an expensive project, but none the less, one that deserves our support.

As we all know, animal waste produced by livestock farming is a major source of water pollution, particularly in the New Territories where it is estimated that 70 per cent of all stream pollution has its origins in animal waste. It is also responsible for about 50 per cent of the total organic pollution entering our coastal waters posing a serious threat to public health. In particular, shell fisheries and beaches suffer serious contamination. The extent of water pollution is so critical that experts in the Environmental Protection Department fear that unless effective measures are taken urgently, the situation will become irreparable.

I therefore welcome the Government's proposals as contained in the Bill which provides for the prohibition of livestock farms in the urban areas and the new towns. Also provided are controls governing the collection, storage, treatment, transportation and disposal of livestock waste in the control areas. Such measures if suitably enforced should be able to protect our environment from one of the major sources of pollution.

However, for these measures to succeed it is essential to have the support and co-operation of the livestock keepers who are likely to be affected by the control programme. It is in this vital area that I believe the Administration has left much room for improvement.

Representatives of the livestock keepers have made strong representations to the Legislative Council ad hoc group on the control standard of 50 BOD: 50 SS. They have two doubts: (a) whether it is a practicable standard, and (b) whether it is economically viable. These doubts are central to their objection to the control programme, although they support the principle of environmental protection. In my view, the Administration should have demonstrated the technical and economic viability of this standard to the livestock keepers long before the Bill was gazetted. After all, these proposals have been under consideration for some four years. What has transpired is perhaps a classic example of bureaucratic lack of foresight and procrastination. The demonstration farm at Ta Kwu Ling, as pointed out by my Colleague Mr. CHEUNG Yan-lung, was only set up after repeated requests by the ad hoc group. The most frustrating fact is that two of the three projects are not yet in full operation. Needless to say, Sir, I fully appreciate the livestock keepers' apprehension, that is, whether or not the 50:50 standard can actually be achieved. Even if it can be done, whether the necessary cost in achieving it would be so prohibitive as to drive them out of business. These are questions that the Administration need to answer in the forthcoming discussions with the ad hoc group in finalising the regulations relating to the proposed standard and other matters.

Sir, Government's decision to provide grants and loans to livestock keepers to help them comply with the requirements of the control programme is a timely move which may defuse some of the tension that is building up. However, there is one pertinent question which needs to be addressed. What if a farmer sets up treatment facilities possibly with grants and loans and the assistance of the authorities but subsequently finds that it is not possible to achieve the required standard for reasons beyond his control? If he is forced to wind up his business through no fault of his own, will he be eligible for the ex gratia allowances? If not, is it fair? Sir, this problem highlights the fact that the Administration and the ad hoc group have a great deal to do in the weeks and months to come before the provisions in the Bill take effect.

Sir, Members are no doubt aware that as we debate this Bill, a demonstration by affected farmers is taking place outside the Council Building. While I sympathise with their predicament, there is a need to balance their interests against those of the public at large. I certainly hope that the demonstration will not weaken the resolve of this Council to improve our environment which is vital to our quality of life.

Sir, I fully agree with what you said in your Annual Address last Wednesday on this very issue and I quote:

‘As we become a society which can offer an increasing proportion of our people something more than the basic necessities of life, it is natural that more emphasis should be placed on improving the quality of life. This means, among other things, giving people a chance to live in a healthy environment free, as far as possible, from pollution.’

The present proposals are part of an on-going process to tackle the problem of pollution. As you quite rightly pointed out, Sir: 'even though we cannot expect instant results, the measures in the Bill will have a significant effect on many of our water pollution problems'.

Nevertheless, in enacting legislation to implement our environmental control programme, compulsion must be tempered with compassion.

Sir, the price for environmental protection may be high, but Government would be well advised to pay a fair and equitable price to those directly affected by the proposed legislation as well as for the salutary measures proposed.

With these remarks, Sir, I support the motion as well as the agreed amendments.

PROF. POON: Sir, I was most delighted to learn from your Address last Wednesday that the Government was determined to combat environmental problems by working out a sensible and co-ordinated programme to deal with pollution in all its various manifestations, even at a relatively high cost. The Waste Disposal (Amendment) Bill 1987 represents one important step forward to bring under control the disposal of livestock waste. However, the ad hoc group has yet to examine in much greater detail various control measures and regulations for the eventual implementation of the Bill.

The water quality of a stream is dependent on the relative proportions of natural dilution water and industrial, sewage and livestock effluents. The Environmental Protection Department has proposed to set the livestock effluent discharge standard at 50 mg/1 BOD (Biochemical Oxygen Demand) and 50 mg/1 SS (Suspended Solids) in the regulations to be made after enactment of the Bill to achieve the tolerable limits of water quality objectives. In arriving the discharge standards for livestock waste, the Environmental Protection Department has assumed that 99 per cent of the domestic sewage flow was intercepted and that two thirds of the industrial effluents remained, the last being controlled to a standard of 20 mg/1 BOD and 30 mg/1 SS. Obviously, any improvement in water quality requires the combined efforts of the Government, livestock farmers and industrialists. While we are drafting regulations to control both industrial and livestock effluents, I strongly feel that the Government should ensure that domestic sewage can also be effectively intercepted.

Sir, I was therefore very glad to learn from your Address last Wednesday that the Government would invest as much as \$10 billion over the next decade to tackle the problem of sewage disposal. Indeed I would urge the Government to attend to this with the greatest urgency. If industrialists and livestock farmers make the effort to observe the appropriate regulations and refrain from polluting the waters, it is then only to be expected that the Government will also establish functional systems to intercept domestic sewage to as much as 99 per cent efficiency.

With these remarks, Sir, I support the Bill.

MR. TAI: Sir, during the '60s, Hong Kong was largely surrounded by clear coastal water and unpolluted beaches. At that time, farming was the predominant industry in the New Territories. Most of the farms were relatively small in size and the number of livestock, generally speaking, was the same as we have today. We now have an intensive and highly efficient primary industry of a larger scale than we had before.

The polluted state of our coastal waters and rivers perturbs the general public of Hong Kong. The Bill before us imposes restrictions on livestock rearing in the urban area and various parts of the new towns and propose tougher control subject to compliance of certain regulations to be approved by this Council at a later stage. This measure has been taken because the Administration feels that livestock rearing is one of the major contributory factors to pollution in Hong Kong. One wonders why, in comparing with the state of the farming industries in the early '60s and now, the water quality in our coastal water has suddenly deteriorated to such an extent over the years. The reason may be summarised as follows:

1. We have a substantial increase in population from the '60s to the '80s coupled with economic growth.
2. With the increase in our population, large scale land reclamation has altered the natural flow of water in our harbour.
3. Water from rivers and estuaries previously serving farms in the New Territories have been diverted to reservoirs.
4. There has been a lack of will power and effort on the part of the Administration during the past years to deal with the problem of pollution.
5. There is no comprehensive programme to resite and develop our agricultural industries, and when certain farms are displaced because of land resumption, they are forced to resume the business at various places scattered around the New Territories, thus making the problem of dealing with animal waste more difficult.

On the whole, pollution is a social problem now facing us today and if we do not address this problem with the expenditure of public funds, I am afraid in the long run, we have to bear higher costs, both human and economic.

The Bill before us today imposes restrictions on keeping livestock, subject to compliance with certain regulations to be approved by this Council at a later stage. The day on which the banning and controlling measures come into effect will be 24 June 1988. The Bill also provides power for the Administration to take enforcement proceedings for compliance with provisions in the Bill and regulations to be approved.

The Bill is the result of a consultative paper on the control of pollution caused by animal waste in December, 1985. Throughout this period, consultation has been made between the Administration and the farmers' representatives. Meeting have been held by the Legislative Council ad hoc group to deal with

this Bill and there are some amendments which I shall move at the Committee stage concerning the power and procedures exercisable by the Administration in taking enforcement proceedings under this Bill. The gist of the amendment is to provide more just and fair measures to the farmers by giving them notice of intention on the part of the Administration to apply for an order of seizure of livestock when they are in contravention of the provisions under the Bill or regulations to be enacted, and to provide a chance for the case to be dealt with by the Judiciary before an order for seizure and confiscation can be made instead of vesting the Administration with the power to seize livestock without resorting to the Judiciary. Also in the amendment there is a provision for compensation in the case of wrongful seizure.

In respect of consultation between the farmers and the Administration which is headed by the Health and Welfare Branch strongly supported by the Environmental Protection Department with nominal presence of the Agricultural and Fishery Department, I was given to understand that little progress has been made concerning the standard of control as to be specified in the regulations. The fundamental problem is that there is a lack of trust and faith in the parties concerned; the farmers were not happy with the failure on the part of the Administration to give a clear indication on the amount of capital investment and average running costs in order to comply with the proposed standard despite such a long consultative period of over two years. Furthermore, the Environmental Protection Department possess little or no practical knowledge in running a farm, resulting in a failure to understand the real problem faced by our farmers. By and large, farmers support the government policy of a cleaner Hong Kong by taking some controlling measure, but they are also worried that if the measures adopted by the Administration are too stringent, the whole industry would not be viable.

