

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 12 October 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  
MR CHARLES PHILIP HADDON-CAVE, CMG, 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 HAROLD JORDAN, CMG, MBE, JP  
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS

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 DAVID GREGORY JEAFFRESON, JP  
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE ALAN JAMES SCOTT, JP  
SECRETARY FOR HOUSING

THE HONOURABLE GARTH CECIL THORNTON, QC  
SOLICITOR GENERAL

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 RONALD GEORGE BLACKER BRIDGE, JP  
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE JOHN CHARLES CREASEY WALDEN, JP  
DIRECTOR OF HOME AFFAIRS

DR THE HONOURABLE CHUNG SZE-YUEN, CBE, JP

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 JOHN HENRY BREMRIDGE, OBE, JP

DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP

THE HONOURABLE MRS KWAN KO SIU-WAH, OBE, JP

THE HONOURABLE LO TAK-SHING, OBE, JP

THE HONOURABLE FRANCIS YUAN-HAO TIEN, 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 HONOURABLE PETER C. WONG, JP

THE HONOURABLE WONG LAM, JP

DR THE HONOURABLE RAYSON LISUNG HUANG, CBE, JP

THE HONOURABLE CHARLES YEUNG SIU CHO, JP

**ABSENT**

THE HONOURABLE EDWARD HEWITT NICHOLS, OBE, JP  
DIRECTOR OF AGRICULTURE AND FISHERIES

THE HONOURABLE LI FOOK-WO, OBE, JP

THE REV THE HONOURABLE PATRICK TERENCE MCGOVERN, SJ, JP

**IN ATTENDANCE**

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

**Papers**

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## Sessional Papers 1977-78:

- No 1—Half-yearly Economic Report 1977 (published on 12.10.77.)
- No 2—Hong Kong Export Credit Insurance Corporation Annual Report 1976-77 (published on 12.10.77.)
- No 3—The Fifth Report of the Television Advisory Board on the Progress of Television in Hong Kong (published on 12.10.77.)
- No 4—Supplementary Provisions approved by the Urban Council during the First Quarter of the Fiscal Year 1977-78 (published on 12.10.77.)
- No 5—Income and Expenditure Account of the Aberdeen Trade School Executive Committee Fund for the year ended 31 March 1977 (published on 12.10.77.)
- No 6—Income and Expenditure Account of the Samaritan Fund for the year ended 31 March 1977 (published on 12.10.77.)
- No 7—Annual Report of the School Medical Service Board for the year ended 31 March 1977 (published on 12.10.77.)
- No 8—Hong Kong Tourist Association Annual Report 1976-77 (published on 12.10.77.)
- No 9—Fish Marketing Organization Hong Kong Annual Report 1976-77 (published on 12.10.77.)
- No 10—Vegetable Marketing Organization Hong Kong Annual Report 1976-77 (published on 12.10.77.)
- No 11—Supplementary Provisions for the Quarter ended 31 March 1977 (Final) (published on 12.10.77.)
- No 12—Report of the Administration of the Fire Services Welfare Fund for the year ended 31 March 1977 (published on 12.10.77.)
- No 13—Annual Report of the Urban Council for the year ended 31 March 1977 (published on 12.10.77.)

No 14—Statement of Assets and Liabilities and Statement of Revenue and Expenditure of the Urban Council for the year ended 31 March 1977 (published on 12.10.77.)

No 15—Annual Report of the Hong Kong Housing Authority for the year 1976-77 (published on 12.10.77.)

No 16—Statement of Accounts of the Hong Kong Housing Authority for the year ended 31 March 1977 (published on 12.10.77.)

Report:—

White Paper ‘Integrating the Disabled into the Community: A United Effort’ (published on 12.10.77.)

### Oral answers to questions

#### Study rooms—public housing estates

王霖議員問： 政府可否說明，目前有多少公共屋邨設有溫習室，在今後五年內又有多少公共屋邨會有這種設施？

(The following is the interpretation of what Mr WONG Lam asked—*Sir, will Government state how many public housing estates are at present provided with study room facilities and how many more will be provided with such facilities in the next 5 years?*)

THE CHIEF SECRETARY:—Sir, 43 public housing estates have permanent study room facilities, with a total of 7,956 places.

200 additional places, in 3 estates, will be provided shortly.

Further expansion is under consideration in the light of the temporary scheme which was operated by the Education Department earlier this year.

王霖議員問： 閣下，可否今後興建或改建公營房屋時，將溫習室列為必須提供之設施？

(The following is the interpretation of what Mr WONG Lam asked—*When building or remodelling public housing estates, can study rooms be made one of the necessities?*)

CHIEF SECRETARY:—Yes, Sir, this is something which I will ask the Secretary for Housing to consider in conjunction with the Housing Authority.

### **School Road Safety Patrol Scheme**

2 MR LOBO asked:—*Sir, in view of the success achieved by the School Road Safety Patrol Scheme, will Government provide funds for the purchase of uniforms for patrol volunteers so as to enable more schools to participate in this very worthwhile scheme?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, the Government shares Mr LOBO's views about the success of the School Road Safety Patrol Scheme and I am grateful to him for asking this question. Consideration is being given to increasing the subvention paid to the Road Safety Association in the next financial year and, if this is done, it will help the Association to pay for uniforms and equipment for new Road Safety Patrols in schools in areas where parents are less well off.*

### **Piling during prohibited hours**

3 MR P. G. WILLIAMS asked:—*Sir, how many exemptions have been given by the Director of Public Works under Section 13(6)(a) of the Summary Offences Ordinance, Chapter 228, allowing contractors to pile during prohibited hours to:*

- (a) contractors working on Government projects;*
- (b) contractors working for the MTR;*
- (c) other contractors?*

DIRECTOR OF PUBLIC WORKS:—*Sir, my powers to grant exemptions from the provisions of Section 13(1) of the Summary Offences Ordinance are limited to works other than piling. I have therefore granted no exemptions to permit piling within the prohibited hours.*

I must, however, point out that contractors working for the Mass Transit Railway Corporation are automatically exempted from the restrictions by virtue of Section 21(4) of the Mass Transit Railway Corporation Ordinance. The Corporation has however exercised tight control on such works and has allowed piling to be carried out during the prohibited hours in only four instances.

The only way in which other contractors can obtain exemption in respect of piling works is by means of an Order made by Your Excellency-in-Council. In the period since the special restrictions on piling were introduced in September 1972, three such Orders specifically permitting piling during the prohibited hours have been made. Of these, two were in respect of Government projects and one in respect of a private project.



