

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 15th June 1977

The Council met at half past two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, GBE, KCMG, KCVO
THE HONOURABLE THE CHIEF SECRETARY
SIR DENYS TUDOR EMIL ROBERTS, KBE, QC, JP
THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR DAVID HAROLD JORDON, CMG, MBE, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR JOHN WILLIAM DIXON HOBLEY, CMG, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR LI FOOK-KOW, CMG, JP
THE HONOURABLE DAVID AKERS-JONES, JP
SECRETARY FOR THE NEW TERRITORIES
THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP
SECRETARY FOR SECURITY
THE HONOURABLE DAVID WYLIE McDONALD, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, CMG, JP
DIRECTOR OF EDUCATION
THE HONOURABLE ALAN JAMES SCOTT, JP
SECRETARY FOR HOUSING
THE HONOURABLE GARTH CECIL THORNTON, QC
SOLICITOR GENERAL
THE HONOURABLE EDWARD HEWITT NICHOLS, OBE, JP
DIRECTOR OF AGRICULTURE AND FISHERIES
THE HONOURABLE THOMAS LEE CHUN-YON, CBE, JP
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE DEREK JOHN CLAREMONT JONES, JP
SECRETARY FOR THE ENVIRONMENT
DR THE HONOURABLE THONG KAH-LEONG, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE ERIC PETER HO, JP
SECRETARY FOR SOCIAL SERVICES
THE HONOURABLE PETER BARRY WILLIAMS, JP
COMMISSIONER FOR LABOUR
THE HONOURABLE WILLIAM DORWARD, OBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY (*Acting*)
THE HONOURABLE JOSEPH CHARLES ANTHONY HAMMOND, JP
SECRETARY FOR THE CIVIL SERVICE (*Acting*)
THE HONOURABLE LEE QUO-WEI, CBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP
THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP
THE HONOURABLE PETER GORDON WILLIAMS, OBE, JP
THE HONOURABLE JAMES WU MAN-HON, OBE, JP

THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP
 THE HONOURABLE LI FOOK-WO, OBE, JP
 THE HONOURABLE MRS KWAN KO SIU-WAH, OBE, JP
 THE HONOURABLE LO TAK-SHING, OBE, JP
 THE HONOURABLE ALEX WU SHU-CHIH, OBE, JP
 THE REV THE HONOURABLE JOYCE MARY BENNETT, JP
 THE HONOURABLE CHEN SHOU-LUM, JP
 THE HONOURABLE LYDIA DUNN, JP
 DR THE HONOURABLE HENRY HU HUNG-LICK, OBE, JP
 THE HONOURABLE LEUNG TAT-SHING, JP
 THE REV THE HONOURABLE PATRICK TERENCE McGOVERN, SJ, JP
 THE HONOURABLE PETER C. WONG, JP
 THE HONOURABLE WONG LAM, JP

ABSENT

THE HONOURABLE DAVID GREGORY JEAFFRESON, JP
 SECRETARY FOR ECONOMIC SERVICES
 DR THE HONOURABLE CHUNG SZE-YUEN, CBE, JP
 THE HONOURABLE JOHN HENRY BREMRIDGE, OBE, JP
 DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP
 THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
 MRS LOLLY TSE CHIU YUEN-CHU

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:	
Fixed Penalty (Criminal Proceedings) Ordinance.	
Fixed Penalty (Criminal Proceedings) (Amendment) Regulations 1977	121
Public Health and Urban Services Ordinance.	
Cheung Chau Cemetery, Sandy Ridge Cemetery and Wo Hop Shek Cemetery (Removal and Disposal of Human Remains) Order 1977	124
The Money-Lenders Ordinance.	
Order of Exemption	125

<i>Subject</i>	<i>LN No</i>
Miscellaneous Licences Ordinance.	
Miscellaneous Licences (Amendment) Regulations 1977	126
Places of Public Entertainment Ordinance.	
Places of Public Entertainment (Amendment) (No 2) Regulations 1977	127
Securities Ordinance.	
Securities (Dealers, Investment Advisers and Representatives) (Amendment) Regulations 1977	128
Public Health and Urban Services Ordinance.	
Public Swimming Pool (Designation) Order 1977	129
Legal Practitioners Ordinance.	
Solicitors (General) Costs (Amendment) Rules 1977	130

Agreements:

Loan Agreement (Ordinary Operations) (Sha Tin Urban Development (Housing) Project) between Government of Hong Kong and Asian Development Bank, Project Agreement (Ordinary Operations) (Sha Tin Urban Development (Housing) Project) between Asian Development Bank and Hong Kong Housing Authority dated 23rd May 1977, with Letter of Assurances and Side Letters.

Oral answers to questions

Motor-cyclists

1. MR WONG Lam asked: —

(Asked in the Cantonese dialect. The following is the interpretation of what Mr WONG Lam asked)

Sir, will Government state how many prosecutions have been brought against motor-cyclists since 1.1.1977 for excessive noise produced by their vehicles?

THE ATTORNEY GENERAL: —Sir, there have been 6 prosecutions. But that answer standing alone does not give a true picture. The law relating to noise caused by defective motor cycles is also enforced by

[THE ATTORNEY GENERAL] **Oral answers**

examination of them by motor vehicle inspectors followed by a requirement that they be repaired when defects are discovered. During 1975, 1,446 motor cycles were so examined in respect of various suspected defects. Among those there were probably a few motor scooters and this is because motor scooters are treated as motor cycles for the relevant record purposes. The number of examinations in 1976 was 1,023. Many of the cycles which have been examined were found to have defective silencers. Sir, because of a change in the system of record keeping I cannot say how many motor cycles have been examined in 1977.

MR WONG Lam: —(Asked in the Cantonese dialect. The following is the interpretation of what Mr WONG Lam asked) Sir, how does this figure compare with that of 1976?

ATTORNEY GENERAL: —Sir, to obtain figures for the corresponding period in 1976 would require considerable effort. What I can say is that during the whole of 1976 there were 25 prosecutions.

MR CHEUNG: —Sir, what proportion of the defective silencers approximately suffered from deterioration, and what proportion had parts deliberately removed so that they make more noise?

ATTORNEY GENERAL: —I am unable to answer that question, Sir.

MR T. S. LO: —Does the law prohibit the use of motor cycles designed to produce impressive and excessive noise?

ATTORNEY GENERAL: —The law prohibits two things. One is the use of a motor cycle making an excessive noise because of a defective silencer, Sir. It also prohibits the use of a motor cycle in an unreasonable way so as to produce excessive noise.

Land registration in District Offices

2. MR PETER C. WONG asked: —

Sir, (a) will Government make a statement as to whether the existing system of and facilities for land registration in the various District Offices are adequate for the purpose?

(b) if not, what steps are being taken to improve, co-ordinate and streamline these land registries?

SECRETARY FOR THE NEW TERRITORIES: —Sir, I believe the facilities for registration of documents in the various registries in the District Offices in the New Territories to be adequate; I believe the system employed in these registries also to be generally adequate. But this is not to say that I am satisfied with the present operation of the system in every office. I should perhaps explain that the system is not quite the same as that employed in the Victoria Land Office because circumstances in the New Territories are manifestly different. In the New Territories, land registry staff are concerned with the assessment and collection of stamp duty and they help prepare documents for villagers. They also point out errors and omissions in documents submitted for registration. In addition multi-storey development has increased the number and complexity of transactions, and this has give rise to delays. To relieve the situation additional staff approved in February 1977 have been recruited and they have already substantially reduced the time taken for registration from an average of 10 weeks last year to six weeks now. I am consulting the Registrar General for advice on whether other improvements can be made to reduce this average time still further; and, when I have done this, I will hold an informal discussion with representatives of the Law Society, if they wish, to see if there is anything more that can, reasonably, be done.

MR PETER C. WONG: —Sir, will the Secretary for the New Territories let this Council know when will the consultation be completed?

SECRETARY FOR THE NEW TERRITORIES: —I think it will be possible to hold discussion with the Law Society within the next few weeks.

MR PETER C. WONG: —Sir, will the Secretary for the New Territories also tell this Council whether he is satisfied with the actual mechanics of registration (as distinct from the time of registration) in the New Territories?

SECRETARY FOR THE NEW TERRITORIES: —Sir, I am satisfied with the mechanics. I am not satisfied that the mechanism is working quickly enough.

Dangerous slopes

3. MR JAMES WU asked: —

Sir, will Government state whether, following the publication in February this year of the Report on the landslide at Sau Mau Ping, all the works required to make dangerous slopes near public housing areas safe will be completed by the due date?

Oral answers

DIRECTOR OF PUBLIC WORKS: —Sir, work on the slopes has now reached a stage where there is no longer any possibility of a mud avalanche such as that which occurred at Sau Mau Ping last year. Altogether, seventeen fill slopes in public housing areas are being reconstructed, including eleven which might have affected tenants. Works on twelve of the slopes are already substantially complete, but some filling and finishing work is outstanding on the other five sites. In these five instances, it is possible that in conditions of heavy rainfall there could be some surface erosion and that silt-laden water could collect at the foot of the slopes.

However, I would stress that such a discharge from the slopes would constitute a nuisance, but not a danger. Steps have already been taken to see that this water does not get into buildings and inconvenience tenants.

Pre-school kindergarten, play groups and nursery classes (1)

4. REV JOYCE M. BENNETT asked: —

Sir, will Government give the numbers of children of 4-6 years old attending pre-school kindergarten, play groups and nursery classes in the current academic year?

DIRECTOR OF EDUCATION: —Sir, at the beginning of the current academic year, the kindergarten population stood at 161,000 of which 139,000 were children from 4-6 years old. I understand from the Director of Social Welfare that the number of children from 2-6 attending playgroups and nurseries was 12,000 on 1st June this year.

REV JOYCE M. BENNETT: —Sir, how many children of 4 to 6 then were attending play groups and nurseries?

DIRECTOR OF EDUCATION: —Sir, this figure is not known partly because of the fact that the Child Care Centres Ordinance has only recently been brought into force, but in any case, it may not be possible with institutions of this kind, I understand, to have ages specific in enrolment statistics.

REV JOYCE M. BENNETT: —Sir, am I going to consider that there are about 85 to 90% of the 4 to 6 years age group attending some such kindergartens or play groups?

DIRECTOR OF EDUCATION: —The position, Sir, is this that the vast majority of children to whom Miss BENNETT is referring are in fact in kindergartens and secondly the most popular ages are 4 and 5. In fact, the age specific in enrolment ratios for those two ages are 82%, for those who are 6 and above is only $2\frac{1}{2}$ %.

Pre-school kindergarten, play groups and nursery classes (2)

5. REV JOYCE M. BENNETT: —

Sir, will Government state how many such groups have had to close down in 1975 and 1976, and how many are expected to close down this summer?

DIRECTOR OF EDUCATION: —Sir, as far as kindergartens are concerned, 53 were closed in 1975 and 38 in 1976. During the first quarter of 1977, 13 were closed but I regret that I cannot estimate how many will be closed this summer.

The number of playgroups and nurseries closed in 1975 and 1976 is not known because the Child Care Centres Ordinance was not implemented until 1.6.76 and operators of such groups were given a year to register. No playgroups known to Social Welfare Department are expected to close this summer but 38 nurseries known to Social Welfare Department will require to close.

