

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 7 December 1977****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)  
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 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 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 RONALD GEORGE BLACKER BRIDGE, JP  
SECRETARY FOR THE CIVIL SERVICE

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

THE HONOURABLE DAVID RAYMOND BOY, JP  
SOLICITOR GENERAL (*Acting*)

DR THE HONOURABLE CHUNG SZE-YUEN, CBE, JP

THE HONOURABLE LEE QUO-WEI, CBE, 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 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 REV THE HONOURABLE PATRICK TERENCE McGOVERN, SJ, 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 DAVID HAROLD JORDAN, CMG, MBE, JP  
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS

THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP

**IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR STEPHEN TAM SHU-PUI

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**Papers**

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

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Sessional paper 1977-78:

No 21—Annual Report of the Hong Kong Productivity Council 1976-77  
(published on 7.12.77.)

### Oral answers to questions

#### 50¢ coins—design

1 MR CHEONG-LEEN asked:—*Will Government consider withdrawing and redesigning the recently introduced 50(A246) coins in order to minimize possible confusion between them and the 10(A246) coins in circulation?*

THE FINANCIAL SECRETARY:—No, Sir. (*laughter*) The Government does not propose to withdraw and redesign the recently introduced 50 cent coin; but it is our intention to introduce a new 10 cent coin in 1979-80 provided we have the storage capacity necessary to cope with the change-over.

The nickel brass 50 cent coin was introduced in August this year following the Government's acceptance of the recommendations contained in a report prepared by an official committee appointed to review Hong Kong's coinage. This committee concluded that the one dollar coin is too large and too heavy in relations to its value and should be replaced; and that the number and weight of coins in circulation could be reduced by increasing the range of coins, that is to say, by introducing a 20 cent and a two dollar coin. The committee's recommendations were endorsed by the Royal Mint before being submitted to Executive Council for advice and were generally well received when an abridged version of the report was published in 1974. For instance, an editorial in a leading newspaper said, 'The Coinage Review Committee, which has made a thorough study (of the whole question of our coinage) has come up with the right answers'.

The points of distinguishability between the new 50 cent coin and the present 10 cent coin are less than I would like; but there are differences. The Queen's profile is different, the 50 cent coin is larger and it is, of course, marked as a 50 cent coin in Chinese characters and in English. But any distinguishability problems will only be temporary in view of our intention to introduce a redesigned 10 cent coin.

As well as recommending that the one dollar coin should be replaced with a smaller coin, but of the same cupro-nickel alloy as the existing dollar coin,

the Coinage Review Committee also recommended that all cent denomination coins, that is to say the 5, 10, 20 and 50 cent coins, be made of nickel brass, and that the dollar series should continue to be made of cupro-nickel. From this it followed the old 50 cent cupro-nickel coin would have to be replaced by a coin made of nickel brass.

Having accepted these recommendations, the Government had to decide on the order in which they would be implemented. As I have said, one of the committee's principal recommendations was to introduce a smaller dollar coin. Had the new dollar coin been introduced before the 50 cent coin changed from cupro-nickel to nickel brass there could have been confusion between the new dollar coin and the old 50 cent coin. It was, in the end, decided to replace the 50 cent coin before the smaller dollar coin was introduced. The new dollar coin will be issued in August 1978. On reflection, perhaps it would have been better to introduce the dollar coin first; but we shall never know as coin identification and distinguishability problems that stem from a piecemeal restructuring programme tend to surface only when new coins are put into circulation. Yet it would be impracticable to introduce all changes at the same time. The main problem is one of finding sufficient secure storage space to handle the new coins as they arrive from the Mint and space to hold the old coins as they are withdrawn from circulation prior to selling them off for their scrap metal value.

MR CHEONG-LEEN:—*Regarding distinguishability between the new 50 cent coin and the current 10 cent coin, aren't they so difficult to distinguish that you need a magnifying glass to find out the difference?*

THE FINANCIAL SECRETARY:—No, Sir.