MR WILLIAMS:—*In view of the Director of Public Works' statement that he hasn't the powers to refuse, my next question (Question No 4) does not apply.*

(Question No 4 reads:—*How many applications for exemption have been refused to:*

- (a) *contractors working on Government projects;*
- (b) *contractors working for the MTR;*
- (c) *other contractors?)*

### **Rehousing boat squatters**

5 MISS KO asked:—*Sir, has Government any specific plans to rehouse permanently the hundreds of boat squatters now living in dilapidated and unseaworthy boats, particularly in Yau Ma Tei Typhoon Shelter?*

SECRETARY FOR HOUSING:—Sir, the policy is to offer housing automatically to dwellers in boats when they are affected by development clearances and provided they surrender their boats. In 1976-77, 54 boat squatters were rehoused; and it is estimated that 2,400 will be offered accommodation under the clearance quota during the current financial year. Boat squatters not affected by development clearances are offered transit centre or temporary housing accommodation, if possible in the district of their choice, if their boats are certified on inspection by the Marine Department to be in such a condition that the dwellers may be rendered homeless. In 1976-77, 250 boat dwellers were provided with temporary housing under this arrangement. In the first five months of the current financial year, 258 people have moved into temporary housing areas and 57 into transit centres.

The opportunities for rehousing, Sir, are the same for boat squatters as for land squatters,—people in both categories, if they are in areas not likely to be affected by development clearances, can register on the Housing Department's Waiting List—that is, the normal way in which members of the public who wish to move from unsatisfactory accommodation, may obtain public housing. I am advised that relatively few boat squatters have applied or seem to have the intention of applying for public or temporary housing in this, the normal, way.

While therefore we view with great concern the unsatisfactory living conditions in which many boat squatters find themselves, we must, I fear, have regard to the several needs of different categories of families who need public housing, in particular, the heavy commitments which result from clearances under the development programme. It would, I think, be much resented by citizens who are waiting their turn on the Waiting List, if boat squatters were offered public or temporary housing on a wholesale basis in

preference to other categories. I would therefore urge all boat squatters who wish to move to apply in the normal way.

As regards the Yau Ma Tei Typhoon Shelter, Sir, I understand that the present proposal is to construct a new breakwater in mid-1980 and to reclaim the existing shelter towards the end of 1982. Meanwhile, suitable measures will be taken by the Marine Department to control the situation.

MISS KO:—*Sir, may I ask what would be some of the 'suitable measures' which the Marine Department can take up?*

SECRETARY FOR HOUSING:—The Marine Department's responsibility, Sir, as I understand it, is to keep the waterways reasonably clear. I think perhaps the thrust of the question is what part the Marine Department has to play in declaring the boats uninhabitable or unseaworthy? That is not an easy question to answer because one man's view of an inhabitable boat may be another's view of a sinking wreck. The answer is that professional Marine Department officers inspect the boats and, provided that a boat can be kept afloat with reasonable care on the part of the owners, then we consider it inhabitable.

MISS KO:—Thank you.

### **Pollution caused by fish farms**

6 MR PETER C. WONG asked:—*Sir, has Government any plans to control the problem of pollution caused by fish farms situated near public beaches?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, well managed and properly located fish farms should not cause pollution. But Government plans that the Director of Marine will be able to remove them under powers included in the Shipping and Port Control Bill shortly to be put to the Executive Council.

### **CMB Services**

7 MISS DUNN asked:—*Sir,*

- (a) *does the Government agree that there has been a deterioration in the frequency and reliability of (CMB's) route services?*
- (b) *if so, is the Government satisfied that the China Motor Bus Company is meeting its franchise obligations?*

SECRETARY FOR THE ENVIRONMENT:—Sir, as regards the first part of the question, the Government agrees that there has recently been some deterioration

in the frequency of buses on certain routes operated by the China Motor Bus Company.

There appear to be two main reasons for this. The first is a shortage of drivers in relation both to the growing number of buses in the fleet and the additional routes being operated. As a consequence, some available buses have not been on the road in recent months, although the effect of this has been offset by the use of new, higher capacity, buses on certain routes. The second reason is growing traffic congestion on some routes which is slowing buses down and making it difficult to maintain schedules.

The company has recently been stepping up its recruiting campaign for drivers and a wage increase has also been granted. At the moment, however, with the boom in the construction industry there is intense competition for drivers of heavy vehicles and many drivers do not like the shift work associated with bus driving. Furthermore, the company is very properly aware of the need to employ really competent drivers on its difficult hilly routes and not all drivers are able to meet its exacting testing standards.

There is no doubt also that traffic congestion has been getting worse over the past few months, particularly on routes from the south of the Island and along King's Road. There is no quick and easy solution to this problem and it has to be tackled by a variety of means. In the short term new traffic management schemes will be tried out and, in due course, the opening of the Aberdeen Tunnel, new and improved roads and the completion of the Mass Transit works in Central should help to ease the position.

I should add here that, despite these difficulties, the company has nevertheless been operating more buses on more routes and carrying more passengers overall. For instance, in the two years to June 1977 it bought as many as 141 new high capacity double deckers. And in August this year it transported over 20 million passengers in the month, or as much as 11% more than in the same month in 1976.

To turn to the second part of the question, Sir, the current franchise has now been operating for some two years and, under the terms of the Public Omnibus Services Ordinance, it needs to be reviewed. I have therefore recently asked the Commissioner for Transport to prepare full reports on the performance of both bus companies over this two-year period. These reports are now nearing completion and, when they are received, I will be seeking the advice of the Transport Advisory Committee on them before submitting a report to Your Excellency in Council. I do not think it would be either right or proper for me to prejudice this statutory process by making a judgment one way or the other at the present time.

MISS DUNN:—*Sir, are these problems of shortage of drivers and the traffic congestions applicable only to the China Motor Bus Company, as the Kowloon Motor Bus Company appears to be able to maintain adequate service?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I think Kowloon Motor Bus is also experiencing some problem of shortage of drivers, but the China Motor Bus Company, for some reason or other which I do not quite understand at the moment, is having more difficult problems. I think perhaps because they have to have extremely high standards because of the difficulty of their routes. As regards traffic congestion, I am not sure. The Kowloon Motor Bus Company is operating routes on more of the new high capacity roads which have been built in Kowloon. Recently, on Hong Kong Island, there has been a build up of traffic especially from the south of the island where there are new developments and this has created some traffic congestion in the morning rush hours along Wong Nei Chong Gap Road into the Stubbs Road roundabout which we are now looking into to see if we can alleviate it.

MR BREMRIDGE:—*Does Government agree that if competition existed instead of a franchise the bus management that fails to employ bus drivers wouldn't last very long?*

SECRETARY FOR THE ENVIRONMENT:—Sir, there is a lot of literature on the question of whether public transport companies should be competitive or monopolistic. On the whole, in the world, we find that countries are tending to go over to a monopoly franchise situation; Bangkok, I think, is a recent example and Singapore is another example where they had chaotic conditions before this was done.

MR BREMRIDGE:—*Sir, a monopolized situation where bus drivers are non-available is hardly desirable?*

SECRETARY FOR THE ENVIRONMENT:—No, Sir, I agree that if one sets wages at the right level then one can recruit the labour, but we are now in an exceptional situation where, as I said, the construction industry is booming. We think it is now running at a higher level it is likely to run, say, in a year or two's time, so that to temporarily boost bus wages to a level which would compete with the construction companies in a temporary boom, I think, would not be worthwhile.