REV JOYCE M. BENNETT: —Sir, since there are quite a number of these kindergartens and nurseries closing down, is there any encouragement being given to sponsors to open kindergartens?

DIRECTOR OF EDUCATION: —Sir, there is at the present time no Government policy of subsidizing kindergartens, and in fact, the kindergartens population is rising, that is to say, in 1974 there are 137,000 children in kindergartens, and in September 1976 there are 161,000 children in kindergartens. Because there is a large number of kindergartens, in fact about 807, I believe, it is to be expected that some will go out of operation and new ones will come in.

REV JOYCE M. BENNETT: —Sir, is the Government considering improving its control of kindergartens?

DIRECTOR OF EDUCATION: —Sir, in concert with the Secretary for Social Services I am contemplating a review of primary education in all its aspects and this would, of course, include kindergartens.

Oral answers**Pre-school kindergartens**

6. REV JOYCE M. BENNETT asked: —

Sir, how many of these kindergartens, play groups and nursery classes are expected to close down this summer because of rental increases in the public housing estates?

SECRETARY FOR HOUSING: —Sir, the question as given to me before this session referred only to pre-school kindergartens, and so, Sir, I am afraid my reply will not deal with the other two groups mentioned. May I now therefore reply to the question as I received it, with respect to Miss BENNETT.

It is considered that kindergartens in public housing estates which are reasonably well supported are not likely to be affected significantly by the rent increases to be implemented in September this year. The first phase of the rent increase, if entirely passed on to students, would increase fees on average by \$3 per student per month; that is, in kindergartens operating reasonably close to capacity. The impact on parents or school operators is unlikely therefore to be as serious as some commentators have recently said.

REV JOYCE M. BENNETT: —Sir, I am sorry I tried to make it clearer for the general public how many of these groups were in the question and, Sir, that was why I added the names in when I spoke the question in clarification of "these groups", originally the question was intended to include nurseries and play groups. So please can I know what they are as well?

SECRETARY FOR HOUSING: —Sir, may I reply in writing to Miss BENNETT.

(The following written reply was provided subsequently)

Nurseries and playgroups will not be affected by the rent increase to be implemented in September this year. Only schools and kindergartens on certain Group B estates will be affected. The possibility of nurseries and playgroups closing down on account of rent increases in September this year therefore does not arise.

Welfare services in Temporary Housing Areas

7. MR CHEONG-LEEN asked: —

Sir, has Government identified any major deficiencies in the provision of welfare services (such as nurseries) in Temporary

Housing Areas, in particular in the larger and newer ones? If so, what is being done to alleviate such deficiencies, especially through greater encouragement of the community-work approach method?

DIRECTOR OF SOCIAL WELFARE: —Sir, social welfare services are planned for and provided according to population. For example, for a population of 100,000 or more there is to be a community centre and for 20,000, a children and youth centre. However, Government is aware that there may be a special case for Temporary Housing Areas, previously known as Licensed Areas. A Working Party has therefore been set up comprising representatives of the Social Welfare Department and voluntary agencies for the purpose of identifying areas with special need, constantly reviewing the need for services and recommending projects to be introduced in such areas where access to welfare facilities in the nearby communities is difficult. As a result, there are at present 14 community service projects run by six voluntary agencies in 9 Temporary Housing Areas, including Kowloon Bay which is the largest and has a population of about 10,000. With the exception of one voluntary agency, all projects are financed by Government through subvention. The setting up of nurseries is, of course, subject to control under the Child Care Centres Ordinance and the Department is in contact with the Public Works Department and the Fire Services Department to see whether accommodation available in these Temporary Housing Areas will be suitable for the purpose of running nurseries. But, in the meantime, the voluntary agencies involved are encouraging residents in these areas, like other residents, to use, wherever possible, facilities available in the community and are assisting them to set up self-help programmes in which they are able to meet the need for service which they cannot otherwise get in the communities or estates in the vicinity.

One of the larger and newer Temporary Housing Areas which has yet to be provided with community services is Ha Kwai Chung, with a population of about 3,500. The Working Party is in the process of interesting a voluntary agency to establish some welfare service project there which would provide what is most needed by the residents in the area.

Pollution Control

8. MR CHEONG-LEEN asked: —

Sir, has Government any intention of producing a Green Paper on pollution control and environmental improvement?

Oral answers

SECRETARY FOR THE ENVIRONMENT: —Sir, the short answer to the question is "not at present", but the Government has not ruled out the possibility that it may be desirable to do so in the future.

The Advisory Committee on Environmental Protection (EPCOM) has made a number of studies of the need for pollution control and environmental protection in Hong Kong. Also, consultants were engaged in December 1974 to advise on the requirements for environmental controls, including legislation. Their final report is expected next month.

A highly qualified Environmental Protection Adviser will arrive in Hong Kong next month to set up the Environmental Protection Unit which is recommended by the consultants. This Unit will advise me and the Government departments concerned on all aspects of environmental protection.

Although therefore a fair amount of preparatory work has been done, the measures necessary to combat pollution and improve the environment are only in a formative stage. When the consultants' recommendations have been studied and proposals formulated, there will then be extensive consultations with interested parties. Thereafter, the Government will consider whether it would be helpful to issue a Green Paper before detailed legislative proposals are put to this Council.

Home Ownership Scheme—Conditions of sale

9. MISS DUNN asked: —

Sir, when is it expected that applications will be invited for flats for sale under the Home Ownership Scheme?

SECRETARY FOR HOUSING: —Sir, it is expected that applications will be invited in January 1978 for flats built under Phase I of the Home Ownership Scheme, that is about one year before the first flats are expected to be completed by the Housing Authority.

Home Ownership Scheme—Conditions of sale

10. MISS DUNN asked: —

Sir, when will prospective eligible purchasers be advised of the terms and conditions of sale and available mortgage facilities?

SECRETARY FOR HOUSING: —Sir, it is expected that the terms and conditions of sale and available mortgage facilities will be ready for public announcement in October this year.

Private medical laboratories—control

11. MISS KO asked: —

Sir, will Government state what control there is over privately operated medical and clinical laboratories?

DIRECTOR OF MEDICAL AND HEALTH SERVICES: —Sir, there is at present no control over privately operated laboratories as there is no legislation governing their operations.

Private medical laboratories—staff

12. MISS KO asked: —

Sir, what qualifications are required of the staff employed by such laboratories?

DIRECTOR OF MEDICAL AND HEALTH SERVICES: —Sir, as I have just stated there is at present no legislation governing the control of privately operated laboratories; nor is there any legislation laying down the qualifications for staff employed in them. However, legislation providing for appropriate qualifications for staff employed in such laboratories as well as for the control of the laboratories themselves is under active consideration and hopefully should be introduced into this Council by early next year.

Holiday camps, gazetted beaches

13. MR CHEONG-LEEN asked: —

Sir, how many additional holiday camps and gazetted beaches in the New Territories, including the outlying islands, will be available for public use within the next five years?

SECRETARY FOR THE NEW TERRITORIES: —Sir, there are three additional, specific, holiday camps planned, these are at Tso Kung Tam, Tsuen Wan; Pak Tam Chung, Sai Kung; and further development at Tai Mei Tuk, Tai Po. This is not, by any means, enough and the question of providing more—both by private and public effect—is being actively pursued.

[SECRETARY FOR THE NEW TERRITORIES] **Oral answers**

There are 25 gazetted beaches in the New Territories and these will be increased this year to 28. Over the next 3-4 years, a further 9 beaches will be gazetted.

MR CHEONG-LEEN: —Sir, are there any conveniently located islands which can be developed as a holiday camp island either by Government or on lease by private enterprise?

SECRETARY FOR THE NEW TERRITORIES: —Sir, I have got a working group established looking at where holiday camps might be established throughout the New Territories including the islands, and when that group reports, I will know the answer to Mr CHEONG-LEEN's question.

Government quarters

14. MR F. W. LI asked: —

Sir, will Government indicate the approximate area of Government residential accommodation to be provided for civil servants in 1977, 1978 and 1979 —

(a) in leased premises;

(b) in Government owned buildings?

SECRETARY FOR THE CIVIL SERVICE: —Sir, at present Government owns approximately 10.1 million sq. ft. of residential accommodation and leases 1.5 million sq. ft. These figures include residential accommodation for the disciplined services, hospital staff and all others obliged by the nature of their work to occupy Government quarters.

During the next three years the areas of additional leased and owned accommodation to be provided are estimated to be: —

1977-78	Leased	560,000	sq. ft.
	Owned	280,000	sq. ft.
1978-79	Leased	475,000	sq. ft.
	Owned	1,000,000	sq. ft.
1979-80	Leased	300,000	sq. ft.
	Owned	675,000	sq. ft.

MR F. W. LI: —Sir, does Government accept the principle that it is more economical in the long run to own than to lease? Besides the figures given in the reply to my question, has Government in mind in

ultimately build enough living quarters to house all Government servants instead of having to resort to leased accommodations and pay market rentals?

SECRETARY FOR THE CIVIL SERVICE: —It is agreed that in principle building is preferable to leasing but there will always be a short term need to lease to meet urgent requirements particularly when there is a rapid expansion in the Civil Service.

Government office accommodation

15. MR F. W. LI asked: —

Sir, will Government indicate the approximate area of office accommodation to be provided for Government departments in 1977, 1978 and 1979: —

- (a) in leased premises;
- (b) in completed Government owned buildings?

SECRETARY FOR THE CIVIL SERVICE: —Sir, at present Government owns approximately 2.6 million sq. ft. of office accommodation and leases 1.15 million sq. ft.

During the next three years the areas of additional office accommodation to be leased are estimated to be: —

1977-78	—	200,000 sq. ft.
1978-79	—	130,000 sq. ft.
1979-80	—	130,000 sq. ft.

During these years, no new major Government owned office buildings are likely to be completed.

MR F. W. LI: —Sir, may I ask my honourable Friend why there is no new major Government owned buildings for the next three years and secondly, may I ask what is the highest rental per sq. ft. per month payable by Government in any leased office accommodations at present?

SECRETARY FOR THE CIVIL SERVICE: —Sir, although no major Government buildings are likely to be completed during the next three years there are several items in the Public Works Programme and construction on some of these should be started during the next three years. I am afraid I haven't got the information available with me to answer the second part of Mr LI's question but I will find out the answer and inform Mr LI as soon as possible.

Oral answers

MR F. W. LI: —Sir, I would like to ask why is it necessary for Government to lease office spaces in the most expensive building in Hong Kong?

SECRETARY FOR THE CIVIL SERVICE: —Sir, I am not quite sure which is the most expensive building in Hong Kong. Perhaps, Mr LI could tell me.

MR F. W. LI: —One of the most expensive buildings.

SECRETARY FOR THE CIVIL SERVICE: —I don't think I can answer that question without a few more details. If Mr LI will provide them I will certainly let him have the answer. *(laughter)*

MR F. W. LI: —Sir, may I mention names?

HIS EXCELLENCY THE PRESIDENT: —Yes.

MR F. W. LI: —Is Connaught Centre considered one of the most expensive buildings in Hong Kong?

SECRETARY FOR THE CIVIL SERVICE: —I wasn't aware we actually rented accommodation in Connaught Centre, Sir. But I will check on that and let Mr LI have the answer.