MR CHEONG-LEEN:—*How large will be the new 10 cent coin? Will it be larger than the existing 5 cent coin?*

THE FINANCIAL SECRETARY:—It all depends. (*laughter*). There was a view at one time—and I would add here that there are 4.6 million coinage experts in Hong Kong—there was a view that the 5 cent coin would fade away, would cease to be in demand, in which case, of course, we would have no problems in defining the size of the new 10 cent coin. If the present 5 cent coin persists in its present popularity, the distinction will not be very dramatic.

MR CHEONG-LEEN:—*I am somewhat confused by the answer to the supplementary, but I crave your indulgence for another supplementary. How small will be the 5 cent coin?*

THE FINANCIAL SECRETARY:—There is no intention of changing the size of the 5 cent coin provided it remains in circulation.

**Commission of inquiry—Mr Liu Ping-hon**

2 REV JOYCE M. BENNETT asked:—*Will Government appoint a Commission to enquire into the circumstances leading to the death of Mr Liu Ping-hon?*

THE ATTORNEY GENERAL:—Sir, the Government does not consider it appropriate to appoint a Commission under the Commissions of Inquiry Ordinance to inquire into the circumstances of Mr LIU's death. However, in view of the continuing public interest, the Commissioner of Police has asked the Director of Criminal Investigation to re-examine the matter with a view to seeing what further inquiries, if any, can be made.

Sir, in view of the Commissioner's decision, it is, I think, right that I should make it clear that I did not consult him in reaching my conclusion that the material submitted with the representations which I received from the Hong Kong Bar Association was not sufficient to warrant an independent inquiry.

**Property tax payment**

3 MR S. L. CHEN asked:—*In view of the recommendations in the Report of the Third Inland Revenue Ordinance Review Committee, would Government consider dispensing with property tax payment in respect of organizations holding private recreational leases for buildings not used for commercial purposes?*

THE FINANCIAL SECRETARY:—Sir, the Third Inland Revenue Ordinance Review Committee recommended that, should the Government decide to continue with the existing concept of property tax, clubs *not* deemed to be carrying on a business should be treated on a similar basis to owners of private residences and should be exempt from property tax in respect of club buildings not exploited commercially. Clubs which *are* deemed to be carrying on a business are liable to profits tax but are already, in effect exempt from property tax.

Mr CHEN has suggested that clubs that is to say, private treaty operating in buildings on land held on private recreational leases (p.t. grants at nil premium) should be exempt from property tax. He was clever enough and wise enough not to say why they should be, and the trouble with his suggestion is that it would exclude clubs similar to those which enjoy private recreational leases. However, I will consider his suggestion fairly unsympathetically and consult the Working Party which has been examining for some time the Review Committee's complex report.

## Gambling

4 MISS DUNN asked:—*Does the Government consider that the development of so many different kinds of bets by the Royal Hong Kong Jockey Club is positively encouraging gambling habits?*

SECRETARY FOR HOME AFFAIRS:—Sir, I feel I must emphasize that the predominant effect of the different kinds of bets introduced by the Royal Hong Kong Jockey Club has been to divert previously very extensive illegal gambling into a controlled legalized system. As illegal operators give discount to their customers it has been necessary to offer not only those types of bets already handled by illegal operators but also those which they cannot accept because of the attractive odds. Though bets with huge dividends might attract punters, no evidence is available on which it can be concluded that these bets are positively encouraging new gamblers. However, Government is satisfied that the bets now offered by the Jockey Club coupled with the new provisions in the Gambling Ordinance have reduced significantly the activities of illegal operators taking bets on horse racing.

MISS DUNN:—*Notwithstanding the role of off-course betting combating illegal gambling and associated corruption, is it not at least likely that the combination of a legal facility for off-course betting, and the introduction of new forms of bets is spreading the gambling habit?*

SECRETARY FOR HOME AFFAIRS:—It may be one of the factors but I am not prepared to express an opinion without concrete evidence.

MISS DUNN:—*What regular consultative machinery is there between the Government and the Jockey Club?*

SECRETARY FOR HOME AFFAIRS:—There is no formal consultative machinery, Sir, but we are in close contact with the staff of the Jockey Club at all times.