### **Disabled persons—criteria in assessing**

8 DR FANG asked:—*Sir, what scientific criteria are being used in assessing the disabled with regard to eligibility for disability allowance, in particular the mentally retarded persons?*

MR CHEUNG:—*Sir, on a point of order, I asked a supplementary question.*

HIS EXCELLENCY THE PRESIDENT:—I think the subject has been exhausted.

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, the assessment of the disabled is being carried out by medical officers experienced and/or specialized in this work. The present criteria used covers all disabled persons with physical and/or mental disabilities which are broadly equivalent to a total loss of earning capacity and those disabled who are in need of substantial help from others to cope with daily life.

Mentally retarded persons usually fall within these criteria and in the assessment of this group of disabled persons the clinical examination and judgment of the attending doctor are essential in determining the degree of disabilities.

MR LO:—*Sir, before the subject gets exhausted, may I ask whether the judgment of a Government medical officer referred to in the answer is sacrosanct or can it be challenged?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, in the general order of things, I suppose nobody's opinion is sacrosanct.

MR LO:—*But do I take that to mean that it can be challenged?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir.

MR LO:—Thank you.

### **Disabled persons—assessment of**

9 DR FANG asked:—*Sir, would Government consider enlisting the services of the medical associations or medically qualified Justices of Peace in assisting in such assessment to relieve the load on Government doctors?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, at present about 300 cases are being assessed each month by doctors in 36 Government and Government-assisted institutions. On an average therefore only about 8 cases are seen in a clinic each month.

From our experience so far the clinics are capable of handling this small number of cases. However, I must thank my honourable Friend for his suggestion and should a need arise in future his proposal will certainly be considered.

### **Street-sleepers**

10 MR LEUNG asked:—*Sir, what steps does Government propose to take to meet the needs of street-sleepers in respect of public housing and other social services?*

SECRETARY FOR SOCIAL SERVICES:—Sir, public housing and other social services including cash assistance, counselling, placement, assistance in seeking employment, etc. are available to any street-sleeper as a member of the general public. Street-sleepers in urgent need of housing qualify for accommodation in transit centres and temporary housing areas which are provided for the genuinely homeless. In addition, a number of voluntary organizations operate street-sleepers homes and shelters.

Every street-sleeper referred to the Social Welfare Department is visited by its social workers who invariably make known to him the full range of services available and assist him in obtaining these services where help is desired. I have no reason to believe that existing facilities are inadequate to meet the needs of street-sleepers.

### **MTR tunnel—subsidence along Nathan Road**

11 DR HU asked:—*Sir, will Government make a public statement on the cause of the recent subsidence of the MTR tunnel along Nathan Road?*

DIRECTOR OF PUBLIC WORKS:—Sir, on the morning of the 12 September subsidence occurred under the Nathan Road/Arran Street junction. The sub-soil movement was caused by the slippage of a completely decomposed granite seam exposed during rock tunnelling operations for the Mass Transit Railway.

Subsequent to the 1 September when the seam was first exposed in the tunnel, probes were carried out to try to assess the extent of the seam and the exposed face was sand-bagged and shored to secure it until the permanent lining works could be carried out.

The form of protective measures adopted was considered to give adequate security by both the contractor and the Mass Transit Railway Corporation's supervisory staff. Contrary to the conclusions drawn from the investigations events proved that the extent of the completely decomposed granite seam was greater than estimated and in consequence the protective measures failed to give adequate support.

After the collapse the area in Nathan Road was cordoned off and the buildings on the corner of the road junction were evacuated as a precautionary measure. Grouting was carried out to prevent further movement of the completely decomposed granite. Plant and materials to deal with the situation were very quickly mobilized and by 7.45 on the following morning concreting of the cavity under the roadway had been completed and the situation secured. The tenants of the evacuated buildings were then allowed to return to their properties.

As a result of this experience the Corporation have established revised methods of working which will ensure a greater degree of investigative

probing and have adopted more cautious methods of dealing with completely decomposed granite seams no matter how small or insignificant they appear to be.

MR LO:—*Will the new and more cautious methods now adopted significantly increase the construction cost involved?*

DIRECTOR OF PUBLIC WORKS:—No, Sir.

### **Handicapped persons—employment in the Civil Service**

12/13 MR CHEONG-LEEN asked:—*Sir, what is Government's policy on the employment of handicapped persons in the Civil Service?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, Government's policy is to employ the disabled in the Civil Service wherever possible. Disabled people applying for Government jobs are considered on equal terms with other applicants, and provided they are capable of undertaking the duties efficiently, their disability is not a bar to their employment. This policy is re-affirmed in the White Paper on 'Integrating the Disabled into the Community', which is tabled at this meeting.

The policy is set out in Civil Service Regulations, and heads of departments provide me annually with details of disabled people employed in their departments. In addition the Social Welfare Department is kept informed of Government vacancies and gives recruiting departments particulars of disabled people who might be suitable.

MR CHEUNG:—*Sir, does that answer apply to mentally handicapped persons?*

SECRETARY FOR THE CIVIL SERVICE:—Yes, they are included in the policy.

MR CHEONG-LEEN:—*As the largest employer in Hong Kong, is the Government supposed to take a lead in placing disabled people in suitable jobs, and if that is the policy, to what extent in actual practice is that policy implemented?*

SECRETARY FOR THE CIVIL SERVICE:—The figures will be given in answers to the next question. It would be easier to deal in that context.

MR CHEONG-LEEN:—*Is that the policy, Sir?*

SECRETARY FOR THE CIVIL SERVICE:—I think perhaps I should give the figures first, I will answer the next question and follow straight on. Our records give the numbers of disabled people employed in the Civil Service each year,

without separate breakdowns for recruitment and wastage. The number of blind people employed in the Civil Service increased from 85 on 1 April 1972 to 125 on 1 April 1977. The total number of handicapped people employed in the Civil Service increased from 291 on 1 April 1972 to 402 on 1 April 1977. These figures are low in relation to the size of the Civil Service. The key to improvement lies in the improvement of education and training which are provided for in the White Paper tabled today.

MR CHEONG-LEEN:—*Sir, in the White Paper, it does say that it is the Government's policy, as the largest employer, to take the lead in the employment of the disabled. Has that been the Government's policy for some time? Is that the policy still?*

SECRETARY FOR THE CIVIL SERVICE:—*Sir, that is our policy.*

MR CHEONG-LEEN:—*May I ask, Sir, after looking at the White Paper and the figures which have just been given by my honourable Friend—111 disabled persons were employed over a five years' period—is that a satisfactory record compared with what has been done in the private sector?*

SECRETARY FOR THE CIVIL SERVICE:—*I would not regard the figures as satisfactory at the present level. I would hope to see some improvements as a result of the policy of the White Paper.*

MR CHEONG-LEEN:—*I think my honourable Friend would agree that since in the private sector more than 200 disabled persons have been employed since January this year up to July, then it seems that the private sector has taken the lead, rather than Government.*

HIS EXCELLENCY THE PRESIDENT:—*I don't think that was a question.*

MR CHEONG-LEEN:—*The question, Sir, is, would my honourable Friend, agree that there has been a placement of 282 successful cases of disabled persons in the private sector this year as compared to the figures of 111 for the five-year period in the Government service? Would my honourable Friend agree that the private sector has in actual fact taken the lead in placing disabled persons in employment rather than Government?*

SECRETARY FOR THE CIVIL SERVICE:—*I would agree that, on those figures, the private sector would appear to be more successful in the period in question.*

### **Government clinics—waiting areas**

14 MR LOBO asked:—*Sir, will Government provide special waiting areas within or close to clinics where there are lengthy queues of patients so that*



*patients awaiting consultation are not exposed to the weather and can be protected from possible intimidation or assault by undesirable elements?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir. It has always been the policy of my Department to provide special waiting areas within or close to clinics for patients awaiting registration for consultation provided that space is available and the construction of such is possible. In fact, most of the busy clinics are already so provided.