(The following reply was provided subsequently)

The highest rental payable by Government for leased office accommodation is for the lease of office space in Hutchison House for the ICAC at a rental, at present, of \$8.36 per square foot. The lease terminates this month and has been renewed at a rental of \$6.46 per square foot.

Government at present leases 5,744 sq. ft. of space in Connaught Centre for the Securities Commission, of which 3,375 sq. ft. were leased in 1973, and this is the only Government organization accommodated there. At the time the lease commenced these were the only suitable premises available for the Securities Commission in Central and it was considered necessary that the Commission should be accommodated in the main business district. The rental is \$7.99 per sq. ft. (including cleaning and air-conditioning costs).

MR ALEX WU: —Sir, is Government prepared to consider a long term policy which might lead to operating totally on Government owned office accommodations?

SECRETARY FOR THE CIVIL SERVICE: —I couldn't quite catch that question?

HIS EXCELLENCY THE PRESIDENT: —Could you repeat your question?

MR ALEX WU: —Will Government be prepared to consider a long term policy which might lead to operating totally on Government owned office accommodations?

SECRETARY FOR THE CIVIL SERVICE: —Although it is preferable for Government to own its office accommodation there are cases in which it is cheaper and more economical to lease. It depends very much on the location of the office building in question. So I think we shall always have to maintain a certain proportion of leased office accommodation.

MR T. S. LO: —Sir, is the Government aware that when this matter was last raised in this Council, the answer was given that in dealing with office accommodation of Government a working party has been formed by the Government and that Members will be told of the results of its deliberations in due course?

SECRETARY FOR THE CIVIL SERVICE: —Yes, Sir. I think Mr LO is referring to a committee called the Property and Organization Management Committee which is a Standing Committee which examines questions of office accommodation on a continuing basis and its recommendations are put to the Finance Committee of the Legislative Council from time to time.

MR T. S. LO: —Sir, I wonder whether Government would be good enough to look back into Hansard and perhaps produce the solutions and conclusions that were promised when we last dealt with this matter.

SECRETARY FOR THE CIVIL SERVICE: —Yes, Sir.

(The following reply was provided subsequently)

I have looked back through Hansard and cannot find any specific promise made by Government to produce the conclusions reached by the inter-departmental committee which was set up to examine questions concerning office accommodation. I did however find one reference which might have led you to expect some sort of report. This was in Hansard for December 1975, concerning questions you asked Government generally about office accommodation (Hansard 1975-76 P. 139-320). At that time, of course, the Secretary for the Civil Service

[SECRETARY FOR THE CIVIL SERVICE] Oral answers

was not a member of the Legislative Council and the answers were given by the Director of Public Works.

You referred to Government's long-term policy regarding the building of its own office accommodation and the Director of Public Works replied that "the Secretary for the Civil Service, advised by an interdepartmental committee, is currently examining the most effective methods of meeting Government's present and long-term office accommodation requirements". The inter-departmental committee mentioned by the Director of Public Works (known as the Property Organization and Management Committee) was not set up to deal with a specific single task and to report on it, but was intended to be a standing committee which would operate on a long-term basis. The Committee has met 8 times since June 1975 and has considered a number of general matters concerning office accommodation and quarters, for example, whether it is more economical to lease accommodation than to build it. The Committee has also considered a number of proposals from the private sector, as well as specific problems facing such departments as the Printing Department, the Commerce and Industry Department and Inland Revenue Department, with regard to their future accommodation. In all these matters the committee acts as an advisory committee to the Secretary for the Civil Service. When its recommendations involve the provision of funds they are, of course, referred to the Finance Committee of the Legislative Council for consideration.

Government business**Motion****BANK NOTES ISSUE ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion: —

That the powers of the note-issuing banks to make, issue or re-issue and circulate notes are extended until and including the 12th day of July 1978.

He said: —Sir, the Bank Notes Issue Ordinance provides that the note-issuing banks powers to make, issue, reissue and circulate bank notes shall lapse automatically unless renewed by resolution of this Council from time to time. The current renewal of these powers expires on 12th July 1977. It is proposed that they should be renewed again for the maximum permissible period of twelve months.

Question put and agreed to.

First reading of bills**IMMIGRATION (AMENDMENT) BILL 1977****SUMMARY OFFENCES (AMENDMENT) (NO 2) BILL 1977****ADOPTION (AMENDMENT) BILL 1977****SUMMARY OFFENCES (AMENDMENT) (NO 3) BILL 1977****DENTISTS REGISTRATION (AMENDMENT) BILL 1977****PHARMACY AND POISONS (AMENDMENT) BILL 1977****STAMP (AMENDMENT) (NO 2) BILL 1977****ASIATIC EMIGRATION (REPEAL) BILL 1977****EMPLOYMENT (AMENDMENT) (NO 4) BILL 1977****TRADE MARKS (AMENDMENT) BILL 1977****Second reading of bills****IMMIGRATION (AMENDMENT) BILL 1977**

THE ATTORNEY GENERAL moved the second reading of: —"A bill to amend the Immigration Ordinance."

He said: —Sir, a person who comes to Hong Kong may not land without the permission of an Immigration Officer unless he is a person who has the right to land by virtue of section 7 of the Immigration Ordinance or is a member of the crew of an aircraft or a serviceman.

In criminal proceedings against an alleged illegal immigrant, the Crown does not have to prove the negative propositions that he does not have the right to land, that he does not have permission and that he is not either a member of the crew of an aircraft or a serviceman. These are matters peculiarly within the knowledge of a defendant and by virtue of section 64 of the Ordinance the burden is on a defendant who claims that he does not need permission to land to prove that that is the case.

That provision, which in its application in the case of an alleged illegal immigrant accords with common law principle, cannot of course apply in proceedings against a person for aiding and abetting the illegal entry to Hong Kong of another or in proceedings for conspiracy to aid and abet illegal entry. Thus, as the law stands, the Crown must prove by evidence in the normal way that the person whose illegal entry was

[THE ATTORNEY GENERAL] **Immigration (Amendment) Bill—second reading**

aided and abetted did not have the right to land and did not have permission to land. It is considered that some change in the law is necessary if it is to be capable of effective enforcement against aiders and abettors.

What the bill proposes is that a certificate of the Director of Immigration or a senior officer of the Immigration Department should be prima facie evidence as to the illegality of the landing in Hong Kong of the person who was helped in landing or in remaining here unlawfully.

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL.

Question put and agreed to.

SUMMARY OFFENCES (AMENDMENT) (No 2) BILL 1977

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of: —"A bill to amend the Summary Offences Ordinance."

He said: —Sir, the purpose of this bill is to amend certain provisions of the principal ordinance which deal with noise.

Clause 2 of the bill is aimed at controlling the noise created by proprietors of record shops and hawkers, who play records and tape cassettes at an unreasonably high volume for the purpose of attracting customers, and thus disturb public tranquility.

Clause 3 deals with construction noise. The existing provisions on limiting this noise only apply to piling work, which is banned between the hours of 8 p.m. and 6 a.m. and on public holidays. The Advisory Committee on Environmental Pollution (EPCOM) considers that this is not sufficient to deal with the problem and it has recommended that the restrictions on piling should be extended to cover the use of all other noisy construction equipment. The present hours during which the restrictions apply are also considered to be insufficient, as most people arrive home well before 8 p.m. and are still asleep at 6 a.m. Clause 3(a) of the bill therefore seeks to extend section 13 of the principal ordinance to place a ban on the use of all powered mechanical equipment for the purposes of carrying out any work between the hours of 7 p.m. and 7 a.m. and on public holidays.

Exceptions to the general ban are provided for in clause 3(b). First, it provides that a single item of powered mechanical equipment can be used in domestic premises provided that the equipment is of a simple handheld type. And, secondly, provision is made for the use of construction equipment in emergencies in order to prevent injuries to persons or damage to property.

Clause 4 of the bill provides for the Governor to give directions of a general or particular nature to the Director of Public Works with regard to the exercise of powers to restrict the use of construction equipment.

The bill also provides that the new controls over the use of powered mechanical equipment should come into operation on 1st July 1979, that is two years after enactment. This delay should allow the construction industry adequate time to complete most existing contracts before the more stringent restrictions are brought into force.

Motion made. That the debate on the second reading of the bill be adjourned—THE SECRETARY FOR THE ENVIRONMENT

Question put and agreed to.

ADOPTION (AMENDMENT) BILL 1977

THE DIRECTOR OF SOCIAL WELFARE moved the second reading of: — "A bill to amend the Adoption Ordinance."

He said: —Sir, in the bill laid before honourable Members, several amendments are proposed: —

- (1) to introduce in clause 2 an additional form of consent whereby consent to an adoption order may be given generally by a natural parent in respect of any adoption proceedings;
- (2) to provide in clause 4 that the Court shall decide in making an adoption order whether the child's true identity should be disclosed to him, having regard to the opinion of the Director of Social Welfare, the age and understanding of the child and the wishes of the adoptive parents;
- (3) in clause 5 to repeal the provision for the recognition of de facto or customary adoption which is no longer of any practical effect; and
- (4) to introduce in clause 7 a provision to allow for an alteration in the adopted child's name and for the change to be registered.

[THE DIRECTOR OF SOCIAL WELFARE] **Adoption (Amendment) Bill—second reading**

While the last two amendments are self-explanatory, I should like to say a few words about the changes which are being proposed in Clauses 2 and 4. At present, a natural parent may place a child in the temporary custody of the Director of Social Welfare by signing a statutory declaration. When a suitable adoptive home is found for the child, the parent is required to give formal and specific consent to the adoption order in Form 4 of the Adoption Rules. The time between placing the child with the Social Welfare Department and the signing of Form 4 ranges from two to eighteen months. During this period, a mother, often unmarried and with emotional problems, may change her mind and refuse to consent to the adoption order; or often enough she claims her child back, but because of difficulties in bringing up the child herself, returns the child to the Department after a short period. Such behaviour not only jeopardizes the welfare of the child but also discourages prospective adoptive parents.

It is therefore proposed to introduce an additional form of consent whereby consent to an adoption order is given generally by a parent in respect of any adoption proceedings and whereby parental rights and obligations in respect of the infant are relinquished. The general form of consent is used instead of Form 4 only in cases where the Department considers it to be more appropriate. Furthermore, this consent can be revoked by the parent within three months after signing it. This is designed to give natural parents sufficient time in case they wish to change their mind. An additional safeguard is found in the provision empowering the court, upon the application of the natural parent, to revoke a consent even after the expiry of the three months' period.

Experience has shown that parents who have taken custody of a child at a very tender age, either by Chinese customary adoption or by a transfer of custody, are often reluctant to proceed with a legal adoption for fear that the true identity of the child may be revealed to him thereby undermining their established relationship with the child. It is therefore considered desirable to make provision that the Court shall in the interest of the child consider the views of the adoptive parents and the Director of Social Welfare, and also the age and understanding of the child when deciding whether the child's real identity should be disclosed to him.

*Motion made. That the debate on the second reading of the bill be adjourned—*THE DIRECTOR OF SOCIAL WELFARE.

Question put and agreed to.

SUMMARY OFFENCES (AMENDMENT) (NO 3) BILL 1977

THE ATTORNEY GENERAL moved the second reading of: —"A bill to amend the Summary Offences Ordinance."

He said: —Sir, honourable Members will recall that in October last year I answered a question in this Council from Mr WONG Lam about the law relating to the throwing or dropping of things from buildings to the danger of the public. In reply, I said that the substantive law must be improved. That is, as I now know, more easily said than done.