The problems arising out of the whole Bill can be summarised as follow:

1. Whether the proposed water quality standard of 50: 50 is workable in view of the intensive capital investment and running costs.
2. The farmers felt that some of the measures stipulated in the regulations are unworkable and would produce very little result.
3. The absence of a compensation provision. I am prepared to accept that ex gratia payment is a more flexible and better solution than compensation provided in the Bill for affected farmers in order to avoid unnecessary litigation which takes time and costs. However, the amount of ex gratia payment fails to reflect the losses suffered by the affected farmers in this particular case. The mode for calculating the ex gratia payment seems to be unjust. The Administration takes the view that the mode for calculating ex gratia payment has been used in clearance and resumption cases over the years and they see little valid grounds to have it reviewed. But I must say that throughout the years, clearance of farms has taken place in a relatively smaller scale than what we are proposing today. What we are dealing with is about 6 000 to 7 000 farms. Given the

magnitude of the problem and the dissatisfaction shown by the farmers, in particular, in the case of resumption in Tin Shui Wai over the past years, I feel there is a need to overhaul and to re-examine the mode of calculating the ex gratia payment.

For example the recent increases in the rate of ex gratia payment in respect of the oyster farmers and compensation for resumption of agricultural land. They have respectively within this year increased roughly to about 40 and 100 per cent. In calculating the damages involved, I wonder whether the Government is over generous or whether the previous calculation fails to reflect the real losses, resulting in such hefty increase within a short period of time.

I would turn to the suggestion recently made by the Administration to grant loans to assist farmers in respect of capital investment to minimise pollutants. This, Sir, will go a long way to assist farmers who wish to continue with farming but find it difficult because of lack of capital. Apart from the observation made by Mr. Peter C. WONG, another drawback is that the loan is only available on a phased basis in accordance with the timing for implementation of the controlled zones.

If it is the Government's decision to assist farmers and to improve the environment in the New Territories, why should such funds be made available to farmers on a phased basis instead of from the effective date of this Bill?

During the debate on primary industries in the last session, Members of this Council called upon the Administration to set up an Agricultural Advisory Committee to further assist the development of primary industries. In the long run, the committee can also look into the long-term effect of the pollution and in advising and assisting the farmers to deal with it. So far, no response has been given by the Administration as to whether the Government is prepared to set up such a committee. Taking this opportunity Sir, I repeat that call.

From my contact with the farmers, their primary objective is that any proposed regulation under this Bill yet to be passed by this Council should be reasonable and effective so that they can reasonably be complied with by farmers in terms of technicality and recurrent costs.

4.30 pm

HIS EXCELLENCY THE PRESIDENT: We have several speeches still on this Bill, but I think Members will wish to take a break at this point.

4.55 pm

HIS EXCELLENCY THE PRESIDENT: Council will now resume.

MR. TAM (in Cantonese): Sir, the general public is eager to improve the quality of their life. As a clear and sanitary environment is an important factor contributing to better quality of life, the Government has been constantly making efforts over the past two or three years to contain the already serious pollution problem and improve the environment of Hong Kong. The efforts made by the Government in this aspect should have our support.

The resumption of debate on the Second Reading of the Waste Disposal (Amendment) Bill today is one of the positive steps taken by the Government to contain or alleviate the pollution problem. As the environment should be protected, I support the spirit of the Bill and hope that the control measures contained therein will improve the environment of Hong Kong.

Nevertheless, in my opinion, the content of the subsidiary regulations and other details regarding control measures are open to question. For example, the effluent control standard for water is all at once fixed at BOD (Biochemical Oxygen Demand) 50 mg/l: SS (Suspended Solids) 50 mg/l. According to the information provided by the Environmental Protection Department and the other departments concerned, this is a standard adopted worldwide. But as to how and whether this standard can be applied and the financial implications involved in view of the special situation here in Hong Kong, no final conclusion has yet been reached. The farmers have all along objected to this control standard. So far no agreement has been reached between the Government and the farmers on the methods to be used to control or reduce the level of pollution. Notwithstanding the fact that the pilot scheme implemented by the authorities has not yet been completed, the Government has already rejected the proposals submitted by the farmers.

Of course, the Government may consider that when it comes to a point where personal interests are involved, the parties concerned will certainly object to the Government's proposals and it is therefore not necessary to take their views into account. However, I would like to point out that when introducing environmental protection measures, we should also take into consideration their impacts on the operators concerned. The preferable approach would be to work out with concerted efforts a progressive and modulated scheme based on a financially feasible control standard. When referring to the Noise Control Bill in his Address in 1986, the late Governor, Sir Edward YOUDE, said that 'it must be capable of being applied in a manner which is equitable and realistic in the light of the local circumstances since it will affect our industries as well as the environment'. Similarly, measures which involve about 200 000 people either directly or indirectly employed in the farming industry must also be equitable and realistic. Summing up, I hope that the Administration will discuss the matter calmly and thoroughly with the farmers with a view to arriving at a solution which is both equitable and realistic. I also hope that the Government will not merely treat the matter as an environmental pollution problem, but will consider its effect on the future development of the farming industry in Hong Kong at the same time.

Being a Member of the ad hoc group and having participated in examining the Bill. I have made the following observations:

Firstly, I feel that the Government was not sufficiently prepared when it introduced the Bill. More than two years ago when the Government published a consultative paper on the subject, it already conceived the idea to set the effluent control standard at BOD 50 mg/1: SS 50 mg/1. However, it was also only very recently, or after the Bill was submitted to this Council and when the farmers had raised strong objections that the Government invited the Hong Kong Productivity Council and the Hong Kong Polytechnic to launch the pilot scheme. Relevant tests are still underway today when the Bill is undergoing its Second and Third Readings. Furthermore, the Administration has not employed any systematic method to find out by means of surveys and site visits the actual number of farmers who are able or willing to adopt the dry muck-out waste treatment method. All these will only weaken our confidence in the judgment and proposals of the Government, and contribute little to the effective analysis of the matter by Members. 'More haste, less speed'. I am afraid that if the Administration enacts the Bill in a hurry simply by adhering to theories and principles, the result will be disappointing.

Secondly, I think the Government should also be held partly responsible for the situation today. Environmental pollution is in fact a long-standing issue. The seriousness of pollution caused by agricultural wastes has already been pointed out as early as August 1975 in the report by the British 'Environmental Resources Ltd.' of a study commissioned by the Government. The report proposed that a department specifically charged with the task of environmental improvement should be set up without delay, and collection service should be provided for the farmers to prevent the pollution problem from getting worse. However, these proposed measures were not implemented then. Though they are put into practice today, the problem may have worsened and our environment has already deteriorated after a lapse of more than 10 years. Looking back, if the Government had taken various measures in time to contain the problem step by step, we would not have plunged into a situation so tense as today's. Now on the other hand, the Environmental Protection Department insists that the effluent control standard of BOD 50 mg/1: SS 50 mg/1 should be adopted or else our environment would be defiled beyond any remedy; on the other hand, the farmers find it hard to cope with the unexpected pressure and thus become resistant to it.

I believe that the protection of our environment cannot be achieved by means of legislative control alone; adequate powers and resources must be made available to the responsible department so as to develop and implement environmental protection measures. The environmental problem we are faced with today would not have become so acute if the Government had, before the pollution problem intensified, attached enough importance to it, allocated more resources for the enactment of environmental protection legislation and their enforcement as well as provided the various necessary facilities.

It is indeed too late to make any remedy now. Nevertheless, it is hoped that the Government, when conceiving and formulating any policy, would look into all aspects of the problem with an insight so as to avoid being placed under the pressure caused by late remedies.

MR. ANDREW WONG (in Cantonese): Sir, I am against the Waste Disposal (Amendment) Bill 1987. First let me give you very briefly the background. In 1983, the Government received recommendations from the consultants and in 1985, distributed a consultative paper to the various district boards and related associations for discussion. On 2 June 1987, the Executive Council approved a policy to control animal or livestock waste. The First Reading and the moving of the Second Reading of the Bill were done on 24 June 1987. On 1 June 1987, the Finance Committee received a paper setting out exactly how much would be involved in this particular project. However, the compensation rate had not been agreed on. On 17 June 1987, we adjusted the budget and the compensation rate was raised by 30 per cent.

Let me be a little bit more long-winded. Assuming that Hong Kong is divided into banned and controlled areas, and livestock keeping is forbidden in the banned area but allowed in the controlled area. Yet, in the latter, farmers have to comply with certain standards. Controlled area would be implemented in three stages over a period of 10 years. Water quality would be controlled and, at the same time, waste collection would first be undertaken by the Government. But then eventually the livestock keepers will have to foot the bill themselves. Those people who opt out of business will be able to get ex gratia allowance which is 30 per cent more than the normal clearance compensation. On 5 October 1987, the Executive Council decided that further assistance should be given to livestock keepers or pig farmers. Therefore those who would like to continue business would be given grants to enable them to install the necessary equipment and to comply with the required standard. At the same time, loans would also be offered.