MISS DUNN:—*Sir, in view of the growing popularity and accessibility of gambling to the public and the consequent growth in the scale of the Jockey Club's monopoly, does Government consider the present relationship between the Government and the Jockey Club is adequate and due for a review?*

SECRETARY FOR HOME AFFAIRS:—Sir, with due respect, that is a different question.

DR CHUNG:—*Has Government ever attempted to conduct a survey to prove or disprove the point raised in Miss Dunn's original question and if not, why not?*

SECRETARY FOR HOME AFFAIRS:—No, Sir, we have never thought of it.



MR T. S. LO:—*Sir, can we now expect a halt to the expansion of betting shops, in view of the admitted significant reduction in illegal gambling?*

SECRETARY FOR HOME AFFAIRS:—There is a reduction in illegal gambling, but I am not certain whether or not the Club intends to expand off-course betting shops. As far as I know they do not intend to expand in the same way as they have been perhaps limiting it to a couple a year or thereabouts.

MR T. S. LO:—*Is there any justification to the expansion of betting shops other than to reduce illegal gambling?*

SECRETARY FOR HOME AFFAIRS:—Sir, not as far as I am aware.

MR PETER C. WONG:—Does Government think it necessary to strengthen its informal consultative machinery, with the Jockey Club?

SECRETARY FOR HOME AFFAIRS:—No, Sir.

DR CHUNG:—*Now, can Government give consideration to my proposal to conduct a survey?*

SECRETARY FOR HOME AFFAIRS:—Yes, Sir.

REV JOYCE M. BENNETT:—*Sir, is there any age limit to the people attending betting shops and placing bets?*

SECRETARY FOR HOME AFFAIRS:—I believe so, Sir.

REV JOYCE M. BENNETT:—*Sir, what is the age limit?*

SECRETARY FOR HOME AFFAIRS:—18, I understand, Sir.

MISS DUNN:—*How is that checked, Sir?*

SECRETARY FOR HOME AFFAIRS:—By the staff of the Jockey Club using their own judgment (*laughter*) as to whether or not someone going inside the betting shop is likely to be below 18.

MR CHEONG-LEEN:—*Could the liaison between Government and the Jockey Club be any closer, in view of the fact that Mr Li is sitting just next to the Chairman of the Jockey Club? (laughter)*

SECRETARY FOR HOME AFFAIRS:—I don't think that requires an answer, Sir.

MR T. S. LO:—*Sir, will Government take efforts to consider stopping the expansion of betting shops, in view of earlier answers to questions?*

SECRETARY FOR HOME AFFAIRS:—I do not think Government will at this stage, although I will review the position and ascertain if any expansion should or should not be allowed in the future.

### **Undesirable advertisement in Chinese press**

5 MR T. S. LEUNG asked:—*What action has Government taken over the past four months against undesirable advertisements in the Chinese press which appear to contravene the Medical Registration Ordinance and the Undesirable Medical Advertisements Ordinance?*

THE ATTORNEY GENERAL:—Sir, on the 29 June in reply to a question by Mr LEUNG I informed this Council that, as regards newspaper advertisements advertising treatment for various ailments, the Police act only on complaint from members of the public.

The Hong Kong Medical Association has, almost weekly since then, lodged with the Police complaints alleging altogether more than 1,700 contraventions of the Registered Medical Practitioners Ordinance, the Undesirable Medical Advertisements Ordinance, or both. These complaints are spread over some 220 issues of 29 different newspapers.

It is, Sir, therefore, not inaccurate to say that the Police have been inundated with the newspapers sent to them along with the complaints. When I said in my earlier reply to Mr LEUNG that the Police act only on complaint from members of the public, I did not mean that the Police can act on every complaint. The very number of complaints received from this one source since the middle of July shows the impracticability of their even trying to do so.

Each advertisement would have to be considered first, to decide whether or not the complaint is well-founded. The follow-up investigation of the well-founded complaints is time-consuming because it involves, among other things, translations, certification of the accuracy of translations and the obtaining of particulars of the management of the newspapers and the identity of the advertiser.