It is not surprising that that is so. The problem which we are endeavouring to tackle is often caused by thoughtlessness or indifference rather than by any specific state of mind. This makes it a difficult subject for the application of the criminal law if the danger of injustice from too sweeping a provision is to be avoided.

The bill proposes two main changes affecting liability.

Firstly, the person who drops something, or allows something to fall, from a building will be liable criminally for his action, even though he did not act deliberately or even carelessly, if the result is danger to anyone in a public place. This extension of the existing personal liability reflects the thoughtlessness which is believed to be the commonest situation, and imposes a strict personal responsibility.

However, so often it is impossible to identify the person actually responsible for the dropping or falling of an article. Secondly, therefore, the bill will make the occupier of premises, or the contractor in the case of things dropped or falling from building construction sites or from buildings in the course of repair, will make them jointly liable, even though they did not know of or consent to the act in question. But the occupier or contractor will be able to excuse himself by showing either that he could not reasonably have prevented the thing from dropping or falling to the danger of the public or that he had taken reasonable preventive measures. Those excuses will, I recognize, weaken the effectiveness of this proposal, but it is inconceivable that the law could make occupiers and contractors absolutely liable, which would be the only alternative.

The bill also proposes changes in relation to penalties. In this respect a distinction is drawn between on the one hand those actually responsible and the occupiers of premises from which things are dropped or fall and contractors on the other hand. A much higher maximum penalty is proposed in the latter case.

[THE ATTORNEY GENERAL] **Summary Offences (Amendment) (No 3) Bill—second reading**

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL.

Question put and agreed to.

DENTISTS REGISTRATION (AMENDMENT) BILL 1977

THE DIRECTOR OF MEDICAL AND HEALTH SERVICES moved the second reading of: —"A bill to amend the Dentists Registration Ordinance."

He said: —Sir, the bill seeks to effect three main amendments to the principal ordinance dealing with: —

- (i) membership of the Dental Council of Hong Kong;
- (ii) the issue by the Dental Council of annual practising certificates for registered dentists; and
- (iii) the provision for the Dental Council to make an order for the payment of costs to the Secretary or other person presenting a case at the inquiry.

Clause 3 of the bill seeks to amend section 4 of the principal ordinance, by clarifying the procedure for nomination to the Dental Council by stipulating that four dental surgeons be appointed by the Director from a panel of not less than twelve dental surgeons nominated by the Hong Kong Dental Association.

The second main purpose of the bill is to make provision for the issue of practising certificates to be made in future by the Dental Council. At present registered dentists are required by section 25 of the Stamp Ordinance to obtain these certificates from the Collector of Stamp Revenue.

The object of this change is to enable more accurate statistics to be obtained by the Dental Council on the number of registered dentists actually practising dentistry in Hong Kong. The bill provides that this change should take effect from 1st January 1978.

The bill also contains supporting provisions under which a person who is required to obtain a practising certificate shall not be entitled to recover any professional fees, costs of remuneration on any cause of

action unless he was, at the relevant time, the holder of a valid practising certificate. The relevant fee payable in respect of the issue of a practising certificate may be recovered as a civil debt, with surcharge. Also the power for the Dental Council to order the removal from the register of names of registered dentists is proposed to be broadened to cover the case of a registered dentist who practises dentistry in Hong Kong for a period exceeding six months without having obtained an annual practising certificate.

The third main purpose of the bill is to make provision for the payment of costs to the Secretary on any person presenting a disciplinary case to the Dental Council, in addition to the present provision for costs to the Register and any complainant.

I would like to explain that the main purposes of these amendments are to bring the Dentists Registration Ordinance generally into line with similar provisions in the Medical Registration Ordinance and in this context, apart from amending the principal Ordinance, revised Dentists (Registration and Disciplinary Procedure) (Amendment) Regulations 1977 are being drafted to provide for up-dated variation in fees, various revised forms and the production at disciplinary inquiries of previous Orders of the Council against the defendant.

Motion made. That the debate on the second reading of the bill be adjourned—THE DIRECTOR OF MEDICAL AND HEALTH SERVICES.

Question put and agreed to.

PHARMACY AND POISONS (AMENDMENT) BILL 1977

THE DIRECTOR OF MEDICAL AND HEALTH SERVICES moved the second reading of: —"A bill to amend the Pharmacy and Poisons Ordinance."

He said: —Sir, the present definition of "pharmaceutical products" and "medicine" is out of date and its meaning does not adequately cover many items such as vaccines, diagnostics and hormone preparations. Furthermore, it leaves room for argument as to whether certain substances are subject to registration. The proposed definition which is in accordance with the World Health Organization definition should be more meaningful in the pharmaceutical sense. This will broaden the meaning of "pharmaceutical products" and "medicine" to cover a wider range of substances. By adopting this international definition it would greatly facilitate the control of pharmaceutical products manufactured locally or imported from abroad.

[THE DIRECTOR OF MEDICAL AND HEALTH SERVICES] **Pharmacy and Poisons
(Amendment) Bill—
second reading**

It will bring Hong Kong up to date with the international definition in this field. I should like to take this opportunity to allay doubts from certain quarters that this definition may be misinterpreted to include food stuffs such as rice and coffee and should like to state categorically that it is neither in the spirit nor in the intention of the law that this should happen.

It is proposed to introduce this clause with immediate effect if approved by this Council.

The second main purpose of the bill is to make provision for the issue of practising certificates to registered pharmacists in future by the Pharmacy and Poisons Board. At present registered pharmacists are required by section 25 of the Stamp Ordinance to obtain these certificates from the Collector of Stamp Revenue.

The object of this change is to enable more accurate statistics to be obtained on the number of registered pharmacists actually practising pharmacy in Hong Kong by the Pharmacy and Poisons Board. The bill provides this change to take effect from 1st January 1978.

The bill also contains supporting provisions under which a Pharmacist who is required to obtain a practising certificate shall not be entitled to recover any professional fees, costs of remuneration on any cause of action unless he was, at the relevant time, the holder of a valid practising certificate. The relevant fee payable in respect of the issue of a practising certificate may be recovered as a civil debt, with surcharge. Also the power for the Pharmacy and Poisons Board to order the removal from the register of names of registered pharmacists is broadened to cover the case of a registered pharmacist who practises pharmacy in Hong Kong for a period exceeding six months without having obtained an annual practising certificate or who is no longer practising pharmacy locally.

*Motion made. That the debate on the second reading of the bill be adjourned—*THE DIRECTOR OF MEDICAL AND HEALTH SERVICES.

Question put and agreed to.

STAMP (AMENDMENT) (NO 2) BILL 1977

THE FINANCIAL SECRETARY moved the second reading of: —"A bill to amend the Stamp Ordinance."

He said: —Sir, as the Director of Medical and Health Services has just mentioned, section 25 of the Stamp Ordinance provides for the issue of annual practising certificates to pharmaceutical chemists and registered dentists. While in the bills whose second reading has just been moved there are provisions for practising certificates to be issued by the Secretary to the Pharmacy and Poisons Board and the Secretary to the Dental Council from 1st January 1978.

Accordingly, this bill seeks to repeal section 25 of the principal ordinance and to delete Head 15 which specifies the fee for practising certificates. The bill, if enacted, will come into operation on 1st January 1978.

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

ASIATIC EMIGRATION (REPEAL) BILL 1977

THE SECRETARY FOR SOCIAL SERVICES moved the second reading of: —"A bill to repeal the Asiatic Emigration Ordinance and to make consequential amendments."

He said: —Sir, during the current session Council has considered a number of new items of social legislation, but my task this afternoon is somewhat less onerous in moving the repeal of an old ordinance which is no longer required.

The Asiatic Emigration Ordinance has been in force since 1889 and is based on three Schedules to the Chinese Passengers Act 1855. Its original purpose was to protect emigrant workers who were then leaving China, through Hong Kong, in large numbers. It ensured that the ships in which they sailed were not unseaworthy or overcrowded and that they were not tricked into leaving their homeland for some unknown destination.

Improved employment prospects available because of the rapid development of our economy in recent years, coupled with a worldwide tightening of immigration controls, have resulted in fewer workers leaving Hong Kong for employment overseas. Those who now do so are covered by the Contracts for Overseas Employment Ordinance which affords them much greater protection. They also travel to their destinations by air or in passenger ships which have been built to conform to international standards of safety, and to which the more

[THE SECRETARY FOR SOCIAL SERVICES] **Asiatic Emigration (Repeal) Bill—second reading**

stringent requirements of the Merchant Shipping Ordinance apply. Thus the provisions of the Asiatic Emigration Ordinance have not been used for some years.

The Law Commission in England has recommended the repeal of the Chinese Passenger Act 1855 and steps are being taken to remove it from the Statute Book. The Foreign and Commonwealth Office have also advised that it is unnecessary for us to await the repeal of this Act before repealing the Asiatic Emigration Ordinance.

*Motion made. That the debate on the second reading of the bill be adjourned—*THE SECRETARY FOR SOCIAL SERVICES.

Question put and agreed to.

EMPLOYMENT (AMENDMENT) (NO 4) BILL 1977

THE COMMISSIONER FOR LABOUR moved the second reading of: — "A bill to amend the Employment Ordinance."

He said: —Sir, in his speech in this Council on 10th November 1976, my predecessor said that during this session an amendment to the Employment Ordinance would be introduced to impose a vicarious liability on principal contractors in the building and civil engineering construction industry. This would provide for the protection of wages for workers of sub-contractors. I now present this bill before Council.

The principle of vicarious liability is not new. It has, since 1953, been accepted practice under the Workmen's Compensation Ordinance, which establishes, under section 24, the principal contractor's liability for workmen's compensation claims, as if the injured workman had been immediately employed by him. The purpose of this bill before Council is, in short, to extend this principle from protection of workmen's compensation to protection of wages.

The sub-contracting system is particularly prevalent in the construction industry, and it is considered fair practice that the principal contractor, having delegated some of his work to sub-contractors, should bear responsibility for the consequences of such delegation including the payment of wages.

A study in the Labour Department of wage-dispute cases in the building and construction industry during the period November 1968

to April 1974 shows that, although there was no master/servant relationship between the principal contractor and workers employed by his sub-contractors, in over half the disputes involving sub-contracting during the period, the principal contractors accepted liability for wages owed by their sub-contractors. The bill before this Council will therefore write the existing practice of good contractors into legislation.

During the detailed consultation with the Building Contractors' Association on the measures contained in this bill, a point of considerable concern to the Association was the position of nominated sub-contractors. (Nominated sub-contractors are sub-contractors specializing, for example, in plumbing or electrical installation, specifically nominated by the owner, on the advice of his architect or an authorized person). Although the sub-contract is executed by the principal contractor and payments for work done are also made by the principal contractor to the nominated sub-contractor, the principal contractor has in practice little or no control or direction over the work of such nominated sub-contractors. For this reason the Association was opposed to the principal contractor being made liable for the wages owed by nominated sub-contractors, who were not of their own choosing and who looked directly to the architect or authorized person for instructions.

This bill reflects the results of consultation with the Building Contractors' Association. Briefly, it proposes imposing a vicarious liability, limited to two months' wages, on principal contractors, nominated sub-contractors and superior sub-contractors for wages owed by sub-contractors, and to provide them with a right to recover, from defaulting sub-contractors, any monies paid out in wages to employees, as a civil debt. In addition, the bill introduces an amendment to the Schedule to the Labour Tribunal Ordinance appropriately to extend the jurisdiction of the Labour Tribunals.