Today, I have heard other Members say that we are endorsing the spirit of the Bill. This is not the case. To enable them to meet the standard set by the Government, the consultative paper mentioned that the required standard will be set at BOD : 50 and SS : 50 (that is 50 mg/l.). We can read this from the Executive Council paper. I have not read the Council paper but the Administration has already given us a brief informing us of the standard to be set. Today's Bill however has not mentioned the 50:50 standard and this will lead to disputes later on. Thus, are we dealing with environmental pollution problem or are we trying to help livestock keepers adjusting gradually to the situation? This is a very difficult question to solve. So I feel that if this Bill passes the Second Reading and the Committee stage and then the Third Reading, that will mean that we will have to face a very difficult situation with a lot of controversy and conflict. So, should Government give in or insist on implementing the policy in order to solve the pollution problem? If we say that the details can be discussed

later, we cannot satisfy the farmers. On the other hand, if we try to satisfy the livestock keepers we will not be able to solve the environmental pollution problem. What I want to point out is what can we achieve by formulating this policy and suggesting the amendment. We are trying to implement a policy to solve a public problem, that is, environmental pollution, especially water pollution. Is this policy the best way to solve the problem? I personally do not think so. But other ways of tackling the problem, as suggested by some farmers and other people are not good either. For example, some Members suggest a three-year grace period. As Mr. TAM said a moment ago, it is too late to mend the fold after the sheep has gone. However, if we do not mend the fold, then it is irreparable. The livestock keepers suggest that the screening method be used to get rid of solid pollution. However, this will not help with the BOD. But if we believe in the evaluation made by the experts in 1975, that is, the water quality was very poor, then the screening method cannot help to improve water quality. It is because Hong Kong is a small place. Even if the pollutants are out of Hau Hoi Wan, they can easily flow to the water areas opposite Lantau Island and Tuen Mun. Some have suggested that perhaps there may be Government facilities in agricultural zones. However, that may take a long time and at the same time may have a lot of financial implications. At the same time, the Government's traditional policy is not to interfere with private enterprises. So if we want to install the facilities on a territory-wide basis, perhaps it is not practicable.

Coming back to BOD and SS and the standard. I am not an expert. Therefore I do not think it is for this Council with all non-experts to decide on the question; that must depend on expert opinion. So I think perhaps we can talk to other people about Hong Kong's situation and ask them, do we really need such a standard? There is another suggestion and it is not my personal suggestion. Other people feel the same way too. That is, we ban pig farming in the New Territories. The waste from pigs in fact is the major source of pollution. When we ban all pig farming, we must be very generous with our compensation. That may be based on the Singapore model, that is, the farmers will be able to change their trade and at the same time if they cannot earn a living any more, perhaps the compensation should be higher than the removal allowance or clearance allowance, or the increase should be more than 30 per cent.

Now what is the problem with our existing policy? Why is it not working? First, 10 years is much too long. In the first stage, we have banned areas where we do not have any livestock keeping but in the controlled area, we still have livestock keeping. It would therefore take 10 years before all areas will be banned from livestock keeping. If we agree with expert opinion that our water quality is already very bad, then 10 years is much too long to resolve the problem.

The second point relates probably to water quality. If we want the pig farmers to pay the extra cost for additional equipment and electricity supply, then actually we are gradually forcing them out of business because if the cost rises

then they would not be able to compete with pork imported from China. We are using an invisible sword to kill the livestock farmers. Third, if pork from China becomes expensive, then of course livestock keepers can continue to operate. But that would mean that pork prices will go up. If the trade is viable, that would mean that our control measure is not effective. Some pig farmers may get the compensation and then go out of business, but other people may join the trade using the same site and operating another pig farm, and go on polluting the environment. Although we can get them under control with set standards, there are a lot of technical problems to be resolved. Prof. POON has made the point that if we want to reduce the standard from 100:100 to 50:50, all that we need to do is to dilute it with twice the quantity of water and we would be able to reach that standard.

So let us therefore try and look at the advantage of banning livestock keeping in Hong Kong. If we ban it immediately, then immediately we would not have pig waste polluting our water. We do not have to wait 10 years. Secondly, the pig farmers may have to go out of business. Although this is artificial, it is not cruel because we will give them fair compensation. If we give ex gratia payment or another formula of compensation which is generous and fair, then it is not cruel to the livestock keepers. Thirdly, in Hong Kong the pork that we consume everyday mainly comes from China. Pork from Hong Kong will not be able to affect the meat price locally. The price is decided by pork imported from China. If pork from China is kept at a steady price, then we can have pork at a reasonable price. If the pork from China becomes expensive, then we will have pork at a high price no matter which policy we follow. We cannot control the price of pork unless we have other policies to limit the quantity of pork imported from China, Taiwan and Thailand. Hong Kong itself will not be able to control prices merely by supplying its own pork. Fourthly, we do not have to worry about other people joining the trade because it is banned in the whole Territory. In this way, we will be able to solve our environmental pollution problem and at the same time, pig farmers who have to change their trade will not really suffer because they will be duly compensated.

Sir, let me give you some statistics to back up my proposals. Such statistics may not necessarily be ideal because they only show a certain aspect. I will not merely talk about pigs. I am not saying that we should ban poultry as well, but let us presume that we ban everything. So let me give you all the figures telling you which is a cheaper policy to pursue.

If the Government ban all livestock keeping in Hong Kong, the Government will have to pay a certain amount of compensation. If all the livestock keepers are compensated, the figure is around \$286 million to \$287 million, and this calculation is based on the clearance compensation. I have worked it out and do not get it from the papers. If we ban all livestock keeping in Hong Kong, that will be the figure. Some pig farmers wonder why they cannot have a 100 per cent increase. It is because we have to pay for the pigs and the structures, and if we

have to pay an increase of 100 per cent, then the pig farmers will be most willing to accept it. If we agree to increase the compensation rate to a 100 per cent increase, then the total expense would be \$573 million.

We have experienced a lot of problems. We have increased the compensation by 30 per cent. We are giving them a grant and, at the same time, we are proposing a loan. Even if we do not include the loan, what we have to pay in 10 years' time will be \$609 million. If the original compensation rate is raised by a 100 per cent, then it will only be \$573 million. But as it stands, it is already \$609 million. To add to \$609 million a \$28 million to \$29 million loan, then the figure is even bigger. The Government believes that approximately 70 per cent of the people will opt for the dry muck-out method. Under this method, we do not have to give them so much in loan. If more people opt for the wet muck-out method, then the amount will be higher than, perhaps, \$609 million.

The second point that I wish to make is that we have a bureaucratic structure. If we pick the Government's proposal, then the Environmental Protection Department will have to have additional staff. The estimate is 114 posts. The present establishment is around 400 only. And in order to implement this policy of grant and loan, we need an additional 11, so it is 114 plus 11, that is 125 and the establishment is 400. In the coming 10 years, the personal emoluments will amount to \$180 million and that is only by nams value, we have not counted other expenses. So if we ban pig farming or even ban livestock keeping altogether—I am not suggesting that we should ban poultry keeping as well—then we can cut down on staff cost. If we ban pig farming, then the Squatter Control Unit of the Housing Department will be able to undertake the task because these people go around the Territory and they should be able to patrol the different areas. As for pollution problem, the Agriculture and Fisheries Department has been in touch with the farmers and would be able to help those farmers who continue with poultry keeping and give them guidance. It is only when there is a very serious pollution problem will the Environmental Protection Department be informed. In this way, the department can handle pollution problems with a small establishment.

Because of all the reasons I have given, I feel that the proposed policy is not as good as the alternative policy. The ad hoc group and other people seem to differ from what I think. But I personally feel that my proposals are better. Therefore I am afraid I cannot agree with the Bill. If you endorse and pass it, then I would support Mr. TAI Chin-wah's amendment so that when the policies are implemented, wrongful seizures should be compensated for and before the seizure, we must have a warrant from a magistrate. At the same time, the farmers will be able to make representation to the magistrate.

I hope that I would be able to persuade you all to oppose the Bill. If you do not support me, then I will still be opposing this Bill. But I will be supporting Mr. TAI'S amendment at the Committee stage. However, I will be voting against this Bill at the Third Reading stage. When the regulations are discussed, I hope

that some improvements can be made. If the policy cannot be changed, I still hope that we should improve the details so that it will really provide a satisfactory solution to livestock keepers and also to our environmental pollution problem. The ad hoc group has done a lot of things. We have talked to many Legislative Councillors and livestock keepers and they are not satisfied with certain points.

On 5 October, the Executive Council made the decision, but the ad hoc group will continue to monitor the situation and hope that everything will be done satisfactorily and be fair to all.

MR. LAU (in Cantonese): Sir, no doubt the Waste Disposal (Amendment) Bill 1987 is formulated by the Government with a view to solving and improving the serious and long-standing environmental pollution problem. The spirit of this legislation warrants our support and the prevention of environmental pollution is a common goal towards which all people of Hong Kong should strive after.

However, the introduction of the Bill has caused great dissatisfaction among livestock farmers and, as a result, the matter has become even more complicated. The present development is partly due to problems caused by some parts of the legislation, particularly those dealing with the technical enforcement aspects, but the most important cause is that livestock farmers feel greatly worried and perturbed about the future of their trade because once the legislation is put into effect, their livelihood will surely be seriously affected and they may be driven out of business. Prior to drawing up the draft legislation, the Government placed emphasis only on improving the environmental pollution situation without giving due consideration to safeguarding the livelihood of farmers. I think it is precisely this factor that turned the farmers' unrest into discontent.

It is beyond criticism for the Government to introduce legislation to control and ban livestock farming in order to improve our environment and it is undeniable that agricultural wastes have caused serious environmental pollution. However, livestock farmers should not solely be held responsible for causing the existing environmental pollution situation. As a matter of fact, the Government should also bear part of the blame. I recall that in 1967, the Government once strongly encouraged and assisted members of the public to develop the farming industry in order to safeguard against the suspension in the supply of imported foodstuff. It is regrettable that all along the Government does not have a comprehensive and long-term policy to protect and develop our farming industry. It also fails to discharge its responsibility of giving farmers guidance on technological improvement, transfer modern professional knowledge to them and provide them with advanced equipment to cope with the modernisation of the industry. In addition, at that time, the Government also intercepted the water supply for agricultural use in order to solve the water shortage problem. Thus, it can be seen that the present serious environmental pollution problem has gradually developed over a long period of time.