I should add that while covered areas will afford substantial protection from inclement weather, protection from possible intimidation or assault by undesirable elements by covered areas per se is less certain as this is basically a matter of law and order.

MR LOBO:—*Sir, may I know if existing clinics, where space is available and covers are not, steps have been taken to improve those?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Yes, Sir.

MR LOBO:—Thank you.

### **Primary Schools in Pak Tin**

15 REV JOYCE M. BENNETT asked:—*Sir,*

- (a) is it true that the present primary schools in Pak Tin are not fully occupied?*
- (b) if so, can the Council be informed whether the two new primary schools under construction in Pak Tin are to be used for ordinary primary schooling or as special schools?*

DIRECTOR OF EDUCATION:—Sir, there are three primary schools in Pak Tin, Shek Kip Mei, all of them under-enrolled. There is one primary school under construction. It is intended to use this school, under the rehabilitation programme, as a special school for maladjusted and socially deprived children.

REV JOYCE M. BENNETT:—*Did the problem of under-enrolled schools in this area arise because Pak Tin has been built to ease the over-crowding of the older Shek Kip Mei, where the families no longer need primary schooling for their children?*

DIRECTOR OF EDUCATION:—Strictly, Sir, I do not know the answer to that question with adequate exactness, and I will give Miss BENNETT a written answer.

THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY

IT SEEMS TO ME THAT WHAT MISS BENNETT suggest must explain the situation in part and that the under-enrolment in Pak Tin primary schools exists for one or more of the following reasons:

- (a) The Pak Tin Estate is not yet completed. In March 1977 the population of the Lower and Upper Pak Tin Estate was 32,282 which was some 68% of the estates' ultimate capacity. The target population is 47,000.
- (b) The redevelopment/conversion of the older type of resettlement blocks (Mark I) in Lower Shek Kip Mei and demolition in Tai Hang Sai involves the rehousing of some 34,000 persons in Pak Tin. The schools situated in Shek Kip Mei and indeed in the surrounding areas are sufficiently close that some children now resident in Pak Tin are undoubtedly continuing to study in schools outside the estate and are not electing to transfer to the existing schools in Pak Tin. This is sound educationally but it does mean that the places are not being taken up in the three aided schools in Pak Tin itself.

It seems reasonable to suppose that as the remaining blocks in Pak Tin are completed and occupied so the under-enrolment in the existing primary schools will decrease. However the reduction in the number of children in the primary schools age group combined with the situation of a large number of families being resettled in Pak Tin, who no longer have children of primary school age, would indicate that a degree of under-enrolment may continue.

### **Court—use of Cantonese**

16 MR LO asked:—*Sir, what efforts will the Government make (to support those made by the judiciary) to increase the use of Cantonese in our Courts particularly in the Small Claims Tribunal, Magistracies, and District Courts?*

THE ATTORNEY GENERAL:—*Sir, in both the Small Claims Tribunal and the Labour Tribunal, proceedings are conducted in Cantonese, except where the convenience of a party or witness otherwise requires.*

In all other courts, a party to proceedings or a witness may speak in Cantonese if he wishes. Lawyers appearing in the courts use English and some of the reasons why this is so are explained in the Third Report of the Chinese Language Committee, and the proceedings as such are conducted in English for the same reasons. This is why section 5 of the Official Languages Ordinance provides that proceedings in the Supreme Court and the District Court shall be conducted in the English language. Magistrates, however, have a choice and any who wish to do so may conduct their proceedings in

Cantonese whenever they feel that it is practicable and helpful. And it should be noted that Cantonese-speaking magistrates have in recent years been conducting many simpler cases in Cantonese. The Government certainly welcomes such use of the Cantonese language.

There are, however, generally accepted limits to the use of Cantonese in any court and such increase in its use as is possible will come in the magistrates courts. The real difficulty, Sir, is that there are not sufficient Cantonese-speaking magistrates. The Chief Secretary answered a question in this Council in June about the recruitment of Cantonese-speaking magistrates.

MR LO:—*Sir, my question was what effort will Government make, and the answer only lists what Government will not do. Would Government care to comment?*

ATTORNEY GENERAL:—That is an entirely fair description of my answer. The nub of it lies in the last paragraph. We need more Cantonese-speaking magistrates if we are to make any real progress in the use of Cantonese in the Magistrates Courts. Until we can get more, there is little that the Government can do.

MR WILLIAMS:—*Would the Government consider offering a substantial allowance in addition to the normal salary for those who speak Cantonese?*

ATTORNEY GENERAL:—Sir, this is a matter which the Chief Secretary dealt with in June. His answer then, to the best of my recollection, was that anything special given to any particular group of public officers disturbs the balance of the whole structure of the Government's pay scales. He was of the view that in the present circumstances there is no case for making any special arrangements to encourage the recruitment of Cantonese-speaking magistrates. That, Sir, remains the Government's position.

MR JAMES WU:—*Sir, was it not the answer of the Chief Secretary to my earlier question that he would be prepared to consider giving a bonus to magistrates with Cantonese capabilities?*

ATTORNEY GENERAL:—The answer to that, Sir, is that the Chief Secretary said that he would put that proposal to the Chief Justice.

MR LO:—*May I ask at this stage whether Government has made any effort in putting the proposal?*

ATTORNEY GENERAL:—I do not know, Sir, but I will certainly find out.

CHIEF SECRETARY:—The suggestion was put to the Chief Justice but he did not favour it.

### **Godber's release from prison—arrangements for**

17 DR CHUNG asked:—*Sir, in accordance with Standing Order 17(4) I beg to seek your permission to ask two questions without notice on the ground that they are of an urgent character and relate to a matter of public importance. I would like to add, Sir, that sufficient private notice of both questions has been given to Government. My first question is, Sir, will Government explain why special arrangements were made for the departure of Mr Godber from Hong Kong on his release from prison?*

THE CHIEF SECRETARY:—There has been speculation about the arrangements made for the departure of GODBER and the facts are these.

GODBER, through his solicitor, had made it clear, before his release, that he did not wish to speak to the Press when he left prison. However, arrangements were made at Siu Lam for the Press to take photographs of GODBER's release from prison on completion of his sentence. Barriers were provided at Siu Lam to try to facilitate an orderly coverage of his release.