This bill, if enacted, will not apply to principal contractors outside the building and civil engineering construction industry.

Motion made. That the debate on the second reading of the bill be adjourned—THE COMMISSIONER FOR LABOUR.

Question put and agreed to.

TRADE MARKS (AMENDMENT) BILL 1977

THE DIRECTOR OF COMMERCE AND INDUSTRY moved the second reading of: —"A bill to amend the Trade Marks Ordinance."

[THE DIRECTOR OF COMMERCE AND INDUSTRY] **Trade Marks (Amendment) Bill—
second reading**

He said: —Sir, this bill amends the Trade Marks Ordinance to bring its provisions into line with the requirements of the International Convention for the Protection of Industrial Property. This will enable the Convention to be extended to Hong Kong.

The Paris Convention, as it is known, provides for international protection of patents, designs and trade marks. It has been ratified by most of Hong Kong's major trading partners but its provisions have not yet been extended to Hong Kong. As a result, local manufacturers have found themselves at a disadvantage in regard to the protection of their trade marks overseas.

The detailed provisions of the bill are fully described in the explanatory memorandum.

Motion made. That the debate on the second reading of the bill be adjourned—THE DIRECTOR OF COMMERCE AND INDUSTRY.

Question put and agreed to.

CONSUMER COUNCIL BILL 1977
Resumption of debate on second reading (1st June 1977)

Question proposed.

DR HU: —Sir, since the Consumer Council was established in April 1974, its work has been most commendable. By disseminating information and giving advice on consumer products it has succeeded in greatly enhancing the consciousness of consumer interests in Hong Kong. Its magazine "Choice" has an increasing readership and not only has it proved to be a useful guide for consumers but it has also enabled some manufacturers to improve on their products. The service the Council provides has gained for itself considerable public respect and confidence in Hong Kong and has established a high international reputation in the consumer protection field. The success is, in itself, no small tribute to the work of the Consumer Council.

The Consumer Council Bill 1977 is therefore a most welcome and necessary move in that it incorporates the Council and gives its members and staff personal immunity in respect of their official actions, for the Council should be given every assistance to continue with its worth-while tasks.

We have been assured by the Secretary for Economic Services in his speech at the moving of the Second Reading of the bill on 1st June 1977, that the bill, with one minor exception relating to the making of an annual report, would make no changes in the manner in which the Council conducts its business. In carrying out its tasks, the Council on the one hand has to strike a sensible balance between consumer protection and encroachment of business interests, and on the other hand, must not be unduly fettered by rigid terms of reference. Therefore, until the functions of the Council have proved to be very much inhibited, there is merit, at the present stage, in continuing with the Council's present manner of conducting business, which has worked, on the whole, quite satisfactorily.

However, it has been suggested that the words "receiving and considering" in clause 4(1)(b) of the bill are passive in meaning and that they appear to take away the Council's right to information. The point has been carefully considered by an adhoc committee of Unofficials of this Council, of which I am the Convener, and we recommend that the work "considering" should be changed to "examining", which would enable the Council to perform its functions as at present. Moreover, "examining" would be a more appropriate word than "investigating", which has emotive connotations, as the Council's function is to examine consumer complaints and not to look into the business of the companies or parties concerned. I understand that Government has agreed to introduce an appropriate amendment at the committee stage later this month.

Sir, with these remarks, I support the motion.

MR CHEONG-LEEN: —Sir, the public will welcome the establishment of the Consumer Council as a statutory body for which this bill provides.

When the Consumer Council first came into being in 1974, its main concern was prices which were rising sharply at a time of high inflation. The work of the Council was useful and effective and found wide support within the community.

Government has now decided to incorporate the Council and to give it a permanent legal status. As such, the Council can be sued as a legal entity, while its members and staff or its committees will be protected from personal liability for all acts legitimately done on behalf of the Council.

It may be argued that the functions of the Council as given in Clause 4 of Part II of the bill are too vague and do not clearly specify

[MR CHEONG-LEEN] **Consumer Council Bill—resumption of debate on second reading (1.6.77)**

the Council's right to act on complaints received from members of the public.

It could also be argued with equal force that to confer on the Council at this stage patently strong powers to investigate and to obtain any information in the course of investigation would be tantamount to damaging or unduly disturbing the spirit of free enterprise in Hong Kong, both in principle and in practice.

On balance, I am prepared to go along with the bill as drafted, subject to the amendment to substitute the word "considering" in Clause 4(1)(b) by the word "examining", as proposed by Dr Henry HU, Convener of the *Ad Hoc* Group of Unofficials of this Council on this bill.

Currently, the Consumer Council is receiving between 160 to 180 complaints a week, which is sufficient attestation to the continued need for the services of the Council. The Council's work is being diversified into education, product testing and supply of information. Its monthly magazine "CHOICE", which is published only in the Chinese language, enjoys a wide and growing circulation. The information it provides seems to be presented in a well-balanced, fair and objective style, which is commendable. This is a sensible approach which should be maintained at all costs, otherwise the Consumer Council's intentions could be misconstrued.

Apart from looking into complaints, and supplying information to and advising consumers, the Consumer Council has the important role of collaborating with Government on the revision of antiquated legislation closely related to consumer protection. A good example is the Weights and Measures Ordinance. Some of the sections in this antique bit of legislation are so creakingly ancient as to defy coherent interpretation in this day and age. For example, section 11 states: —

"Measures of length, if made of wood or bamboo, shall (except yard measures imported from the United Kingdom) be tipped at the ends with metal to the satisfaction of the examiner of weights and measures, or, in case of doubt, of a magistrate, whose decision shall be final"

Again, I cannot, as another example, imagine any retailer who wishes to ensure that his weights are accurate seeking to make the necessary comparison with the copy of the standard weights in the presence of the Commissioner of Police or a Deputy Commissioner, as required

under section 3(2). Could it be, Sir, that Government has whimsically permitted this 92 year old ordinance to survive tottering for no other reason than that it was put on the statute books on All Fools Day 1885! (*laughter*)

Once the legislation is updated the active support and services of the Consumer Council will be indispensable to make it better understood by the public and to make it work for the benefit of consumers.

The Consumer Council receives a discretionary subvention, which amount to \$2.89 million this year. Clause 16 of the bill rightly obliges the Consumer Council to prepare an annual report of accounts and activities to be furnished to Your Excellency for tabling in the Legislative Council.

Sir, I support the motion and look forward to the tabling of the first of such annual reports.

THE FINANCIAL SECRETARY: —Sir, the Government welcomes the support for this bill and for the Consumer Council itself conveyed by Dr HU and Mr CHEONG-LEEN. We must bear in mind—as no doubt will the Consumer Council too—their comments on the limited functions of the Council. I confirm that I will move the amendment to clause 4 of the bill suggested by Dr HU during the Committee Stage on 29th June and I would like to confirm also for the benefit of Mr CHEONG-LEEN that unfortunately we are working on a revision of the Weights and Measures Ordinance and I fear that rather delightfully antiquated piece of legislation will shortly (and I hope no Member will ask me what I mean by shortly) be replaced by a new ordinance.

Question put and agreed to.

Bill read the second time.

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

**MASS TRANSIT RAILWAY CORPORATION (AMENDMENT)
BILL 1977**

Resumption of debate on second reading (1st June 1977)

Question proposed.

Question put and agreed to.

Mass Transit Railway Corporation (Amendment) Bill—resumption of debate on second reading (1.6.77)

Bill read the second time.

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

**DRUG ADDICTION TREATMENT CENTRES (AMENDMENT)
BILL 1977**

Resumption of debate on second reading (1st June 1977)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

**POLICE FORCE (AMENDMENT) BILL 1977
Resumption of debate on second reading (1st June 1977)**

Question proposed.

Question put and agreed to.

Bill read the second time.

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

**PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT)
BILL 1977**

Resumption of debate on second reading (1st June 1977)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

OIL POLLUTION (LAND USE AND REQUISITION) BILL 1977
Resumption of debate on second reading (20th April 1977)

Question proposed.

MR PETER C. WONG: —Sir, there can be no dispute that the rights of an individual should always be jealously guarded. Where any bill seeks to trespass upon such rights, even for legitimate reasons, it is the duty of legislators to study its provisions closely.

The Oil Pollution (Land Use and Requisition) Bill 1977, seeks to provide very extensive powers to requisition of private property, to enter land and to use private land.

A number of proposals made by Mr John BREMRIDGE and myself relating to this bill and endorsed by the Unofficial Members, have been accepted by Government.

Clause 5 of the bill confers power on any public officer directed by a competent authority to—

- (a) enter any land, and pass over any land;
- (b) use any land and conduct therein any operation; and
- (c) remove from any land or prevent from entry to any land any person, including the owner or occupier thereof.

As land contemplated by this bill includes any building or part of any building, it is felt that a public officer should produce written authority when exercising power under this section relating to any building or any part thereof. At the Committee Stage, Government will introduce amendments to this Clause so that the power conferred by this section should not be exercised in relation to any part of a building used for residential purposes unless directions are given in writing. This proposed amendment is important because it is reasonable to expect that written authority should be produced to a resident whose premises are affected before that resident is required either to vacate his residence or be prevented from entering it or to allow his residence to be used by the authority.

A further amendment to clause 7(3) will also be introduced. This is merely to obviate any ambiguity that may arise.

To ensure that these extensive powers are exercised sensibly and cautiously and that the rights and interests of any person affected by such exercise of power are carefully guarded, Government has agreed

[MR PETER C. WONG] **Oil Pollution (Land use and Requisition) Bill—resumption of debate on second reading (20.4.77)**

to issue appropriate administrative instructions relating to the exercise of such powers. I would briefly amplify on this. Clause 7(1) of this bill provides for payment of compensation, while 7(2) requires that any claim should be made within 3 months. As the ordinary citizen may not be aware of these provisions, the right to compensation and the time within which to apply for it might be overlooked. Government has therefore agreed that any person who might be entitled to compensation should be informed in writing of his rights. This would be covered by administrative instructions.

Finally, Government has agreed that a public officer appointed by the Governor to be a competent authority under clause 3 of the bill will be at least of Deputy Director rank. The Director of Public Works and the Director of Marine are competent authorities under this bill, and it is thought that any additional competent authority should be of similar high calibre. In an emergency, as envisaged by this bill, the ability to make quick and sensible decisions is essential.

It is a matter for regret that Government has been unable to agree to our proposal that, in default of agreement, compensation should be determined by a Board or Tribunal. Under clause 8 of this bill in default of agreement compensation is to be determined by civil proceedings initiated by the claimant. As civil proceedings are usually expensive and time-consuming, a claimant might be forced to accept a less favourable settlement. The rules and procedure of a Board or Tribunal are less formal and the claimant may not have to engage legal representation. It is true that we have now a Small Claims Tribunal but the jurisdiction of this Tribunal to hear and determine claims is limited to an amount of not more than \$3,000.00. I feel that in requiring compensation in default of agreement to be determined by civil proceedings, Government is imposing an unnecessary burden on claimants. To support my argument, I would mention that under the Compensation (Defence) Regulations (Chapter 251), provisions are made for disputes to be determined by a Tribunal to be appointed by the Governor. I fail to see why this sensible arrangement should not be incorporated in the present bill.