In fact, livestock farmers have been engaged in their trade for generations. They are always contented with their lot and earn their own living by their own labour. Although the development of the new towns has once dealt them a severe blow, they can still endure it and continue to lead a simple agrarian life in a quiet way. In the present incident, actions taken by the farmers have continued to escalate, they firstly requested to meet the Legislative Council Members, then held a mass rally and finally organised a sit-in petition. Judging from the above, I believe that if the problem was really not very serious, the farmers would not have taken such strong actions and reacted in such a vigorous way.

The incident had caused much concern among Members of the Legislative Council who responded by deferring the Second Reading of the Bill. The Chief Secretary also paid a visit to the New Territories to see for himself the lives of the livestock farmers and the operation of the farms. Moreover, the Executive Council had approved a grant and loan scheme to assist the farmers concerned. However, all these measures fail to dispel the worries brought about by the proposed control scheme. The farmers still doubt very much whether the Government is sincere in safeguarding their livelihood.

From my frequent contact with livestock farmers, I understand that they are actually in support of the spirit of the proposed legislation and are also willing to help Government improve the environment. However, they consider the draft Waste Disposal (Livestock Waste) Regulations 1987, especially those parts concerning technical requirements and effluent standard, too stringent. They also feel that it is impossible to comply with certain requirements because the cost involved in rearing livestock will rise to such a high level that the farmers will probably run into losses and be forced out of business. Judging from the average education standard among our farmers, it can be said that farming is their only means of making a living, so I am of the opinion that their worries are fully understandable. I believe that the Government will not like to see some 200 000 people engaged in the livestock keeping industry to be in the predicament of losing their employment, for such a crisis will lead to a series of social problems which may indirectly undermine the stability and prosperity of Hong Kong.

In principle, I support the spirit of the proposed Bill. However, the crux of the problem lies in how to devise a scheme which can improve our environment while giving adequate safeguard to the interests of the farmers. I feel that we should proceed in a very cautious manner when drawing up the Waste Disposal (Livestock Waste) Regulations 1987 in order to avoid stiffening of relationship or confrontation between the Government and the farmers. I suggest that in the process of drawing up the regulations, the department concerned should maintain close contact with the farmers and consult their views. I trust that through this kind of communication, the difficulties facing the farmers as well as their real needs can be identified and taken into consideration when drawing up the regulations in the hope that a solution acceptable to both the Administration and the farmers can be worked out.

Furthermore, I support the proposal of setting up a committee as suggested by the hon. TAI Chin-wah. I also suggest that a special department be set up by the Government or that an ad hoc group be established in the Agriculture and Fisheries Department to give guidance to farmers on technical matters and to help them resolve all difficulties which may arise from the implementation of the new legislation. Above all, the Government should set up a compensation committee, the membership of which should preferably include representatives of livestock farmers, to review and revise the ex gratia allowance and related compensation payment on a regular basis so that those farmers affected by the control or prohibition scheme can find out whether the compensation paid to them is fair and that those who feel aggrieved may have a chance to appeal so as to dispel their present worry about the lack of appeal channel. Only by adopting the above measures can the matter be brought to a satisfactory settlement at an early date.

With these remarks, Sir, I support the motion.

SECRETARY FOR HEALTH AND WELFARE: Sir, I am very grateful to Mr. CHEUNG Yan-lung and the other Members of the ad hoc group who have been responsible for studying this Bill. The Bill is highly technical and controversial, and I appreciate the great deal of time and effort which Members have devoted to its examination. I was also very pleased to hear the Members who have spoken this afternoon, with one exception, voice their support for the agricultural waste control scheme. Agricultural waste from pigs and chickens is perhaps the biggest single pollution problem we face and if we are going to prevent Hong Kong's waters from becoming and remaining unacceptably polluted—and Tolo Harbour is already dying—it is vital that early steps should be taken to deal with it. I am most grateful therefore that Members have agreed that the first phase of the control scheme should start on 24 June 1988, the first anniversary of the introduction of the Bill into this Council.

Several Members have expressed concern about the time taken to set up the experimental farm projects on the various methods of dealing with animal waste. I would be the first to agree that the projects at Ta Kwu Ling took longer to establish than we would have wished. The purpose of the experimental projects is to demonstrate the technical feasibility of various treatment methods. They are now effectively in operation and have been visited by a number of the farmers as well as by Members of the ad hoc group.

There has also been a great deal of discussion on the 50:50 standard which the draft regulations require when the wet muck-out method is used, and which the Environmental Protection Department believes is necessary if significant improvements are to be achieved. We have agreed to have further discussions on this with the ad hoc group before the regulations are made by the Governor in Council. I should point out, however, that the wet method is not the only way to deal with animal waste; we expect many pig-farmers who wish to continue in business to adopt the dry muck-out method which is much simpler and cheaper,

although there is of course on reliable way of establishing exactly how many will do so. The Agriculture and Fisheries Department is also developing a third method, known as 'pig-on-litter' which if the tests are successful, should prove very useful to the smaller operators.

The Government also accepts that some of the farmers will not be able, or will not wish to continue to keep livestock under the new arrangements. It is for this reason that Finance Committee approved a scheme paying substantially increased rates of compensation to those who have to give up keeping livestock. For those who wish to continue, the Governor in Council last week approved a grant scheme covering half the capital cost of installing treatment facilities; farmers will also be able to obtain loans to cover all or part of the remaining cost from funds administered by the Agriculture and Fisheries Department. The estimated cost of these schemes is about \$255 million, and I think that no one should accuse the Government of being ungenerous in its treatment of those affected by the new proposals.

Mr. Peter C. WONG has asked whether a farmer who has received a loan and then finds that he cannot achieve the required standard, will be eligible for compensation. This question can be discussed, but I should point out that the Governor in Council approved the grant scheme on the basis of an once-for-all option to take either a grant or compensation.

The Committee stage amendments proposed by Mr. TAI Chin-wah are all acceptable to the Administration.

Members of the ad hoc group expressed concern that the control authority is given the power to seize livestock suspected of being kept in contravention of the provisions of the Bill. This power is necessary as a deterrent to prevent blatant disregard of the controls and to deter repeated offenders. It will, however, be used with caution and only in cases of very serious pollution which have to be stopped as soon as possible. And now as a result of an amendment proposed by Mr. TAI, farmers whose livestock is seized will be issued a notice of intended seizure seven clear days before the date on which the authority intends to apply to a magistrate for a warrant to seize livestock.

Farmers whose livestock is seized, but who are subsequently not convicted of an offence under the Bill, will be able to apply to the district court or the High Court for compensation for any loss arising out of the seizure.

I shall also be moving a Committee stage amendment to the Bill. The main purpose of this amendment is to bring forward Mui Wo Beach and Angler's Beach into the first phase of the control programme. These two popular beaches have both had to be declared not suitable for swimming as a result of serious pollution due largely to animal waste, and it is desirable that early action should be taken to improve their condition.

Sir, I was very glad to hear Mr. CHEUNG Yan-lung say that it was evident to the ad hoc group that the Administration is sincere in providing a viable alternative to farmers to enable them to continue livestock farming in the control areas. I can assure Members that it is no part of our intention to drive livestock keepers out of business, provided they observe reasonable standards of pollution control, and I do not believe that in the circumstances of Hong Kong it would be either appropriate or acceptable to ban livestock farming completely throughout the Territory as suggested by Mr. Andrew WONG, even though this might prove to be a cheaper alternative to the present proposals.

Staff of my branch and of the Environmental Protection Department have met with the farmers' representatives on 15 occasions during the preparation of this legislation and we shall continue these discussions to ensure that the farmers are fully aware of what is proposed. In addition, both the Environmental Protection Department and the Agriculture and Fisheries Department will continue to provide farmers with technical advice to help them meet the required standards. We shall also have further discussions with the ad hoc group and I share Mr. CHEUNG'S confidence that we shall be able to find satisfactory solutions to the outstanding problems related to this Bill and its subsidiary legislation.

Sir, I beg to move.

*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).*

## **PRISONERS (RELEASE UNDER SUPERVISION) BILL 1987**

### **Resumption of debate on Second Reading (8 July 1987)**

MR. PETER C. WONG: Sir, the pursuit of wealth is a common phenomenon in Hong Kong and our community as a whole certainly excels in this regard. Fortunately, Hong Kong is also a caring society, ever mindful of the lot of the less fortunate members of the community. In the field of social welfare, in particular, rehabilitation in its many forms, Hong Kong can justifiably be proud of its record as compared with other territories in the region.

The Prisoners (Release under Supervision) Bill 1987 is but another step forward in our efforts to help prisoners integrate into society.

The object of this Bill, Sir, is twofold:

- (1) To introduce a release under supervision scheme for prisoners who have served at least half or 20 months, whichever is the longer, of a fixed sentence of three years or more.
- (2) To introduce a prerelease employment scheme for prisoners who are serving a sentence of two years or more and who are within six months of completing their sentence.