However, Sir, to enable us to make a start on tackling the problem, arrangements were made a while ago for a batch of these newspapers to be examined by 2 of my officers so that a detailed investigation of more blatant contraventions can be undertaken. This examination is now almost complete, when we shall advise the Police which complaints should be investigated with a view to possible prosecution.

If prosecutions are ultimately instituted, I hope that they will serve to remind all concerned of the law.

**Industrial Estate Corporation—Committees**

6 MR TIEN asked:—*Will Government obtain the following information from the Industrial Estates Corporation and inform this Council accordingly—When will a committee be established by the Industrial Estates Corporation under section 13 of the Hong Kong Industrial Estates Corporation Ordinance 1977 to regulate and vet applications for industrial land?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, Sir. The answer is that the Corporation does not intend to set up such a committee at the present time. But the Board has set up its own internal Selection Committee to vet applications for sites on the Industrial Estate. This Committee is chaired by the Chairman of the Board and comprises representatives of some of the Government members, an unofficial and the Chief Executive of the Corporation. The Committee's recommendations on each application is then considered by the Board itself with which the final decision rests.

MR TIEN:—*Sir, will Government consider tabling a list of successful applicants after they have completed their formalities, in this Council?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, I shall put this proposition to the Corporation, but I am told that names cannot be released until after agreements have been executed by the applicants.

**Magistrates courts—proceeding time**

7 REV JOYCE M. BENNETT asked:—*Sir, what is the average time, in cases to be heard in magistrates courts, between the entering of a plea of not guilty by a defendant and the actual hearing of the case where:*

- (a) *the defendant is remanded in custody;*
- (b) *the defendant is placed on court bail; and*
- (c) *the case is proceeded with by way of a summons?*

THE ATTORNEY GENERAL:—Sir, the average period between the first appearance of a defendant in a magistrates court and the date fixed for the hearing of the case when the proceedings are defended is one month. The available records do not distinguish between cases where the defendant is remanded in custody and cases where bail is granted. However, magistrates accord priority to custodial cases and it is believed that the usual period between first appearance and trial in custodial cases is 14 days or less.

There is, Sir, no appreciable difference in the time which elapses as between a case in which bail is granted and a summons case.

### **Lights for road works**

8 MR PETER C. WONG asked:—*Sir, is Government satisfied that all road works are adequately illuminated throughout the night for the safety of motorists, particularly in areas where there is no street lighting or where the lighting is inadequate?*

DIRECTOR OF PUBLIC WORKS:—*Sir, the Road Traffic (Lighting and Guarding of Road Works) Regulations prescribe the measures to be taken by contractors to ensure adequate protection of the public from the effects of road works. There is also a Safe Road Working Code which illustrates the requirements for signs and lighting at work sites.*

Unfortunately not all contractors comply in all cases with the laid down standards, and so in December 1976 the Highways Office, PWD started carrying out night time patrols in an attempt to enforce compliance and since April police have accompanied these patrols.

Staff resources are not, of course, unlimited and consequently patrol visits to each site are not carried out frequently enough to ensure complete and continuing compliance, but when one considers the vast number of road works in operation throughout the territory at any one time this is perhaps not too surprising. It is therefore necessary to rely, to some extent, on the responsibility of contractors to properly light their work sites.

Although present regulations give the necessary protection to the public, the Lighting and Guarding of Road Works sections of the Road Traffic Ordinance are being revised to conform more with international standards and to provide for an improved standard of lighting for roadworks.