The car used by GODBER to travel from Siu Lam to Kai Tak was provided by GODBER's solicitor at GODBER's request. It was not a Government car. A police car followed to ensure that no incidents occurred en route. Traffic police were alerted to ensure that his car and those expected to be following it did not cause traffic congestion.

The only special arrangements made at Kai Tak by the Government were to arrange for his early entry into the restricted area without going through the general public departure hall and to allow him and his son to wait in an unused Government office until his plane left.

The Government, correctly, anticipated that there would be a great deal of interest in his departure. If he had arrived at Kai Tak in the normal way, there is no doubt that he would have been surrounded by large numbers of pressmen and interested spectators with the obvious risks which this would have caused in a crowded concourse.

The Government's only aim was to minimize the risk of disturbance and inconvenience to the public. The unruly scenes which attended GODBER's journey from Siu Lam to Kai Tak surely justified the precautions which were taken.

DR CHUNG:—*Sir, were special arrangements made at the request of Mr Godber and if so who was responsible for the decision?*

CHIEF SECRETARY:—No, Sir, the special arrangements were not made at the request of GODBER. GODBER himself refused to stay in prison until the time of departure of his plane and insisted on his release as soon as he was entitled to this. He said that he wished to go to Kai Tak directly in accordance with arrangements which he had himself provisionally made with his airline. The special arrangements were co-ordinated and approved by the Secretary of Security on my authority.

DR CHUNG:—*Sir, did Government visualize any person would do bodily harm to Mr Godber? If not, were such arrangements really necessary or justified for such a person?*

CHIEF SECRETARY:—Although it was possible that there might have been an attack on GODBER, we had no information of any specific threat. The measures were taken to prevent the possibility of disturbance at Kai Tak. They were not intended to give protection to a corrupt ex-public servant.

DR CHUNG:—*Sir, was the Government aware that such special arrangements would create misunderstanding or even resentment from the local population?*

CHIEF SECRETARY:—We realized that this was a possibility. However, as I have already indicated, we were anxious to avoid disturbance. If GODBER had been allowed to roam freely in the Kai Tak Departure Hall and disorder had taken place and someone was hurt, we would have been criticized for not taking special precautions.

MR LO:—*Did Government appreciate that at the time that the special arrangements were made, they might give rise to unfortunate allegations—albeit untrue—that special arrangements were made because Godber was English or because he possessed embarrassing information.*

CHIEF SECRETARY:—We had to take the risk that our motives would be misrepresented. The suggestion that there was a deal with GODBER to secure his silence is obvious nonsense, since nothing would have prevented him saying whatever he wished to say as soon as he left Hong Kong, if not before. I entirely agree with Mr LO that this allegation was totally unjustified and I am glad to have the opportunity to refute it.

DR CHUNG:—*Sir, one final supplementary question. Accepting these explanations from the Chief Secretary, is it not a pity that Government did not make such clarification earlier than today?*

CHIEF SECRETARY:—In retrospect, I think it would have been better if we had made more information available sooner.

**Godber—judgment debts**

18 DR CHUNG asked:—*Sir, will Government explain why Mr Godber was allowed to leave Hong Kong when there is a Court judgment against him which has not been met?*

THE ATTORNEY GENERAL:—*Sir, Dr CHUNG is asking why the Government did not seek to enforce its judgment against Mr GODBER for \$4.1 million by imprisoning him under Order 49B of the Rules of the Supreme Court.*

My first answer, Sir, is a simple one. I consider that it would generally be wrong in principle for the Government, and I do emphasize for the Government, to avail itself of the remedy of imprisonment for non-payment of judgment debts. In the particular case, we are furthermore concerned with a judgment debtor who had just been released after serving a sentence of 4 years' imprisonment.

Responsibility for the decision not to enforce the judgment by imprisonment is mine alone. Naturally, I believe it to be right, and despite the queries which have been made about the decision during the past few days I am convinced that the Government would have been open to more severe criticism if it had in fact imprisoned Mr GODBER for debt.

My second answer is more complicated because it raises legal issues which are by no means simple. May I first make one thing clear? The Government intends to pursue with vigour its claim against Mr GODBER. Let no one be in any doubt about that. It is the money which he acquired wrongfully which the Government seeks to recover. Imprisoning him would not, in my opinion, have brought recovery of the money any nearer, and might well have hindered proceedings outside Hong Kong for its recovery.

Mr GODBER has, to the best of the Government's knowledge, no assets in Hong Kong. Much the greater part of his assets was outside Hong Kong before June 1973 when the question of proceedings against him under the Prevention of Bribery Ordinance first arose.

Let us suppose that the Government had imprisoned Mr GODBER. Two courses would have been open to him. One would have been to accept a further period of 12 months' imprisonment—that is the maximum which the law allows. Had he taken that course, the Government's efforts to recover the money would not have been helped.

The other course would have been for him to go to the court with a statement of his assets and their whereabouts and seek his release. The law then provides that the judgment creditor, in this case the Government, may attach property within Hong Kong so disclosed, in satisfaction of the judgment. But Mr GODBER has no assets in Hong Kong so that takes us nowhere. Alternatively, the creditor can oppose the application for release but only

in narrowly defined circumstances. I want to quote the exact words. They are these—

‘in order to succeed the judgment creditor shall make proof that the judgment debtor’s inability to satisfy the judgment is attributable to unjustifiable extravagance in living or that the judgment debtor, for the purpose of avoiding payment of the debt, has wilfully concealed property or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith’.

Sir, in my judgment, Mr GODBER, has not done any of those things. I believe that, subject to disclosure of his assets, he would have secured his release. Therefore, we are left with the question, would such disclosure of the whereabouts of his assets have helped the Government to enforce its judgment? The answer is ‘no’. It would be possible for him to move his assets around, as we all know and so, it may be said, he may be able to thwart the other efforts which the Government is making to enforce the judgment. My answer to that is that I do not think so, in the long run.

DR CHUNG:—*Sir, why Mr Godber was not detained by making a charge against him that his assets of over HK\$4 million was not commensurate with his official income as we did and are doing for other corrupt Government officers?*

THE ATTORNEY GENERAL:—Sir, the answer is that the law did not permit the bringing of a charge against Mr GODBER under Section 10 of the Prevention of Bribery Ordinance for having assets incommensurate with his earnings. This is because there is no corresponding offence under the law of England and that is the very reason why Government was not, from the outset, able to secure his return to Hong Kong to face such a charge.

DR CHUNG:—*Sir, was the Government aware that such an easy let off of Mr Godber would generate resentment from the public at large?*

THE ATTORNEY GENERAL:—Sir, in reaching my decision not to seek to imprison GODBER, I naturally considered what the public reaction might be. I think the answer fairest to myself is that I realized that his departure from Hong Kong whilst still owing the Government such a large sum of money would not be popular. I do not think I saw it quite in terms of resentment, which is a much stronger word. Sir, I hope at the same time that our clear intention to pursue this matter vigourously, and as I see it in the most effective way possible, would balance that. I am still hopeful, Sir, that it will.