The release under supervision scheme amounts to a limited parole scheme. The essentials of the scheme are as follows:

- (1) The Governor may, if the Release under Supervision Board so recommends, order the release under supervision of any prisoner who has served not less than one half or 20 months (whichever is the greater) of a sentence of three years or more (clause 7(1)).
- (2) Supervision orders may (and in practice will) be subject to conditions (clause 7(3)). Examples are conditions relating to residence, employment, committing no offences, disassociating from criminals, reporting to the supervising officer.
- (3) Conditions in supervision orders may be varied or cancelled by the Governor (clause 7(3)).
- (4) An order will remain in force until the date on which the prisoner would have been released if he had served his entire sentence without remission (clause 9(1)(a)).
- (5) Supervision will be carried out by officers of the Correctional Services Department or by other persons specified by the commissioner (clause 10).

The essentials of the second scheme (the prerelease employment scheme) are as follows:

- (1) A prisoner serving a sentence of two years or more who is within six months of completing his sentence (after allowing for remission) may be released by order of the Governor, if the board so recommends. If he is released he will be made subject to a supervision order which will contain conditions of residence in a CSD supervised hostel, and conditions relating to obtaining and remaining in employment (clause 7(2)).
- (2) The commissioner will have the power to issue a permit to a prisoner released under the prerelease employment scheme allowing him to be absent from the hostel for up to five days. It is made a specific offence punishable by a maximum \$5,000 fine and 12 months' imprisonment for a prisoner to breach a permit (clause 11).

Sir, the case in favour of the proposed schemes may be summarised as follows:

- (a) a parole system provides an opportunity for prisoners to be released into the community at the time when they are most likely to be able to re-establish themselves in society without reverting to crime. The significance of this opportunity, Sir, is that one of the most important requirements of a penal system is to protect the community from criminals and a significant measure of the success of a penal system is the extent to which it reduces the number of prisoners returning to crime on release from prison. It is now well established that beyond a point in time, most prisoners' attitudes deteriorate and they become increasingly likely to turn to crime when they are released. As the length of time prisoners need to serve to reach this point varies (and some prisoners never reach it) it is not something that the courts can take into account when sentencing;
- (b) by providing for prisoners to be on parole, the system reduces the risk to society of their subsequent misbehaving while under supervision. In fact, because prisoners in prison can earn remission of up to one third of their sentences, the length of time a prisoner on parole is supervised can usually be longer than for a prisoner serving a similar sentence in a correctional institution;
- (c) the system provides one of the best means of helping prisoners to adjust from a highly disciplined prison environment to the freedom of living normally in the community;
- (d) the system provides an incentive for better behaviour in prisons; and
- (e) it could result in a reduction in the prison population.

Sir, the concept of parole is not new to Hong Kong and has been operated on a limited basis as part of the correctional system for sometime. Since 1953, young offenders (14 to 21 years old) released from training centres have been subject to three years' supervision and since 1969 and 1972 respectively the inmates of drug addiction treatment centres and of detention centres (14 to 24 years old) have been subject to 12 months' aftercare supervision on release. Young offenders released from prisons are also subject to one year's supervision.

Let me now turn to termination, review and sanction of orders. Obviously effective control over prisoners released under both the schemes is essential. The following provisions are common to both schemes:

- (1) The Governor may, after considering the recommendations of the board, revoke an order (clause 14(1)).
- (2) The commissioner may revoke an order where it appears to him that the public interest requires that a prisoner released under either scheme should be reimprisoned immediately (clause 14(3)).

- (3) An order will also automatically cease to have effect if the person released under it is convicted of another offence and sentenced to imprisonment (other than where the sentence is suspended) (clause 14(2)).
- (4) Clauses 15 and 16 provide for review of the termination of orders while clause 13 provides for sanction for breach of orders. The penalty for such offence is a fine of \$5,000 and imprisonment for 12 months.

Finally, a word on numbers likely to be involved. It is intended that the proposed 'parole scheme' be operated selectively. As the scheme is new, caution will be necessary. It is expected that no more than 5 per cent of those eligible will be granted release under supervision on their first application, 7.5 per cent on the first annual review and 10 per cent on the second annual review. A report on the work of the Release under Supervision Board will be tabled annually in this Council.

The Correctional Services Department has estimated that:

- (a) in the case of release under supervision, about 655 prisoners would be eligible to apply if the scheme were to be brought into operation in 1987-88. Out of these, 56 would be successful in their application;
- (b) in the case of prerelease employment, the number of participants could be limited by the existing accommodation available. It is estimated about 643 prisoners would be eligible to apply if the scheme were implemented in 1987-88. Of those who apply, about 32 would be successful.

Sir, it is not envisaged that anyone would be released without adequate supervision being available. As a result, the average daily prison population would be reduced by about 48 in 1987-88.

Sir, the Bill has been carefully examined by the Legislative Council ad hoc group formed for the purpose. Members generally support the two schemes as proposed. Mooted some 15 years ago, the two schemes on the whole present a well-balanced package. Both the interests of the prisoner and those of the public are fully taken into account. However, it is felt that careful planning is necessary before the schemes are implemented.

Some Members have expressed certain concerns regarding implementation. Fortunately, these have been resolved and no amendment to the Bill is necessary. My colleague Dr. Ho Kam-fai will be speaking on some of these concerns.

Sir, I myself will only deal with one of the points raised. The group note a potential difficulty which may arise in the context of minor breaches of supervision orders. The difficulty arises in this way. By clause 14(1) the Governor has discretion to revoke a supervision order, after considering the recommendations of the Release under Supervision Board. Thus, the principle is that minor breaches need not inevitably result in revocation; for example, the board may deem it appropriate to warn the supervisee or tighten his supervision

conditions rather than take the more drastic step of ending his participation in the rehabilitation process. Yet, by clause 13 every breach of a supervision order is a criminal offence punishable by imprisonment; and if imprisonment results then, by clause 14(2)(a) the supervision order must automatically terminate. It would therefore be possible, at least in theory, that in a given case of breach of conditions the following situation could arise:

- (a) The board considers the circumstances of the breach and decides not to revoke the supervision order.
- (b) The Attorney General considers the case and decides to prosecute.
- (c) The court convicts and imposes a prison sentence, which automatically terminates the supervision order.

The end result, Sir, is therefore that the judicial process overrides the board's recommendations. This may not necessarily be wrong in any given case, but it does highlight the need to ensure that the prosecuting authority and the courts are made fully aware of the board's views before they make their decisions. The group acknowledges that the prosecuting authority and the courts are well aware of their responsibility to take into account all relevant circumstances in the administration of criminal justice but since this Bill rightly entrusts significant new responsibilities to the board, the group wishes to emphasize the importance of proper co-ordination between the various authorities, namely the Attorney General, the judiciary and the board, so that the aim of the Bill is not frustrated by conflicting decisions.

Sir, as the two schemes are new and unique to Hong Kong, the Administration will conduct a comprehensive review three years after implementation, or earlier if necessary. This is highly desirable and will afford an opportunity to examine whether any changes or improvements need be introduced in the light of experience.

Sir, apart from its intrinsic value, the legislative proposal now before Council is an eloquent statement that we are a caring society. I therefore wholeheartedly commend it to hon. Members.

DR. HO: Sir, the primary aim of the Prisoners (Release Under Supervision) Bill 1987 is to provide further incentive to offenders to reform themselves and to facilitate their re-integration into the society. This aim is in line with the community's sentiments to rehabilitate offenders alongside punitive measures for their wrongdoings, as explicitly expressed in many written submissions to the Legislative Council during the consultation on the triad document published in 1986.

The main feature of the Bill is to release an offender before he has fully served his sentence. He is then placed under supervision, and is given regular counselling and guidance up to the full length of his sentence. As a matter of fact, the length of the sentence is by no means reduced, but the offender is only given an option as to how he wants to serve his sentence. Furthermore, an

offender who contravenes the conditions of his supervision order is liable to a fine of \$5,000 and imprisonment for 12 months. An offender who is convicted of a new offence during his supervision period and sentenced to imprisonment will also face the prospect of having his supervision order revoked. Thus, this Bill should not be perceived as an attempt to soften the Government's determined approach to combat crimes, especially the violent and serious ones.

I am satisfied that the provisions in the Bill are adequate to serve the interests of both the offenders and the society. The offenders may be reimprisoned under any of the following circumstances:

- (i) the Governor may revoke the supervision order upon advice of the Release Under Supervision Board;
- (ii) the Commissioner of Correctional Services may order the offender to be imprisoned immediately, if he deems it in the public interest to do so; and
- (iii) when a new offence is committed, resulting in a custodial sentence being imposed on the offender.

It is important to point out that in order to ensure that the Bill will be applied judiciously to only those offenders who are most likely to benefit from it, the Governor in Council is vested with the power to prescribe in the regulations the proceedings of the Release Under Supervision Board and to specify in the two schedules to the regulations procedures and conditions governing the making of a supervision order.

The success of the release scheme provided for in this Bill relies heavily on the quality of aftercare services. I am glad to note that the counselling and guidance capabilities of the Correctional Services officers have been considerably enhanced in recent years as a result of the establishment of a Psychological Services Unit and the commissioning of two intensified in-service training programmes with the Chinese University for its officers.

Nevertheless, I have three points for the Administration to clarify and to give further assurances.

Clause 10 provides that supervision of a released offender will be carried out by such persons as specified by the Commissioner of Correctional Services. In practice, what kind of persons will be appointed to look after the offenders? Will the appointees be persons other than officers of the Correctional Services Department? If so, what qualifications will be required of the appointees and how can they be held accountable for their assigned duties?