Subject to the above remarks, I am satisfied that the powers sought are necessary for the authorities to cope with a major oil spillage in Hong Kong waters and that the provisions to safeguard the rights of persons who might be affected by this bill are adequate.

Sir, I support the motion.

SECRETARY FOR THE ENVIRONMENT: —Sir, I am grateful to Mr Peter WONG for his support for this bill and I would also like to thank him and his other Unofficial Colleagues for the careful consideration they have given to its provisions. I confirm that I will be moving amendments in the committee stage later this afternoon to give effect to the changes Mr WONG has explained.

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).

ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1977
Resumption of debate on second reading (1st June 1977)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

EMPLOYMENT (AMENDMENT) (NO 3) BILL 1977
Resumption of debate on second reading (1st June 1977)

Question proposed.

MR PETER C. WONG: —"What is this life, if full of care, we have no time to stand and stare." This poignant statement by an eminent writer sums up in a nutshell the justification to provide our work force with a period of paid annual leave.

The concept of individual holidays is not new to Hong Kong. In 1912 Government introduced the Holidays Ordinance (Chapter 149) providing for general holidays which banks, educational establishments, public offices and Government departments are obliged to observe. That was an enlightened step in those days, but it was not until 1953 that legal entitlement to holidays was given to workers in the industrial sector.

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In that year, the Industrial Employment (Holidays with Pay and Sickness Allowance) Ordinance was passed by this Council and for the first time the notion of obligatory paid holidays was introduced. The Employment Ordinance (Chapter 57) makes further provisions for holidays, details of which are contained in Part VIII of this ordinance.

The bill now before this Council—the Employment (Amendment) (No 3) Bill 1977—introduces a new concept of consecutivity and seeks to provide for all employees within the ambit of the Employment Ordinance to be eligible for seven days annual leave with pay after a qualifying period of twelve months' service.

In moving the second reading of this bill, the Commissioner for Labour lucidly explained the provisions of the bill and eloquently stated the views for and against this proposed legislation. I shall therefore not attempt to cover the same ground again.

The Unofficial Members of this Council and the adhoc group appointed by them to study this bill have carefully considered the pros and cons of the proposed legislation. The adhoc group feel that certain changes to the bill appear desirable, including an interim provision to allow workers the option to take their leave by instalments.

All my Unofficial Colleagues fully support the principle of this bill. A few would like to see the proposed legislation pass into law without delay. The majority, however, favour, as an interim measure, a compromise solution allowing more flexibility regarding the manner by which the annual leave may be taken.

The Unofficial Members would therefore advocate that Government gives serious consideration to the following proposals supported by the majority of my Unofficial Colleagues: —

- (a) that employees eligible for annual leave should have the right to decide for themselves, whether they will take their one week's leave in one unbroken period or by instalments, provided that, of this 7 days annual leave, a minimum of 4 days, exclusive of statutory holidays and rest days, must be taken consecutively. Employees should be permitted to link the full period of one week or the various portions of their annual leave with statutory holidays or rest days to have a longer break from work. This would, of course, be subject to the provisions of section 41A (1);

- (b) that under the proposed section 41A (2) employers should be required to give a minimum of only two weeks' written notice instead of one month to employees of the time appointed for their leave. A shorter period may, of course, be mutually agreed.

The second proposal is considered necessary to allow flexibility, particularly where an employer receives at short notice orders from overseas.

I must emphasize that my Unofficial Colleagues fully subscribe to the view that eventually the full objectives of the bill will have to be achieved.

Sir, subject to the above remarks, I support the motion.

MR JAMES WU: —Sir, when it was made known that it was Government's intention to introduce legislation for 7 days' paid annual leave, consultations began among industrial associations, and between management and workers. There were also surveys made of workers' opinion by two statutory bodies. The results of these consultations and surveys were that the principle of 7 days' paid leave was unanimously accepted and that both employers and workers would like to see that the leave arrangement should be flexible.

Thus the 4 Joint Associations representing industry, trade, and employers addressed the Government, commenting on the original draft proposal as follows: —

- (1) They completely agreed with the introduction of seven days' annual paid leave.
- (2) They did not agree that there should be any degree of compulsion upon the employee as to how he utilized this privilege.
- (3) They suggested that the legislation be simple, affording the entitlement of seven days' annual paid leave. The employee would have the option of: —
 - (i) taking the leave consecutively, or
 - (ii) if he so wished, to negotiate with his employer to be permitted to take the leave non-consecutively at agreed times, or
 - (iii) to work for additional pay.

From industry's point of view, it is generally felt that the extra cost of 2.3% in wages can be tolerated. However with continued

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labour shortage the difficulty in arranging for 7 consecutive days' paid leave for workers cannot be overcome without in most cases having to cause causing stoppage of production and loss of orders to the extent of hundreds of millions of dollars per year. Industrialists drew attention to the fact that without a substantial home market, Hong Kong factories usually cannot make standard brand goods or models for stock during slack periods to meet busy seasonal demand, but must cater at all times to orders for special designs and patterns of their export-customers as and when such order are received. It is vital that there be versatility and flexibility to cope with such requirements, and to meet tight delivery schedules. This tendency is increasing, and it is our ability to do so which was mainly responsible for bringing us out of the last recession, arising out of our ability to deliver the goods at the shortest possible time.

To have assigned your work-force for a 7-day paid leave one month ahead and then finding shortly after that a sizeable order has arrived calling for 30 days delivery or so would certainly not be an unusual occurrence, if past experience in industry is any guide.

There is also the fear of some industries that, with the tight labour situation today and the industrious nature of our workers, those on leave but not by his own choice might find holidays boring and expensive and might prefer to work in another factory, possibly nextdoor or even downstairs during his vacation, thus defeating the whole purpose, and increasing the risk of rapid turn-over.

I am therefore glad to know that Government is now aware of the practical difficulties and is now prepared to consider the following amendments: —

- (a) Workers eligible for annual leave should be left to decide for themselves whether they should take their leave either at one go or by instalments, provided that of the 7 days in question at least four days exclusive of statutory holidays and rest days would be taken at any one time. The workers could, of course, still link the various portions of their leave with statutory holidays or rest days to form longer periods of leave.
- (b) The employer should only be required to give at least 2 weeks' notice, instead of 1 month's notice, to his employee about the time appointed for the latter's leave. As this is very much needed to allow for flexibility as, for example, an industrial

employer might receive at short notice orders for early delivery.

With these amendments, I can see one arrangement whereby the disruptive effect could be minimized. That is, two each of the 4 days' leave can be attached to the beginning and end of the statutory 3-days Lunar New Year Holidays. The remaining 3 days may then be taken at the worker's choice, and the time to be taken would be determined by the employer after consultation. In the case of white-collar workers in the commercial or import-export firms, there may be a case for leaving the Lunar New Year Holidays to 3 or 4 days because of activities involving overseas communications customs and shipping. Likewise utility workers, in particular employees in the field of public transport, will need special arrangements.

There is another point, Sir: that, true to the spirit of this bill, I believe workers who abuse the paid leave granted them by taking up gainful work in another factory should be liable for disciplinary action when so found to discourage the practice.

Sir, by the entrepreneurship and industry of its people, Hong Kong has achieved a per-capita income second only to Japan in the area. The big raise in the general standard of living is another sign that all sectors are benefiting from our newgained affluence. Under such circumstances, an aspiration to more leisure is a natural force which would be difficult to resist. Nor is this resistance necessary or desirable, for after-all, the purpose of industrial development is to provide for all a better quality of life through increased production.

The present situation is that with chronic labour shortage, employers have to woo workers by providing good wages and better working conditions, a process thru which prosperity and benefits percolate to the working class, and will continue as long as our products can be sold in the competitive world markets and not be priced out of them because of increased cost of production and overheads, or through inefficient or obsolete methods and technology, the last situation being normally due to lack of new investment or re-investment through lack of incentive. Thus the whole system has its own checks and balances to ensure healthy development, and undue tampering of its sensitive mechanism will only lead to malfunction.

To day, when a worker desires to have a day off or several weeks' leave, he will get it if he has been any good, as employers would be reluctant to lose him otherwise. This situation is true particularly in small to medium size firms where personnel management is generally

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more flexible and not bound by hard and fast rules. Indeed it is for this reason that far less labour disputes occur in such factories, as, true to the Chinese tradition, nothing could not be settled over a cup of tea when the line of communication is not so protracted.

I believe therefore that it is of even greater importance and priority to cater for what workers can do during vacation for the good of their body and soul. Healthy recreational facilities must be developed extensively if vacationing workers are not to be lured to gambling (fast-developing if not already a national past-time in Hong Kong), drugs or sex, where their hard-earned wage and vacation will do irreparable harm not only to themselves but to the community, and make well-meaning legislations a mockery. It is not difficult to understand why such a large proportion of workers, for lack of sensible places to go for vacation of their own choice, elect to work for additional pay, probably in air-conditioned comfort in so many of our factories, rather than stay in the usually crowded homes on leave.

With these remarks, Sir, I will support the bill with the proposed amendments.

MR ALEX WU: —Sir, while supporting the bill in principle, I must question the realism of some of the arguments the Government has put forward.

In moving the Second Reading of the bill, the Commissioner for Labour said that a period of consecutive leave is desirable because it contributes to better health and better morale by giving the worker a holiday rather than just a day off. No one would dispute that statement.

The bill has special provisions to ensure that the worker really does enjoy his holiday by prohibiting payment of wages in lieu of holiday.

To that extent, the bill is realistic. It is no use recognizing the need for proper holidays and then allowing either the employer or the employee to buy themselves out of the commitment. As the Commissioner said, that would defeat the object of the legislation.

Unfortunately the object of the legislation will be just as easily defeated if the employee can go and work for another employer in another factory during his holiday.

It seems to me that if we are determined to ensure that workers benefit from a holiday we must go the whole distance.

The bill contains provisions for record keeping designed to ensure that an employer gives his employee all the leave to which he is entitled. I suggest that these provisions could be extended to enable the Commissioner's inspectors to check whether another employer is defeating the object of the legislation by employing workers during their holiday periods.

This could be done by adding an additional sub-clause in 41G(a) to record the name of the last previous employer and a new provision to make it an offence for the new employer to take on an employee during the period of paid leave granted under the bill by the previous employer. We should not allow any employer to take an unfair advantage of both the worker and of his competitors in business and industry.

If the provisions for ensuring that an employer gives his employees the leave to which they are entitled are enforceable then the provisions which I now propose would also be enforceable.

I believe that a legal provision which penalizes any employer who attempts to defeat the object of this legislation is necessary at this time.

We have to recognize that we are introducing a concept which is entirely new for a very large number of Hong Kong workers. Some people may be surprised by our anxiety that people who are entitled to a holiday should in fact take it. We must recognize that the enjoyment of a holiday involves something more than not having to go to work while still drawing pay.

I would like to repeat the point I made last year when we debated the previous amendment to the Employment Ordinance. I pointed out then that if people were to make the maximum use of their increased leisure hours, then recreational programmes would have to be carefully planned, prepared and executed.

I was not suggesting then, and I do not suggest now, that people should be herded into leisure activities. But the Commissioner's picture of workers "making good the loss of physical and mental forces" will not be realized if the worker uses his paid holiday to go and work somewhere else or sits at home with nothing to do.