MR LO:—*May I ask whether Godber’s departure from Hong Kong actually facilitated Government’s efforts to recover his debts?*

THE ATTORNEY GENERAL:—I do not think that I could say it will actually facilitate our efforts. The proceedings which we shall now be taking will be taken in England as a start, but it would not be in the public interest for me to say any more about it than that. But quite clearly there are not going to be proceedings in Hong Kong. Mr GODBER's presence here therefore would not be likely to help. It is much more likely that his presence outside the jurisdiction will help.

## Statement

### White Paper on Rehabilitation Services

SECRETARY FOR SOCIAL SERVICES:—Sir, included among the papers laid on the table to-day is the White Paper on Rehabilitation Services—'Integrating the Disabled into the Community: a United Effort'.

This White Paper has been developed from the Green Paper published almost a year ago on the Further Development of Rehabilitation Services in Hong Kong and incorporates most of the points raised in the comprehensive and thought provoking debate on this subject in this Council in February. Account has also been taken of a number of constructive comments on the Green Paper received from interested organizations and members of the public—and it is gratifying to note that over 100 written submissions were received. In addition to consultations within the Government on these various proposals, we have worked closely with the Council of Social Service and the UMELCO Ad Hoc Group on the Further Development of Rehabilitation Services in the drafting of this White Paper. I wish to take this opportunity to express the Government's thanks for their help.

I would also like to touch, in particular, on the most consistent theme among the various comments on the proposals in the White Paper: that the process of implementation should be speeded up. In this context the Directors of Education, Social Welfare and Medical and Health Services and I can assure the Council that the improvements reflected in the White Paper over the original time table in the Green Paper are the limits we can confidently hope to achieve by 1985-86. My Colleagues and I, like the Unofficial Members who spoke in the February debate, will also prefer to see faster progress, but we are unable to get around the fact that the pace of development has to be adjusted to human resources and the availability of sites as well as sponsors: the latter point being relevant in those areas where the Government's aims are to work in partnership with the voluntary sector. However, the White Paper does provide for substantial progress as the following few examples will show:

- (a) in 1978-79 the Medical and Health Department will introduce a Comprehensive Observation Scheme for children from birth to the age of



- five. For those over the age of five screening programmes organized by the Education Department will be available in schools;
- (b) a new Code of Aid for Special Education was issued last month and the number of special education places for the disabled will increase from 12,165 in April 1977 to 50,800 by 1985-86;
  - (c) the Social Welfare Department in conjunction with three voluntary agencies will make available 186 places in day centres for the severely mentally retarded before the end of this financial year beyond what is provided for in the programme plan. If this experiment is successful it will be possible for additional places at day centres to be provided quickly to meet the shortfall for planned residential facilities for all those known cases currently awaiting intensive care;
  - (d) the shortfall in psychiatric facilities will be wholly eliminated by 1985-86 through the provision of 4,900 psychiatric hospital beds, and by day centres and half-way houses.

The objectives in the White Paper will, of course, be under constant review by the Rehabilitation Development Co-ordinating Committee and our programme plan and planning targets will be reviewed and updated annually by that body. Sir, you announced in Your Address last week the appointment of Dr FANG as Chairman of this Committee. Hong Kong is indeed fortunate to have such an eminent international authority in the field of rehabilitation to lead our own domestic efforts.

This White Paper represents a new beginning for many disabled people in Hong Kong. But it is only a beginning. I look forward with optimism to the continued support of this Council as well as the public at large as we tackle the many problems awaiting us across a diverse spectrum—health, medicine, education, social welfare, housing, training both pre-vocational and vocational, employment and so on. I believe that the White Paper laid on the table to-day is not simply a consensus of views as to how Government should proceed, but is indeed a united and positive approach to rehabilitating the disabled within our community.

## **Government business**

### **Motions**

#### **COMPANIES ORDINANCE**

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:—That the Companies (Winding-up) (Amendment) Rules 1977, made by the Acting Chief Justice on the 26 August 1977, receive concurrence and sanction.

He said:—Sir, the Companies (Winding-Up) (Amendment) Rules 1977, which were made by the Acting Chief Justice on 26 August, make a number of amendments to the Companies (Winding-Up) Rules.

The principal amendments are in Rules 4, 6 and 7. Rule 4 provides for a simplified winding-up procedure where the value of the property of a company being wound up does not exceed \$10,000.

Rule 6 deletes the requirement that resolutions at creditors' meetings should be passed by a majority *in value* of creditors.

Rule 7 provides that charges incurred by or authorized by the Official Receiver shall be a first charge on the assets of a company being wound up, thus bringing the principal rules into line with the priorities laid down in the Bankruptcy Ordinance.

*Question put and agreed to.*

## **COMPANIES ORDINANCE**

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:—That the Companies (Fees and Percentages) (Amendment) Order 1977, made by the Acting Chief Justice on the 27 August 1977, be sanctioned.

He said:—Sir, the Companies (Fees and Percentages) (Amendment) Order 1977 which was made by the Acting Chief Justice on 27 August, removes from the Companies (Fees and Percentages) Order the item prescribing the fees payable for the services of the shorthand writer attached to the Official Receiver's Office. These fees are now prescribed in the Companies (Winding-Up) Rules.

*Question put and agreed to.*

### **Motion (in Committee)**

#### **Supplementary provisions for the quarter ended 31 March 1977 (Final)**

Council went into Committee, pursuant to Standing Order 58(2), to consider the motion standing in the name of the FINANCIAL SECRETARY.

THE FINANCIAL SECRETARY moved the following motion:—That this Council approves the supplementary provisions for the quarter ended 31 March 1977 as set out in Paper No 11.

He said:—This, Sir, is the final schedule of supplementary provisions for the financial year 1976-77. The schedule covers a total of \$42 million of which

\$23.3 million is to meet additional expenditure on personal emoluments in respect of 10 departments.

This schedule brings the total supplementary provisions for 1976-77 to \$594.3 million. But because of savings in other subheads, actual total expenditure at \$6,591 million was \$621 million less than the original estimates.

The Finance Committee has approved all the items in the schedule and the purpose of this motion is simply to seek the covering authority of this Council.

*Question put and agreed to.*

Council then resumed.

THE FINANCIAL SECRETARY reported that the motion had been agreed to in committee without amendment.

*Question agreed by the whole Council pursuant to Standing Order 58(4).*

### **First reading of bills**

**DIPLOMATIC PRIVILEGES (AMENDMENT) BILL 1977**

**SECURITIES (AMENDMENT) BILL 1977**

**RESERVED COMMODITIES BILL 1977**

**MAGISTRATES (AMENDMENT) BILL 1977**

**SMALL CLAIMS TRIBUNAL (AMENDMENT) BILL 1977**

**ROAD TRAFFIC (AMENDMENT) (NO 3) BILL 1977**

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order 41(3).