Clause 14(3) provides for the Commissioner of Correctional Services to revoke a supervision order, if it appears to him that public interest requires an offender to be reimprisoned immediately. This clause confers an unfettered power to the commissioner to revoke supervision orders at his discretion. Will this lead to possible abuses of power? Under what conditions will this concept of 'public interest' be invoked? How does this provision reconcile with the interests of the offender as an individual?

Some Legislative Councillors also find it unduly harsh to require an offender to forfeit his earned remission when he opts for the release under supervision scheme. In order to make the scheme fairer and more attractive to offenders, they proposed that the earned remission be deducted from the supervision period. This proposal could be considered when the effectiveness of the scheme is reviewed after a period of operation for three years.

With these remarks, Sir, I support the Bill.

6.00 pm

HIS EXCELLENCY THE PRESIDENT: It is now six o'clock. Under Standing Order 8(2), this Council should now adjourn.

CHIEF SECRETARY: Sir, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this afternoon to be concluded.

*Question put and agreed to.*

MR. CHAN YING-LUN: Sir, I rise in support of the Bill.

In doing so, I wish to say that I am a member of the Executive Committee of the Society for the Rehabilitation of Offenders. The society is a voluntary agency dedicated to the rehabilitation of ex-prisoners. In the past 30 years, over 50 000 people have benefited from the services of the society.

The Bill has been discussed by the executive committee of the society and I fully endorse their views. They are as follows:

The release under supervision scheme and the prerelease employment scheme are major steps towards a comprehensive rehabilitative system for offenders in Hong Kong. The schemes provide an adjustment process to help prisoners who have been kept away from the external environment for some time to reintegrate into the community. As long as the screening process is done cautiously, the schemes provide an incentive for rehabilitation and also a stimulant to strengthen prisoners' will to lead to new life and to strive for it.

Successful implementation of the schemes depends on three factors:

- (1) Intensive and appropriate assessment must be made by the Release Under Supervision Board on every application. The guidelines and rules for the schemes must be carefully laid down. The various aspects of the prisoner under review should be considered in great detail. These aspects include his maturity and stability; his sense of responsibility or any tendency in behaviour which may promote or hinder his conformity to law; his ability and readiness to assume obligation and undertake responsibilities; his family status and whether he has relatives who

display an interest in him; his employment history including his occupational skill and the stability of his past employment; and also his previous criminal history.

- (2) Support from Government: apart from the Correctional Services Department, other government departments must at the same time provide support. Adequate supply of resources is essential for the successful implementation of the schemes.
- (3) Support from the public: beneficial effects of the schemes will be severely restricted if they do not receive acceptance and support from the public. The fact that prisoners are required to have an employment arrangement before they would be granted early release makes it necessary to have employers supporting the schemes by offering jobs.

Lastly, I wish to convey the society's readiness to contribute their assistance to the scheme. Sir, I support the Second Reading of the Bill.

SECRETARY FOR SECURITY: Sir, I would like to thank hon. Members, in particular my hon. Friend Mr. Peter WONG, and his ad hoc group for the support they have given to this Bill.

Mr. WONG, my hon. Friend, has clearly set out the reasons behind the proposals in the Bill. But I would like to stress that it will be used to help prisoners who have been behaving themselves well in the prison and who are assessed as having a genuine intention to reform.

My hon. Friend Mr. WONG, was particularly concerned that in the case of the breach of a supervision order, there might be a conflict between the findings of the Release under Supervision Board and the decision of the Attorney General with regard to prosecution. Sir, I would like to assure hon. Members that the Attorney General will, in exercising his discretion whether or not to prosecute, take into account the recommendations of the board.

Sir, my hon. Friend Mr. HO Kam-fai raised three points on which he asked for clarification or further assurances. The first one was the question of what kind of people will be appointed to look after the offenders released on parole. The answer, Sir, is that the persons to be specified by the commission to supervise released prisoners under the schemes, would be aftercare officers of the Correctional Services Department, as indeed is the case with young prisoners released under supervision at the present time. These aftercare officers are professionally trained to carry out their duties.

My hon. Friend's second point was to ask under what circumstances the Commissioner of Correctional Services might revoke a supervision order under clause 14(3). A provision for the commissioner to revoke a supervision order under clause 14(3) has been included as an emergency preventive mechanism for the protection of the public. If we had good reason to believe that a prisoner released under supervision was about to pose a threat to the public, it would be

essential for the Government to have the necessary authority to be able to take immediate action to return this prisoner to confinement. This is exactly why the commissioner has been given the powers to which I refer. It would be under that sort of circumstance that he would revoke a supervision order. But there are protective measures in the Bill. Under clause 15(2), he would have to report the fact that he had revoked the release under supervision order to the Release under Supervision Board as soon as practicable and he would have to inform the reimprisoned prisoner of the reasons why he had revoked it. Then the prisoner himself under clause 16(1) has the right to apply to the Governor through the board for a review of the commissioner's decision.

And thirdly, Sir, my hon. Friend Mr. HO commented that some Members found it unduly harsh to require an offender to forfeit his earned remission when he opted for the release under supervision scheme. Personally, Sir, I have considerable sympathy with that view and the question of this losing of remission upon opting for the proposed release under supervision scheme will be one of the points that we will carefully re-examine when we come to review the effectiveness of this scheme in three years' time.

Finally, Sir, I was most grateful for what my hon. Friend Mr. CHAN Ying-lun said with regard to the reactions of the Society for the Rehabilitation of Offenders. We will certainly take their suggestions on implementation fully into consideration.

*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).*

## **BUILDINGS ORDINANCE (APPLICATION TO THE NEW TERRITORIES) BILL 1986**

### **Resumption of debate on Second Reading (2 July 1986)**

MR. CHENG: Sir, the Bill before us was gazetted on 20 June 1986 and introduced into this Council on 2 July 1986. When, with Members' support, it finally goes through the Third Reading today, it will have spanned over three Legislative Council sessions. During this period, the Legislative Council ad hoc group set up to study the Bill had examined it very carefully and very thoroughly, and I must say that, with the amendments to be moved at the Committee stage, the Bill will emerge as a very much improved and much more practical piece of legislation.

The Bill is an improvement over the existing Ordinance, which is being repealed. It raises the maximum height of small houses from 7.62 m to 8.23 m (25 ft to 27 ft) to facilitate the construction of three-storey houses with

reasonable ceiling height and ventilation. It gives certainty of exemption to various classes of buildings and building works by introducing the issue of certificates of exemption. At the same time conditions relating to safety and health may be imposed and recorded on the certificates, thus ensuring the safety and hygiene of small houses and their environment. Exemption for site formation and drainage work may also be given, but by separate certificates.

However, clause 5(a) of the Bill proposes to restrict exemption to only buildings built by indigenous villagers of the New Territories. This raises a number of practical problems. After thorough discussions with representatives of the Heung Yee Kuk, it is felt that such restriction is neither realistic nor practical.

Not realistic because under existing regulations, small houses are exempted from Buildings Ordinance procedures whether or not they are built or owned by indigenous villagers. The proposal in the Bill to restrict the exemption to indigenous villagers only would adversely affect the market value, sale and mortgage of small houses in the New Territories.

The restriction is not practical because owners of many small houses who are non-indigenous villagers will find it very difficult, if not impossible, to rebuild their houses on site to meet the many other requirements which have to be complied with, if the exemption ceases to be applicable.

The ad hoc group is pleased that the Government, on reconsideration, agrees that the distinction between indigenous and non-indigenous villagers for the purpose of this Bill should be removed. To effect this, I shall move an amendment, at the Committee stage, to clause 5(a), and a few other amendments consequential to it.

In line with the principle of the amended Bill, there may be good reasons to allow certain exemptions from the Buildings Ordinance and Regulations for small building works, which would include small houses, in other parts of the Territory. I hope that Government will in due course review the Buildings Ordinance and consider extending the exemption appropriately.

With these remarks, Sir, and subject to the amendments I shall move at the Committee stage, I support the Bill.

MR. LAU (in Cantonese): Sir, first I would like to state that I am the chairman of the Heung Yee Kuk.

Village houses (that is, small houses) had always been exempted buildings for which the owners needed not submit construction plans. However, with the rapid development in the New Territories during recent years, the living standard of villagers in the New Territories had been raised considerably. Therefore, the Heung Yee Kuk was of the view that there was indeed the need to improve the living environment in the New Territories, and proposed to the

Government to increase the permitted height of small houses from 25 ft to 27 ft so as to give the villagers better ventilation and a better living environment.

The Administration found the proposal reasonable and felt that there was the need to amend the regulations concerning exemption from provisions of the existing Buildings Ordinance. The Government also intended to take the opportunity to make consequential amendments to provisions governing the structure of such buildings and technicalities of the foundation works.

However, when the Buildings Ordinance (Application to the New Territories) Bill 1986 was gazetted, the Heung Yee Kuk found that there was a large discrepancy between the spirit of the Bill and the original intention. The Bill made a clear distinction between the rights of indigenous and non-indigenous villagers in the New Territories. Non-indigenous villagers had to submit construction plans when they rebuilt their houses. Moreover, in such cases, the reconstruction area had to be reduced considerably. And there might even be some houses which could not be rebuilt when topographic factors prevented them from meeting legal requirements. The Heung Yee Kuk considered that such arrangements were neither fair nor reasonable to non-indigenous villagers in the New Territories.