I said last year that we only had to look at our crowded beaches and other over-used facilities to realize that our present recreational

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programme was not yet geared to the pace of social advance we desired. Now we are taking yet another necessary but relatively large step forward in terms of increased pressure on those recreational facilities. I must once again urge Government to recognize that recreational facilities must be expanded to keep pace with this trend.

If adequate recreational facilities, in the widest sense of the term existed, then the problem of enforcement would not arise. Workers would welcome an opportunity to rest from work because there would be many and varied outlets available to them. I hope we shall press forward towards that situation.

Meanwhile we have an obligation to ensure that our good intentions are realized and that this legislation is a determined step towards a happier and healthier society.

MR CHEN: —Sir, when I spoke in October last in response to your policy speech to this Council I said: "If we genuinely believe that paid holidays should take preference over other more urgent needs ... the legislation must ensure that employers and employees are statutorily obliged to give and to take the holidays so provided ..." I am therefore pleased to see that the proposed legislation does endeavour to bring this point about. But, having said that I must voice my concern over two points.

First, the impracticability of the implementation of the provision of 7 days' consecutive annual leave as proposed, bearing in mind Hong Kong's special circumstances. Unlike most other countries, the facilities for rest and recreation in Hong Kong for a larger number of people at any one time are far from adequate and are not conducive to affording a good vacation for either individuals or families. The same may be said of the living environment of an average worker. In these circumstances the proposed 7 days' consecutive leave, though with pay, could well become a burden rather than a privilege if implemented without some degree of flexibility.

I am opposed to the suggestion advocated by some that workers could be paid wages in lieu of holidays, on the ground that such a suggestion contradicts the basic concept of the proposed legislation which is to ensure that workers should have a period of rest each year. By allowing wages in lieu of holidays, or for reasons such as those mentioned earlier, many workers would choose to work during the 7

days' holiday granted by their employers thereby defeating the very spirit of the ordinance. The end result would be that employees would not get the benefit of a good rest which is the intention of the proposed legislation and employers, having carried the additional financial burden, would not get the benefit of a truly recuperated work force to maintain or improve productivity.

My second point concerns the absence of a provision in the bill which would prohibit workers to take up gainful employment on the 7 consecutive days' holiday granted to them by their employers. Whereas the law requires the employers to provide paid holidays, it would be reasonable to expect the law to ensure that the holidays so provided must be utilized to the true meaning of the word "holiday". Otherwise the workers may just take the holiday pay and seek temporary employment elsewhere. In this case, the end result would be even worse than that created by allowing payment of wages in lieu of holidays because the employers would have the additional headache in finding suitable replacements. I fully appreciate that such a provision might be difficult to enforce, but this should not be a reason for not having the provision. In any event, such a provision in the bill would deter those who may wilfully abuse the privilege provided by the law. There may be some who disagree with me on this point and argue that people must have the right to decide and choose between work and leisure. This, indeed, was the very point which I stressed most strongly in my speech in the debate last December on overtime for young persons. Surely if it was felt that there is a need to protect people by law from being overworked, equally there should be legislation which would ensure that people should take a rest from work during their holiday period, which after all is the entire purpose of the proposed legislation.

While I would give my full support to the concept of paid holidays, I would like to propose that there should be an initial period of, say, 5 years during which the proposed legislation, if it becomes law, would be implemented with flexibility. In particular, I would like to propose that during this initial period employees should be given the freedom to take their leave either consecutively or in any other manner best suited to their needs. During this period, Government must take steps to develop, with participation of private business sectors if necessary, adequate recreational and rest facilities which would be necessary to support the full and meaningful implementation of the proposed legislation, when eventually all employers will, with no exception, be statutorily required to give and employees to take and truly enjoy the 7 days' consecutive paid holidays so provided.

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Finally, I have noted from section 48 of the Apprenticeship Ordinance that certain parts of the Employment Ordinance applied to employers, registered apprentices and registered contracts of apprenticeship under the Apprenticeship Ordinance. It appears therefore that there is a need for the Apprenticeship Ordinance to be consequentially amended to reflect the effect of the proposed amendment before Council.

With these remarks, I support the motion.

MR LEUNG: —Sir, the bill before this Council has been long awaited by all those who are sympathetic with the blue-collar workers who make up the majority of our working population and have contributed so much to the prosperity of Hong Kong. It is only in recognition of our indebtedness to them that Government has decided to introduce labour welfare legislation to allow them to share the rewards of our prosperity.

Seven consecutive days of annual leave with pay is a new concept to our workers but, undoubtedly, they will soon find purpose and value in leisure. It is designed to allow them the opportunity of spending some uninterrupted days with their families. They will also be able to recuperate mentally and physically from the strains of labour in the previous twelve months, returning to their places of work with renewed vigour and energy, and thereby contributing to maximum efficiency and productivity in their jobs. This is a fact verified by experienced personnel managers and psychologists alike. Pay-in-lieu may seem more attractive to many employers and a few employees, but the physical, psychological and social advantages of 7 consecutive days' leave will far outweigh any monetary gain.

Such benefits will raise working morale, resulting in greater job satisfaction, a sense of security, and identification with fellow workers. All this is so important in helping to avert possible industrial unrest. The principles of the bill will also remove one of the unfortunate distinctions which now exist between blue-collar and white-collar employees. As such more young people will be encouraged to join industry. It is a measure of social justice that economic progress should lead to a better and healthier distribution of time between employment and leisure.

To allow the employers a total and final say over any option, as some have suggested, will result in a great number of employees, who

are traditionally passive in the face of authority, being taken advantage of. Other employees might be reluctant to make a stand for fear of reprisals, while still others would suffer loss of dignity and price at the hands of unscrupulous employers in order to gain what is rightfully theirs. A number could be easily lured into monetary settlements, totally defeating the aims of our social objectives. There must, therefore, be rigidity in this particular legislation as a safeguard for the workers against exploitation. As any enlightened person will appreciate, democracy is really a synthesis of individual freedom and social compulsion, for the good of the majority and the helpless few.

While we are all concerned about the economic future of Hong Kong we cannot accept the outcry from some quarters that such an amendment to the Employment Ordinance will adversely affect industry and the economy (as if we are on the brink of financial disaster!) The economic effect of this bill entails no substantial increase in the size of the wage bill paid by employers except where replacement workers are engaged. Even if this is so, the addition to the wage bill will be no more than 2.3%. Let it not be denied that many established companies are already providing paid annual leave to their employees in terms more generous than is now proposed, therefore no additional costs to wage bills will be experienced by those companies. Let us pray that all our other employers in Hong Kong become equally worthy of a good name, and can say with pride they are well regarded in the Hong Kong industrial scene.

Sir, with these remarks, I strongly support the amendment bill as it stands. Thank you.

REV MCGOVERN: —As most of the relevant suggestions for changing this bill have already been mentioned I will confine my remarks to highlighting a few points. I agree with the concept that for practical reasons there must be some degree of flexibility in the law, at least initially. But I would like to stress the fact that the efforts to introduce flexibility should not be allowed to confuse the main issue. The main issue is that when this bill becomes law, however modified, all qualified workers will have an absolute right to ask for and get at least seven consecutive days paid annual leave. The various options should not obscure that main fact.

Another point to be noted is that some of the measures in the bill are to a degree experimental. As has often been stated, labour law is aimed primarily at bad employers who do not observe minimum standards. That being so, this experimental period should be used to watch very carefully and guard against any attempt on the part of bad

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employers to abuse the flexibility of this law to force or persuade or deceive workers so that in fact they do not get their full rights.

In order to prevent flexibility being stretched into a loophole there was one request from a group which sent representatives to the UMELCo Office the day before yesterday. They urged that if the annual leave is broken up into say four days added to the Chinese New Year Holidays, the remaining three days must be given consecutively. This, they claim, and I agree with them, would make administration and supervision easier and would lessen the danger of confusion or error, or worse.

I add a further thought on the subject of flexibility. It will be of particular interest to watch how the process of consultation works out in practice. To many employers and employees consultation is a new concept which will take some time to get used to. If a side effect of this law is more consultation between employers and employees, then a very desirable social change will have come about. But I must admit that my chief fear is that there is a weakness in this bill on that one point. Meaningful consultation giving full weight to workers' wishes will be difficult to achieve. It depends on good will rather than the letter of the law. No one will be happier than I if the events of the next couple of years prove that my fears are groundless and that even bad employers, if not exactly angelic, are at least more humane than I now think them to be.

I would like to mention one other point which indirectly arises out of this bill but which looks to the future. In my efforts during the past few months to find out what workers really wanted in the line of paid leave, one desire emerged very clearly. It is not a new phenomenon elsewhere, but I now see it surfacing in Hong Kong. Blue collar workers want equality with white collar workers. They want all public holidays to be industrial or statutory holidays also. This is not just a matter of counting days. It is a matter of social status and their dignity as persons. I would add to their thought by saying that this is also very important for the future of industry. More and more money is being spent on pre-vocational, vocational and technical education. This is an excellent trend, but a lot of that money will be wasted unless working conditions in industry and the social status of industrial workers are raised to a level at least as high as that of the best of white collar workers. There is a lot of talk at times about a shortage of labour. In my humble opinion there is no real shortage

of labour in Hong Kong. There is a shortage in some industries of conditions which are sufficiently human to attract people to work in them. I mention this desire of workers now for the benefit of those who feel that labour legislation is coming too quickly and without sufficient advance warning. An obvious next step, or second next step, to foresee, is that public holidays should be really public, that is holidays for all members of the public. I can, as has been mentioned, see practical difficulties in the provision of transport and recreational facilities. These difficulties should not be used as an excuse to halt progress, but should rather act as a spur to get on with overcoming these difficulties as soon as possible.

A final remark. This has been a difficult bill to draft. From today's speeches I can see that there will be an even more difficult week ahead for those who have to redraft it. They have my sympathy. But most difficult of all will be the problem of implementation. While most employers may implement it in the letter and the spirit, there will always be some who will not. A hundred Labour Department inspectors cannot watch them all. Only workers themselves, whether organized or not, can see to it that they are not deprived of the long overdue benefit provided in this bill. Government, however belatedly, has overcome its outmoded laissez-faire attitude and made in this bill a positive step forward to help workers. I would exhort workers on their part to take a parallel step forward and overcome their fears and outmoded attitudes by determining to help themselves by making sure that this new law is fully implemented.

With these observations, I support the motion.

MR WONG LAM (Spoke in the Cantonese dialect. The following is the interpretation of what Mr WONG said.): —I am in full support of the main proposal of the Employment (Amendment) (No 3) Bill 1977 which will allow all manual workers, and non-manual workers receiving monthly wages not exceeding \$2,000, a total of 7 days paid annual leave. Since the prosperity of Hong Kong does not depend solely on the efforts of employers, but also on the hard work of their employees, it is only right and proper to do everything possible to improve workers' benefits.