### **Second reading of bills**

**DIPLOMATIC PRIVILEGES (AMENDMENT) BILL 1977**

THE CHIEF SECRETARY moved the second reading of:—‘A bill to amend the Diplomatic Privileges Ordinance.’

He said:—Sir, at present, the Governor can only confer immunities and privileges on an international organization and its staff, if the United Kingdom Government is a member of the organization.

Hong Kong hopes to become a member of the Asia Pacific Telecommunity, of which the United Kingdom Government is not a member. One of the conditions of membership is that members should accord to the Telecommunity and its officers the same privileges and immunities as are granted to the United Nations and its officials.

To enable Hong Kong to fulfil this condition of membership, it is necessary to amend the Diplomatic Privileges Ordinance so to enable the Governor to confer privileges and immunities in the case of an international organization of which Hong Kong, but not the UK, is a member. Clause 4 achieves this object.

As drafted, Clause 4 would not empower the Governor to make such an order in relation to an international organization of which Hong Kong is not a member but the UK is. There may be cases in the future, however, where it is desirable for privileges to be accorded (as they have been in the past) to organizations of which the UK is a member, though Hong Kong is not. At the Committee Stage, I shall be moving an amendment to this effect.

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE CHIEF SECRETARY.

*Question put and agreed to.*

## **SECURITIES (AMENDMENT) BILL 1977**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Securities Ordinance.’

He said:—Sir, one of the problems which faces any Government which sets out to regulate its securities industry is how to deter people with information about a company which is not generally available, and which they have acquired by virtue of a privileged connection with that company, from using it for their own private gain or to avoid a private loss. Different methods of tackling this problem have been tried throughout the world, with varying degrees of success.

Section 140 of the Securities Ordinance, which has not been brought into operation, makes a person liable in criminal and civil law if he deals in securities on information not available to the public or discloses such information to another for the purpose of dealing. The Government now considers that criminal or civil sanctions would not be effective in preventing insider dealing in Hong Kong, since it would often be impossible to obtain

sufficient evidence for the courts. So the first point to be made is that clause 7 of the Bill repeals section 140 of the principal Ordinance.

Now whereas insider dealing is essentially fraudulent behaviour, it is difficult to combat it using the sanction of the criminal law because, by its very nature, the evidence required to secure a conviction is difficult, if not impossible, to obtain. But clearly, insider dealing is so contrary to the public interest—for instance, it saps confidence in capital markets—that the Government cannot for this reason alone, tolerate its existence. And so the rest of this Bill is concerned with setting out, as it were, the Government's present view of how the problem of insider dealing should be dealt with in Hong Kong. Whether the Bill can be fairly described as 'a typical Hong Kong compromise which baulks at grasping the nettle' to quote from the last paragraph of the editorial in one of this mornings newspapers is for this Council to decide in the course of this debate, but grasping nettles unintelligently can be a painful and disappointing experience with unpredictable consequences as other governments have discovered.

So, in an attempt to grasp the nettle in a way which might produce *effective* results, the Government has decided to establish an Insider Dealing Tribunal, which will investigate and report to the Financial Secretary on cases of suspected insider dealing. The Tribunal will publish its report, which will be protected by qualified privilege. It will not have power to impose sanctions on those whom it finds to have been at fault; but I am confident that those who are in a position to impose their own sanctions will have regard to the Tribunal's reports and do so. By those in a position to impose sanctions I mean companies of which persons criticized are directors or employee, and/or professional bodies of which they are members.

Before he refers a case to the Tribunal, the Financial Secretary must be satisfied that insider dealing may have taken place. This means that the Commissioner for Securities must have established a *prima facie* case. To assist him in this, where dealings by nominees are involved, clause 5 of the Bill extends the Commissioner's powers to obtain information under section 123 of the principal Ordinance in the matter described in the final paragraph of the explanatory memorandum.

Although the new section 141B in Clause 8 of the Bill defines insider dealing widely, the Government recognizes that not all instances of insider dealing are culpable. Whether or not a particular dealing is culpable will be for the Tribunal to decide, having regard to the guidelines laid down in the new section 141C in clause 8 of the Bill.

The Insider Dealing Tribunal will have virtually the same powers and status as are accorded Commissions of Inquiry under the Commissions of Inquiry Ordinance. In particular, the Tribunal will have the same powers available under that Ordinance to summon and question witnesses, to require them to produce documents and to punish persons who fail to

comply. In addition, the Tribunal will be empowered to authorize the Commissioner for Securities to carry out investigations on its behalf and to confer on the Commissioner powers to inspect books and documents and to demand explanations about them.

The Bill provides that all sittings of the Tribunal shall take place in camera, and that information received by the Tribunal for the purposes of an Inquiry shall not be published. The point here is that the Tribunal will be empowered to receive information which would not be admissible in a court if insider dealings were a criminal offence. The potential scope for the publication of unsubstantiated and possibly damaging information will, therefore, be much greater than in ordinary court proceedings. It would be unfair to persons under investigation if the media were able to report and discuss the case before the Tribunal had had the opportunity to study all the evidence and to make its considered report. In connection with the prohibition on publication of information, I shall, at the Committee Stage, move an amendment to make it clear that the prohibition does not extend to the publication of the fact that the Financial Secretary has referred a case to the Tribunal and to the publication of the Tribunal's terms of reference.

A full understanding of the provisions of this Bill is best obtained by studying the explanatory memorandum so I shall not go into further detail. In my view there is a very real chance that the Government has devised a way of tackling the problem of insider dealing effectively. But, as only time will tell, the Government intends to assess the position in two years' time.

Before concluding, Sir, may I make one final point? I have heard it argued that connected persons, and particularly major shareholders, will be inhibited by this Bill from dealing with consequences for the volume of business on the stock exchanges. But all they have to do in order to escape any accusation of insider dealing is to influence their companies to pursue a policy of full and immediate disclosure of all relevant facts of a material nature. Such improved disclosure by companies would be a welcome by-product of this Bill.

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

*Question put and agreed to.*

## **RESERVED COMMODITIES BILL 1977**

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS moved the second reading of—‘A bill to make provision with respect to reserved commodities.’

He said:—Sir, the main purpose of this Bill is to clarify and update existing legislation on reserved commodities.

The control of these commodities has, since 1955, been exercised under the Import and Export (Reserved Commodities) Regulations, made under the Import and Export Ordinance. These Regulations provide for control over the import and export of reserved commodities and give the Director of Trade, Industry and Customs the authority to require importers of reserved commodities to maintain stocks to ensure adequate supplies in the event of a shortage.

In 1973 and early 1974 there was a world shortage of rice which is the most important of our reserved commodities. The price of rice rose generally worldwide, and in Hong Kong it increased sharply. There were indications that some rice traders were attempting to manipulate supplies and prices so as to achieve excess profits. The Director of Commerce and Industry had, at that time, however, no legal powers to intervene and was only able to reach a voluntary agreement with the rice trade whereby maximum mark-ups were fixed in respect of prices at which importers would sell to wholesalers, wholesalers to retailers and retailers to consumers. As prices began to fall the *de facto* price control arrangement was later dropped on the advice of the Rice Advisory Committee of the Trade and Industry Advisory Board.