Members of the Heung Yee Kuk therefore met the Legislative Council ad hoc group to reflect their views and gained their support to defer the passage of the Bill. After an earnest examination of the case and discussions by the group and the departments concerned, the Administration made appropriate amendments to the relevant provisions of the Bill so that indigenous and non-indigenous villagers in the New Territories would be treated equally and the rights of property owners would continue to be protected. On behalf of the owners of such houses and the Heung Yee Kuk, I wish to thank the convenor of the Legislative Council ad hoc group, the hon. CHENG Hon-kwan, and other Members of the group for their efforts to bring a satisfactory solution to the matter.

Sir, with these remarks, I support the motion.

SECRETARY FOR LANDS AND WORKS: Sir, Mr. CHENG Hon-Kwan and Mr. LAU Wong-fat have proposed that the Bill be amended at Committee stage to remove the distinction between indigenous villagers and other persons. I support this proposal. On reconsideration, the Government has come to the view that a distinction in the treatment of different classes of people under this Bill would be undesirable, and it is not justified on grounds of safety or public health. The proposals in the Bill, in particular the structural requirements for exemption from certain of the provisions of the Buildings Ordinance, and the provision for separate certificates of exemption for building works, site formation works and drainage works, will adequately safeguard the safety and public health standards of village houses in the New Territories only. Only some 10 per cent of which are built by persons other than indigenous villagers.



**Clause 7**

That clause 7 be amended—

- (a) By deleting proposed section 15B and substituting the following—
- ‘Compensa-      **15B.** (1) Where any livestock is seized—  
 tion for            (a) in respect of an alleged contravention of section 15A(1) and no  
 seizure of            (a) person is subsequently convicted of an offence under that  
 livestock.            subsection in relation to that livestock; or  
                              (b) in contravention of section 15E(1),

and whether or not such livestock is subsequently released to the owner of the livestock or the livestock keeper (other than the owner) on the order of a magistrate or otherwise, the owner or person in lawful possession of that livestock may within 6 months of such seizure or later criminal proceedings (if any) apply to the District Court or the High Court for compensation for any loss arising out of the seizure, which loss shall be recoverable as a civil debt due from the Government, and such application may be begun by motion.

(2) An award of compensation under sub-section (1) shall be an award of such sum, if any, as is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of—

- (a) the owner of the livestock;  
 (b) the livestock keeper (other than the owner);  
 (c) the person in charge of the livestock premises in or on which the livestock was kept at the time of seizure; and  
 (d) the Director and any authorized officers concerned.’; and

(b) in proposed section 15E—

- (i) in subsection (1), by inserting after ‘first’ the following—  
 ‘served on the owner of the livestock or the livestock keeper (other than the owner) notice of intended seizure in a form which the Director may specify and’; and
- (ii) by inserting after subsection (3) the following—  
 ‘(4) A notice under subsection (1) of intended seizure of any livestock shall state—  
 (a) the grounds upon which the Director seeks to rely in reasonably suspecting that that livestock is being kept in contravention of section 15A(1); and  
 (b) the date on which the Director intends to apply to a magistrate for a warrant to seize that livestock being a date not less than 7 clear days following service of the notice.

(5) A notice under subsection (1) of intended seizure of any livestock shall be deemed to have been duly served on the owner of the livestock or the livestock keeper (other than the owner) if—

- (a) it is delivered to him, or to the person whom the Director believes to be the owner or the livestock keeper; or
- (b) is sent by recorded delivery to the livestock premises in or on which the livestock the subject of the intended seizure is kept.

(6) The magistrate shall, before issuing a warrant under subsection (2), give the owner of the livestock or livestock keeper (other than the owner) if present before him the opportunity of addressing him on the reasonableness or otherwise of the grounds relied upon by the Director under subsection (4)(a).’.

The amendments were agreed to.

Clauses 1, 2 and 7, as amended, were agreed to.

Clause 14

SECRETARY FOR HEALTH AND WELFARE: Sir, I move that clause 14 be amended as set out in the paper circulated to Members.

*Proposed amendments*

#### **Clause 14**

That clause 14 be amended—

(a) In the proposed First Schedule—

- (i) by deleting item 1 and substituting the following—
  - ‘1. The Urban Council area and that part of Sai Kung district delineated on a map dated 14 October 1987 numbered LW/50/2 (Edition 2) described as “URBAN COUNCIL AREA” and identified by the numbers ① and ② thereon. 24 June 1988’;
- (ii) in items 2, 3, 6 and 8—
  - (A) by deleting ‘12 June 1987 numbered LW/50/2’ and substituting the following—
    - ‘14 October 1987 numbered LW/50/2 (Edition 2)’; and
  - (B) by deleting ‘1 June’ and substituting the following—
    - ‘24 June’;

- (iii) by deleting item 4 and substituting the following—
- 24 June 1988’;
- ‘4. Those parts of Tsuen Wan and Kwai Tsing districts delineated on 2 maps dated 14 October 1987 numbered LW/50/1 (Edition 2) and LW/50/2 (Edition 2) described as “PART OF TSUEN WAN AND KWAI TSING NEW TOWNS” and identified by the number ⑤ thereon.
- (iv) in items 5 and 7—
- (A) by deleting ‘12 June 1987 numbered LW/50/1’ and substituting the following—
- ‘14 October 1987 numbered LW/50/1 (Edition 2)’;
- (B) by deleting ‘1 June’ and substituting the following—
- ‘24 June’; and
- (v) in item 7, by deleting ‘That part’ and substituting the following—
- ‘Those parts’;
- (b) in the proposed Second Schedule—
- (i) in items 1, 3, 8 and 14 by deleting ‘12 June 1987 numbered LW/50/1 and LW/50/2’ and substituting the following—
- ‘14 October 1987 numbered LW/50/1 (Edition 2) and LW/50/2 (Edition 2)’;
- (ii) by deleting item 2 and substituting the following—
- ‘2. Those parts of Tai Po, Sha Tin, North, Tsuen Wan, Kwai Tsing, Sai Kung and Yuen Long districts delineated on a map dated 14 October 1987 numbered LW/50/2 (Edition 2) described as “TOLO HARBOUR AND TOLO CHANNEL AREA” and identified by the number 11 thereon.
- 24 June 1988’;
- (iii) by inserting after item 2 the following—
- ‘2A. That part of Tsuen Wan district delineated on a map dated 14 October 1987 numbered LW/50/1 (Edition 2) described as “TIU YUE WAN (ANGLER’S BEACH) AND ENVIRONS” and identified by the number 11A thereon.
- 24 June 1988
- ‘2B. That part of Islands district delineated on a map dated 14 October 1987 numbered LW/50/1 (Edition 2) described as “MUI WO ENVIRONS” and identified by the number 11B thereon.
- 24 June 1988’;

- (iv) in item 4—
  - (A) by deleting ‘Kwai Chung and Tsing Yi’ and substituting the following—
    - ‘Kwai Tsing’; and
  - (B) by deleting ‘12 June 1987 numbered LW/50/1 and LW/50/2’ and substituting the following—
    - ‘14 October 1987 numbered LW/50/1 (Edition 2) and LW/50/2 (Edition 2)’;
- (v) in items 5, 6, 7, 9 and 10 by deleting ‘12 June 1987 numbered LW/50/1’ and substituting the following—
  - ‘14 October 1987 numbered LW/50/1 (Edition 2)’; and
- (vi) in items 11, 12, 13, 15 and 16 by deleting ‘12 June 1987 numbered LW/50/2’ and substituting the following—
  - ‘14 October 1987 numbered LW/50/2 (Edition 2)’; and
- (c) in the proposed Third Schedule—
  - (i) in area no. 1 and 2—
    - (A) by deleting ‘7 maps dated 12 June 1987’ and substituting the following—
      - ‘8 maps dated 12 June 1987 or 14 October 1987\*\*’;
    - (B) in item (b), by inserting at the end thereof the following—
      - ‘(Edition 2)\*\*’; and
    - (C) by deleting item (g) and substituting the following—
      - ‘(g) LW/11-SE-B;
      - ‘(h)LW/20/10\*\*.’;
  - (ii) in area no. 3—
    - (A) by inserting after ‘12 June 1987’ the following—
      - ‘or 14 October 1987\*\*’; and
    - (B) in item (a), by inserting at the end thereof the following—
      - ‘(Edition 2)\*\*’;
  - (iii) in area no. 5—
    - (A) by deleting ‘4 maps dated 12 June 1987’ and substituting the following—
      - ‘6 maps dated 12 June 1987 or 14 October 1987\*\*’; and
    - (B) by deleting items (a), (b), (c) and (d) and substituting the following—
      - ‘(a) LW/6-SE-C\*\*;
      - (b) LW/6-SE-D;
      - (c) LW/7-SW-C;
      - (d) LW/10-NE-B;
      - (e) LW/11-NW-A (Edition 2)\*\*;
      - (f) LW/20/10\*\*.’;