There are two aspects of the Bill that are controversial: —

(1) CONSECUTIVE PERIOD OF 7 DAYS' PAID LEAVE—I am convinced that most employers, especially the larger companies, can afford to give their workers 7 consecutive days' paid annual leave. However, as far as our smaller manufacturers are concerned, this additional commitment will not simply be a 2% increase in the annual

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wage bill. These small manufacturers have limited manpower and seldom have a large number of skilled workers in their various departments. If any of these workers takes long leave, the whole production line may be affected by his absence. On the other hand, whether taking 7 consecutive days' leave each year is more conducive to restoring the physical energy of workers than breaking up annual leave into 2 or 3 periods is really a matter of opinion, and varies with different individuals. However, in view of Hong Kong's geographical limitations, taking 7 consecutive days' leave may place a worker in the position of not knowing where he should go. Hong Kong is quite different from Europe, the USA or even other Southeast Asian territories, where workers may spend their long leave in getting to know a little more of their home state, or in seeing what is going on in a neighbouring province. There are not many places in Hong Kong for camping or other types of leisure activities. Nor can every worker afford to travel abroad. Frankly speaking, if the 7 consecutive days' leave were made mandatory, many workers may use this opportunity to earn more money as casual workers in other factories, or while away part of their free time at mahjong tables. This would be greatly at variance with the purpose of the bill, which is to provide workers with an opportunity to restore their good spirits and physical energy.

I therefore do not support the proposal that the 7 consecutive days' paid annual leave be made mandatory. The most suitable way in my opinion, is to permit employers and employees to discuss such leave arrangements. The 7 days' leave can be split up into two parts; one part must be taken consecutively, but the other part need not be consecutive. The first part would take up 4 days but the latter part could be taken in separate periods. The employee, however, must have the right to ask for and receive 7 consecutive days' leave from his employer if he wants to, without having to give reasons. This would be a flexible measure, giving employees the right to choose between taking 7 consecutive days' leave and taking it in separate periods. It should be pointed out here that if employees choose to take a mandatory leave of 4 days directly before or after public holidays, in fact they would get 5 or 6 consecutive days' leave. This would lessen the adverse effect this type of long leave would have on small manufacturers, and would also help to ease traffic congestion and the problem of choosing a place to spend one's leave. Many employers prefer to grant their employees periods of long leave before or after the Lunar New Year or Christmas season, etc. If most of the workers take long leave during these

periods, it would create traffic jams and over-crowd recreational areas. On the other hand, if workers take shorter leave periods before or after such important holidays, it would help to ease congestion.

(2) PAY IN LIEU OF LEAVE—I do not agree at all with the suggestion for pay in lieu of leave. The underlying principle of this bill is that workers should be given adequate periods of leave for the restoration of their physical energy. Its purpose is not to compel employers to increase their annual wage bill by 2%. Pay in lieu of leave, apart from being at variance with the spirit of this legislation, could easily lead to various types of malpractices. Some employers, when they hire their employees, may in future even reduce slightly the wages the employees should first receive; the employees could then be given a 2% increase subsequently as the so-called pay in lieu of leave. Thus pay in lieu of leave would become "leave" in name only, or "no leave" in disguise. Whichever way we look at it, this could hardly be regarded as a suitable compromise.

Lastly, I believe that this legislation would have a most significant effect on both employers and employees. To ensure that things do not go wrong, we should review this legislation two years after its implementation, and then we can decide whether it is necessary to make 7 consecutive days' paid annual leave mandatory.

Sir, except for the proposal that 7 consecutive days' leave be made mandatory, I support this motion.

COMMISSIONER FOR LABOUR: —Sir, the speeches made here today, and the views expressed in the press, in correspondence, and in many discussions over the past weeks show clearly that all persons concerned with this question—and there are few in Hong Kong who are not in some way affected by it—are in favour of an annual holiday.

For reasons which I gave two weeks ago when moving the second reading, the Government considers that this holiday—if it is to be a proper holiday rather than a day or two off work—should be a minimum of seven consecutive days away from work.

As the bill stands at present, this period of seven consecutive days leave may be made up partly of days of annual leave and partly of statutory holidays or rest days—an arrangement which is intended to give a degree of flexibility to both employee and employer when deciding on when to take and grant the leave.

But in the past weeks the view has been strongly canvassed that this arrangement is too authoritarian. The argument is that it restricts

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too much the employee's choice of how he should take his leave—this is after all an important personal matter for the individual worker and his family—Is it proper, it is asked, that Government should tell him how he should take his seven days holiday? I hasten to say that Government, in this, is not motivated by a wish to impose a holiday, but by a concern to see that employees get a proper rest from work each year with consequential benefit to themselves, their families and the community.

However, since there has been significant and informed objection to the arrangements at present proposed in the bill, I confirm, Sir, that I shall be moving an amendment in Committee to provide for further flexibility: where an employee wishes to have seven consecutive days holiday, legislation will clearly provide for this right. But if he wishes to split the seven days, the amendment will enable him to take a minimum of four consecutive days off during the year. These four days must exclude statutory holidays and rest days. The balance of three days can be taken consecutively or separately at another time during the year.

This arrangement, while retaining the employee's entitlement to seven days consecutive leave a year, allows, by the alternative option of four days consecutive leave with the balance being taken separately, for that greater flexibility which many employees appear to value at the present time. All will of course be able, in consultation with their employers, to link the various portions of their annual leave with statutory holidays or rest days so that they can have a longer break from work. And I hope this will be the rule rather than the exception.

I must emphasize that in allowing for this option of four consecutive days, it remains the Government's firm aim to legislate for seven consecutive days paid holiday for those eligible for annual leave—it is most gratifying that this has the full support of the Unofficial Members.

I said just now that these new holidays affect a very large number of people in Hong Kong—and we are breaking new ground. So this process of gradually providing for seven days leave will require the close co-operation of employers and employees and the careful maintenance of the records to be kept by the employers under this new legislation. Within two years we shall be able to decide whether the alternative option of four consecutive days should be extended to five or six days.

Another reason for making this amendment to provide an option of four consecutive days holiday is related to a comment made by Mr S. L. CHEN. There is good reason to believe that, generally, our recreational facilities will be able to cope with the consequences of this increased annual leave—and indeed will encourage a wider spread of usage which is currently tending to be confined to Sundays and public holidays. However a number of informed persons have responded to the publication of the bill by warning that significant strains will be imposed on recreational and associated services. We will also be watching this carefully during 1978.

Mr Alex WU and other Unofficial Members have also referred to a matter raised by a number of people concerned with these new leave arrangements—that measures should be included in the legislation to ensure that workers granted their annual leave are not taken on by another factory. I think this potential abuse of the new arrangements must be left out of the legislation. Section 41G of the bill describes the new records to be kept by employers. I would not wish to add to these unless the benefits to be gained are manifest.

Another amendment I shall be moving in Committee will affect the proposed section 41A(2) of the bill. Under this, employers must give a minimum of one month's notice in writing to employees of the time appointed for their leave except where a shorter period of notice is mutually agreed. It has been persuasively argued that a month's written notice could result in great difficulty when a factory receives overseas orders at short notice. The amendment will reduce this period to two weeks thus providing greater flexibility. I would like to review this after a period of time to ensure that it is working satisfactorily. I have also noted Mr S. L. CHEN's remarks about possible consequential changes in the Apprenticeship Ordinance.

I am glad to say that those who earlier pressed for an amendment to the legislation to allow for pay-in-lieu appear now to have abandoned their position. Such an option would, of course, defeat the main object of the bill.

With these new holiday arrangements coming into effect next year we are set on an important course of social progress, the benefits of which should not just be measured by the opportunity being granted to a man to take a week's holiday. It goes much further than this and I hope that the spirit in which this legislation has been prepared will continue when it is brought into effect next year.

With these new holidays starting next year, the Labour Department will be issuing a simple pamphlet giving details of all the holidays that

[MR ALEX WU] **Employment (Amendment) (No 3) Bill—resumption of debate on second reading (1.6.77)**

are now provided by legislation. I feel sure this will be helpful to employers and employees alike. Appropriate publicity will be given when the pamphlets are ready.

Finally, Sir, I would like to express my appreciation of all the careful advice and assistance received, during the past weeks, from the Unofficial Members of the Council and from the various associations and groups concerned with employment.

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).

PREVENTIVE SERVICE (AMENDMENT) BILL 1977
Resumption of debate on second reading (1st June 1977)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

Committee stage of bills

Council went into Committee.

MASS TRANSIT RAILWAY CORPORATION (AMENDMENT)
BILL 1977

Clauses 1 and 2 were agreed to.

DRUG ADDICTION TREATMENT CENTRES (AMENDMENT)
BILL 1977

Clauses 1 to 7 were agreed to.

POLICE FORCE (AMENDMENT) BILL 1977

Clauses 1 to 5 were agreed to.

Clause 6

THE SECRETARY FOR SECURITY: —Sir, I move that clause 6 be amended as set out in the paper before honourable Members. This amendment is required to bring the provisions of the bill into line with Colonial Regulations in this particular respect. I regret that I overlooked this requirement when approving the drafting instructions for the bill.

*Amendment Proposed**Clause*

6 That clause 6 be amended in the proposed new section 17 by inserting at the end the following new subsection—

"(4) If the proceedings, inquiry or investigation result in punishment other than the dismissal of such officer, he may be paid such proportion of the pay withheld as a result of his interdiction as the Commissioner may direct."

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clauses 7 to 16 were agreed to.

**PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT)
BILL 1977**

Clauses 1 to 3 were agreed to.

OIL POLLUTION (LAND USE AND REQUISITION) BILL 1977

Clauses 1 to 4 were agreed to.

Clause 5

THE SECRETARY FOR THE ENVIRONMENT: —Sir, I move that clause 5 be amended as set out in the paper before honourable Members.

[THE SECRETARY FOR THE ENVIRONMENT] **Oil Pollution (Land Use and Requisition Bill—
committee stage**

Proposed amendments

Clause

- 5 That clause 5(1) be amended by—
(a) deleting the full stop and substituting a colon; and
(b) inserting the following proviso—

"Provided that such a power shall not be exercised in relation to any part of a building used for residential purposes unless the competent authority's directions are given in writing."

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clause 6 was agreed to.

Clause 7

THE SECRETARY FOR THE ENVIRONMENT: —Sir, I move that clause 7 be amended as set out in the paper before honourable Members.

Proposed amendments

Clause

- 7 That clause 7(3) be amended by deleting "thereof" and substituting the following—

"of the amount assessed".

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Clauses 8 to 11 were agreed to.

ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1977

Clauses 1 to 7 were agreed to.

PREVENTIVE SERVICE (AMENDMENT) BILL 1977

Clauses 1 to 17 were agreed to.

Clause 18

THE DIRECTOR OF COMMERCE AND INDUSTRY: —Sir, I move that clause 18 be amended as set out in the paper before honourable Members.

*Proposed amendment**Clause*

18 That clause 18 be amended by deleting "Customs and Excise Ordinance or the Customs and Excise" and substituting the following—

"Customs and Excise Service Ordinance or the Customs and Excise Service".

The amendment was agreed to.

Clause 18, as amended, was agreed to.

The schedule was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

Mass Transit Railway Corporation (Amendment) Bill 1977

Drug Addiction Treatment Centres (Amendment) Bill 1977

Public Health (Animals and Birds) (Amendment) Bill 1977

Road Traffic (Amendment) (No 2) Bill 1977

had passed through Committee without amendment and that the

Police Force (Amendment) Bill 1977

Oil Pollution (Land Use and Requisition) Bill 1977 and the

Preventive Service (Amendment) Bill 1977

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

Question put on each bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 29th of June.

Adjourned accordingly at fifteen minutes to five o'clock.