These events showed us that the Import and Export (Reserved Commodities) Regulations were now out of date. We thought there was a need to provide additional statutory powers for the Director of Trade, Industry and Customs to control the trade in a reserved commodity if faced with situations similar to those which obtained in the trade in rice in 1973 and 1974. In any event, the Import and Export Ordinance is not a suitable vehicle for the purpose of controlling, in addition to import and export, the stockholding, marketing and distribution of reserved commodities.

The Bill retains those provisions of the Import and Export Ordinance which seem valid and necessary for the purposes of import and export controls. In addition it enables the Governor in Council to make regulations to specify reserved commodities; and to control the price, import and export, movement, distribution and storage of them.

If the Bill is enacted, the Import and Export (Reserved Commodities) Regulations will be revoked and new Regulations will be made. It is intended that these should prescribe only rice, frozen meat and frozen poultry as reserved commodities: coal and firewood will at last be dropped from the list.

So far as frozen meat and frozen poultry are concerned, we don't intend to make any changes in present practices. So the only changes will concern wholesalers of rice. They will be required to register with the Department and we shall inspect stocks and require records to be kept and returns of transactions, balance sheets and other financial records to be submitted.

The Trade and Industry Advisory Board and its Rice Advisory Committee and the Consumer Council have been consulted and have agreed the form of this new legislation.

I should like to emphasize that these changes are proposed only to provide a more satisfactory legislative framework for the Rice Control Scheme and to provide powers which I hope it will never be necessary to use.

The international supply and price situation for rice is at present stable and we can expect to continue to have adequate supplies at reasonable prices.

The power to control prices, which will be included in the proposed regulations, would actually be used only if we found ourselves in a situation similar to the one we faced in 1974—and would be operated in close consultation with all the sectors of the trade involved.

*Motion made. That the debate on the second reading of the Bill be adjourned—*THE DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS.

*Question put and agreed to.*

## **MAGISTRATES (AMENDMENT) BILL 1977**

THE SOLICITOR GENERAL moved the second reading of:—‘A bill to amend the Magistrates Ordinance.’

He said:—Sir, this Bill contains 2 unrelated amendments of a purely technical nature. I venture to predict that they are unlikely to stir the passions of Honourable Members to the point of generating lively and exciting debate. Nevertheless the amendments are of some practical importance for the administration of justice.

The first concerns the admissibility of translations of documents in committal proceedings. The amendment is in fact no more than a clarification of the intent of the existing provision but differing views taken by some magistrates have made it necessary to place the matter beyond doubt. Clause 2 amends section 81A so that a statement written in a language other than English will be admissible in evidence in committal proceedings if it is accompanied by an English translation certified by a person appointed by the Chief Justice as a translator.

The second amendment is of application to those cases in which the return to Hong Kong of an offender is sought under the Fugitive Offenders legislation. Difficulties have occasionally been encountered because witnesses here in Hong Kong have been reluctant to swear affidavits upon which an application for return might be founded. Although Section 21(1) of the Magistrates Ordinance enables a magistrate to require a person able to give



material evidence to appear before the court and give that evidence, that section does not extend to cases involving the return of fugitive criminals.

The Bill seeks to overcome the problem by inserting a new section 104A into the Magistrates Ordinance so that a person may be required to appear and give evidence in proceedings for the return of a person accused or convicted of an offence.

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE SOLICITOR GENERAL.

*Question put and agreed to.*

### **SMALL CLAIMS TRIBUNAL (AMENDMENT) BILL 1977**

THE SOLICITOR GENERAL moved the second reading of:—‘A bill to amend the Small Claims Tribunal Ordinance.’

He said:—Sir, the Small Claims Tribunal has now been in operation for just over a year and during this period its workload has steadily increased as the Tribunal and what it does has become better known in the community. In the last few months, the increased case load has been substantial and has justified the opening of a third Small Claims Tribunal which will commence operations at Tsuen Wan on next Monday, 17 October. There are now encouraging signs that the Tribunal is generally working well and gaining public confidence and acceptance.

As a result of experience gained in the last year, the Judiciary has proposed that the Ordinance be amended to give 2 further procedural powers to adjudicators.

The first proposal, contained in Clause 3 of the Bill, would add a new section conferring on an adjudicator who has heard a claim power to review his decision. The new section empowers an adjudicator to carry out a review within 14 days of his decision and on the application of either party or of his own motion. This power is likely to be a particularly helpful one for an informal tribunal such as the Small Claims Tribunal where persons without legal knowledge are personally presenting their cases to the adjudicator. A power of review will assist the adjudicator to do what is just in those cases where evidence may have been overlooked during the proceedings or new evidence is available.

The second amendment arises from a recent decision of the Court of Appeal which held that there is no power for an adjudicator to set aside an award or order given *ex parte*. Cases are bound to occur where a defendant is absent through no fault of his own and, as the law now stands, injustice may be done. Clause 4 of the Bill will, therefore, empower an

adjudicator to set aside within 7 days an award or order obtained when one party did not appear at the hearing.

*Motion made. That the debate on the second reading of the Bill be adjourned*—THE SOLICITOR GENERAL.

*Question put and agreed to.*

### **ROAD TRAFFIC (AMENDMENT) (NO 3) BILL 1977**

THE SECRETARY FOR THE ENVIRONMENT moved the second reading of:—‘A bill to amend the Road Traffic Ordinance.’

He said:—Sir, the purpose of this Bill is to help provide for the issue of Hong Kong driving licences, without a test, to the holders of certain overseas driving licences. For some months now the Commissioner for Transport, acting within the powers conferred under existing law, has been issuing Hong Kong driving licences to those applicants who can prove that they hold current driving licences issued by a list of countries whose driving tests are considered to be of a standard at least as high as in Hong Kong. This action, however, involves the exercise of a certain discretion on the Commissioner’s part in deciding which countries should be included in this list.

So as to put the issue beyond any doubt the intention is to add a new schedule to the Road Traffic (Driving Licences) Regulations listing the countries to whose driving licences this procedure applies, with provision for the list to be amended by the Governor by order published in the *Gazette*. The power thus to amend the schedule, however, requires to be granted by the principal legislation and that is the purpose of this Bill. The Bill seeks to add a new paragraph to section 5(1) of the Road Traffic Ordinance to empower the Governor, by order published in the *Gazette*, to amend the new schedule to the Driving Licences Regulations.

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

*Question put and agreed to.*

### **Valedictory to Mrs TSE**

DR S. Y. CHUNG:—Sir, before we adjourn may I be permitted to say a few words about Mrs Lolly TSE who is attending the Legislative Council for the last time today in her capacity as Clerk to this Council. During her term of office in the last 17 months she has been most courteous and helpful to the Unofficial Members of this Council for which my Colleagues and

I am most appreciative. I understand Mrs TSE has been appointed to the Administrative Services and we all wish her every success in her new career.

**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 26 of October.

*Adjourned accordingly at ten minutes to four o'clock.*