- (iv) in area no. 6—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in items (d) and (g), by inserting at the end thereof in each case the following—  
‘(Edition 2)\*\*’;
- (v) in area no. 11—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in items (l) and (x), by inserting at the end thereof in each case the following—  
‘(Edition 2)\*\*’;
- (vi) by inserting after area no. 11 the following—
- |      |   |   |
|------|---|---|
| ‘11A | Tiu Yue Wan<br>(Angler’s Beach)<br>and Environs | Those parts of area No. 11A delineated on 3<br>maps dated 14 October 1987 **and<br>numbered as follows—<br>(a) LW/6-SE-A (Edition 2)**;<br>(b) LW/6-SE-B (Edition 2)**;<br>(c) LW/6-SE-C**. |
| 11B  | Mui Wo Environs                                 | Those parts of area No. 11B delineated on 4<br>maps dated 14 October 1987** and<br>numbered as follows—<br>(a) LW/10-SW-A**;<br>(b) LW/10-SW-C**;<br>(c) LW/10-SW-D**;<br>(d) LW/20/10**.’; |
- (vii) in area no. 13—
- (A) by deleting ‘11 maps dated 12 June 1987’ and substituting the following—  
‘13 maps dated 12 June 1987 or 14 October 1987\*\*’;
- (B) in items (d), (e) and (f), by inserting at the end thereof in each case the following—  
‘(Edition 2)\*\*’;
- (C) by inserting after item (f) the following—  
‘(fa) LW/6-SE-C\*\*.’; and
- (D) by deleting item (k) and substituting the following—  
‘(k) LW/11-NW-A (Edition 2)\*\*’;  
(l) LW/20/10\*\*.’;

- (viii) in area no. 14—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in items (d) and (h), by inserting at the end thereof in each case the following—  
‘(Edition 2)\*\*’;
- (ix) in area no. 15—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in item (c), by inserting at the end thereof the following—  
‘(Edition 2)\*\*’;
- (x) in area no. 16—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in items (b) and (f), by inserting at the end thereof in each case the following—  
‘(Edition 2)\*\*’;
- (xi) in area no. 17—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in items (f) and (g), by inserting at the end thereof in each case the following—  
‘(Edition 2)\*\*’;
- (xii) in area no. 18—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in item (c), by inserting at the end thereof the following—  
‘(Edition 2)\*\*’;
- (xiii) in area no. 19—
- (A) by inserting after ‘12 June 1987’ the following—  
‘or 14 October 1987\*\*’; and
- (B) in item (i), by inserting at the end thereof the following—  
‘(Edition 2)\*\*’; and
- (xiv) by inserting after area 22 the following—
- ‘23 Outlying Islands                      Those parts of area No. 23 delineated on 4 maps dated 14 October 1987\*\* and numbered as follows—
- (a) LW/10-SW-A\*\*;
- (b) LW/10-SW-C\*\*;
- (c) LW/10-SW-D\*\*;
- (d) LW/20/10\*\*.’.

The amendments were agreed to.

Clause 14, as amended, was agreed to.

### **PRISONERS (RELEASE UNDER SUPERVISION) BILL 1987**

Clauses 1 to 22 were agreed to.

### **BUILDINGS ORDINANCE (APPLICATION TO THE NEW TERRITORIES) BILL 1986**

Clauses 3 and 4,7,9 to 11,13 to 15 were agreed to.

Clause 1

SECRETARY FOR LANDS AND WORKS: Sir, I move that clause 1 be amended as set out under my name in the paper circulated to Members in recognition of the passage of time since the Bill was first introduced.

#### *Proposed amendment*

#### **Clause 1**

That clause 1 be amended by deleting '1986' and substituting the following—  
'1987'.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2

SECRETARY FOR LANDS AND WORKS: Sir, I move that clause 2 be amended as set out under my name in the paper circulated to Members. In clause 2 of the Bill, the definition of 'building works' excludes 'site formation works, drainage works or the construction of seawalls or retaining walls'. However, on further examination the exclusion of retaining walls from the definition of 'building works' is unnecessary and confusing. Retaining walls are part of site formation works, and it has always been the intention that they might in appropriate cases be exempted together with other site formation works. I therefore propose that reference to 'retaining walls' in the definition of 'building works' be deleted.

*Proposed amendment***Clause 2**

That clause 2(1) be amended in the definition of ‘building works’ by deleting ‘or retaining walls’.

The amendment was agreed to.

MR. CHENG: Sir, I move that clause 2 be amended as set out under my name in the paper circulated to Members.

*Proposed amendments***Clause 2**

That clause 2(1) be amended—

- (a) By deleting the definition of ‘certificate of exemption in respect of village housing’ and substituting the following—  
“‘certificate of exemption in respect of new housing’ means a certificate of exemption issued under section 5(a);” and
- (b) by deleting the definitions of ‘established village’, ‘indigenous villager’ and ‘recognized village’.

The amendments were agreed to.

Clause 2, as amended, was agreed to.

**Clause 5**

SECRETARY FOR LANDS AND WORKS: Sir, I move that clause 5 be amended as set out under my name in the paper circulated to Members. Clause 5 at present says that the director may issue a certificate of exemption in respect of certain specified building works in the New Territories. The use of the word ‘may’ implies some discretion by the director, which, subject to compliance with the provisions of the Ordinance, is not the intention. The proposed amendment to clause 5 will make it clear that the director shall issue a certificate of exemption where the building works comply with the provisions of the Ordinance.

*Proposed amendment***Clause 5**

That clause 5 be amended by deleting ‘The Director may’ and substituting the following—

‘Subject to the provisions of this Ordinance, the Director shall’.

The amendment was agreed to.

MR. CHENG: Sir, I move that clause 5 be amended as set out under my name in the paper circulated to Members.

*Proposed amendment*

**Clause 5**

That clause 5 be amended by deleting paragraph (a) and substituting the following—

‘(a) for a building to be built by any person and to be used for non-industrial purposes;’.

The amendments were agreed to.

Clause 5, as amended, was agreed to.

Clauses 6, 8 and 12

MR. CHENG: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

*Proposed amendments*

**Clause 6**

That clause 6 be deleted.

**Clause 8**

That clause 8 be amended by deleting from subclause (2)(a)(i) ‘village’ and substituting the following—

‘new’

**Clause 12**

That clause 12 be amended by deleting ‘or 6’.

The amendments were agreed to.

Clauses 6,8 and 12, as amended, were agreed to.

First Schedule

MR. CHENG: Sir, I move that the First Schedule be amended as set out in the paper circulated to Members.

*Proposed amendment*

**First Schedule**

That First Schedule be amended, in the subheading to Part I, by deleting 'village' and substituting the following—

'new'

The amendment was agreed to.

First Schedule, as amended, was agreed to.

**Second Schedule**

SECRETARY FOR LANDS AND WORKS: Sir, I move that the Second Schedule be amended as set out in the paper circulated to Members.

*Proposed amendment*

**Second Schedule**

That Second Schedule be amended by deleting '1986' wherever it appears and substituting the following—

'1987'

The amendment was agreed to.

Second Schedule, as amended, was agreed to.

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

PRISONERS (RELEASE UNDER SUPERVISION) BILL 1987

had passed through Committee without amendment and the

WASTE DISPOSAL (AMENDMENT) BILL 1987 and the

**BUILDINGS ORDINANCE (APPLICATION TO THE NEW TERRITORIES) BILL  
1986**

had passed through Committee with amendments, and moved the Third Reading of the Bills.

*Question put on the Bills and agreed to.*

Bills read the Third time and passed.

**Motion****INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

MR. CHENG HON-KWAN moved the following motion: That the period during which the Legislative Council may, by virtue of section 34(2) and (3) of the Interpretation and General Clauses Ordinance, amend the Air Pollution Control (Specified Processes) Regulations 1987 be extended until 4 November 1987.

He said: Sir, I move the resolution standing in my name on the Order Paper. In the course of scrutinising the Air Pollution Control (Specified Processes) Regulations 1987 it has emerged that the definitions of 'authorised person' and 'qualified engineer' need further consideration. To allow time for this it is necessary to extend the period during which the Legislative Council may make amendments to the regulations under section 34 of the Interpretation and General Clauses Ordinance.

This is the purpose of today's resolution. It will have the effect of enabling Legislative Council to make any necessary amendments to the regulations on or before the sitting on 4 November 1987.

With the agreement of Members I have already met with the Director of Environmental Protection and senior representatives from the Health and Welfare and Lands and Works Branches in order to find a solution to the difficulties. I believe that Government's response will be positive, thus enabling improvements to be made to the definitions within the next three weeks. In the meantime, it is right in principle that Legislative Council's power to make the necessary amendments should be preserved.

Accordingly, Sir, I beg to move.

*Question put and agreed to.*

**Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 21 October 1987.

*Adjourned accordingly at thirty-one minutes past Six o'clock.*

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

**WRITTEN ANSWERS****Annex I****Written answer by the Secretary for Security to Mr. Martin LEE'S supplementary question to Question 1**

I am afraid we do not keep such statistics but the Crime Victimization Survey conducted last year suggests that the answer is about 75 per cent: of 1 500 households owning a car, 47 had their car stolen or taken without authority in 1986; 35 claimed that the car doors and windows were secured at the time.

**Annex II****Written answer by the Secretary for Security to Mrs. CHOW'S supplementary question to Question 4**

The statistics of average sentences of the 281 Filipino domestic helpers convicted of overstaying in Hong Kong are as follows:

- (a) 24 were sentenced to imprisonment of one day to six months;
- (b) 28 were sentenced to imprisonment of one to six months, suspended for 12 to 24 months;
- (c) 19 were sentenced to imprisonment of one to three months suspended for 12 to 24 months, and a fine of \$300 to \$3,000;
- (d) 191 were sentenced to a fine of \$50 to \$2,000;
- (e) one was bound over for three months in a sum of \$100; and
- (f) 18 were given an absolute discharge.