MR PETER C. WONG:—*Sir, has there been any prosecutions of breach of regulations since December 1976 when night time patrols were started and if so, how many?*

DIRECTOR OF PUBLIC WORKS:—*Yes, since the introduction of the joint patrol system in April this year, the monthly average of cases laid before magistrates is 72.*

MR PETER C. WONG:—*Sir, is Government satisfied with the present situation?*

DIRECTOR OF PUBLIC WORKS:—*Yes, Sir.*

### **Ferry fare—Jubilee Street and Jordan Road**

9 MR T. S. LO asked:—*Will Government state why the Hong Kong and Yaumati Ferry Co Ltd was permitted to install an automatic turnstile for*

*passengers travelling between Jubilee Street and Jordan Road at 50¢ a trip when the statutory adult fare is only 40¢?*

SECRETARY FOR THE ENVIRONMENT:—Sir, now that the cross harbour ferry fare has been set at 40 cents, considerable delays are being experienced by passengers at the turnstiles, where four 10 cent pieces have to be inserted. It has not been feasible to design turnstiles capable of taking the flanged 20 cent coins or of giving change for a 50 cent coin. Change counters have been set up at the terminals, but again queues have been forming at these counters. Following requests from members of the public, therefore, the Company introduced one 50 cent turnstile on an experimental basis without reducing the number of 40 cent turnstiles. The idea was to enable passengers in a hurry to go through the 50 cent no change turnstile. Although, however, this action was taken in good faith and in response to public demand, it has subsequently been withdrawn because it was found to contravene the terms of the Company's franchise.

MR T. S. LO:—*How will the additional profit arising during the period of the experiment be dealt with by the Company?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I presume this profit will be taken into the Company's revenue. If the Company later on comes to apply for a fare increase the Government will, of course, consider it in relation to the Company's rate of return.

MR T. S. LO:—*When permission was originally granted by the Government, was it unaware of the terms of the franchise?*

SECRETARY FOR THE ENVIRONMENT:—Sir, when this question was asked of the Transport Department by the Company, the reaction of the officials dealing with it was that 'it was a good idea' (*laughter*) and as it was at the request of passengers who were pleased with what happened, I presume it was. But it was subsequently referred to the Legal Department who pointed out that contrary to the bus company's franchises where this would have been permitted, in the case of the Ferry Company's franchise it was not.

MR T. S. LO:—*In short, Sir, would it be right to say that the correct answer was 'yes'?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir.

### **Street lighting**

10 DR FANG asked:—*When will Government install adequate street lighting on the roads leading to the Stanley and Tai Tam area?*

DIRECTOR OF PUBLIC WORKS:—Sir, installation works for the extension of street lighting from Repulse Bay to the Chung Hom Kok Road junction are programmed to start in April with completion in June.

A proposal to further extend the system from Chung Hom Kok Road to Stanley Village Road has been submitted for inclusion in the 1978-79 Street Lighting Programme. If approved by the Public Works Sub-Committee the works will be put in hand in October 1978.

It is not present policy to light rural roads where little development exists unless traffic considerations can justify the provision. There are, therefore, no plans to install lighting on the Tai Tam Road as the area between Chai Wan Road and Stanley Village Road is largely undeveloped.

### **School Medical Service Scheme**

11 MR CHEONG-LEEN asked:—

- (i) *Does the Government consider that the response from private schools to the School Medical Service Scheme is satisfactory, in view of the comparatively small number of students aged above 10 participating in the scheme?*
- (ii) *If not, what are the reasons for this?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, according to the latest annual report by the Chairman of the School Medical Service Board, the response from private schools to the Scheme is not as good as that in the aided and Government schools. Statistics show that in terms of pupils— 10% of the pupils in private schools are participating in the Scheme as compared to an average of 13% in Government and aided schools. The difference is therefore not significant. However, in terms of schools—34% of the private schools are participating as compared to 70% of Government and aided schools.

In taking up the second part of my honourable Friend's question, it must be remembered that this is a voluntary and contributory scheme and it is up to the schools concerned to encourage more students to participate. Also, an important factor is the easy access to other sources of medical care in both private and public sectors. In regard to the lower enrolment in the over 10 age group, it is true that as children grow older, there is generally a lower incidence of illness among them resulting in less need for medical attention. In the circumstances, it is very likely that most parents will be less conscious of the need to enroll their children in the scheme.

MR CHEONG-LEEN:—*Sir, in view of the fact that only 11% of those eligible have joined the School Medical Service Scheme as of 31 March 1977, will*

*Government take steps to urge the authorities concerned to launch a more effective publicity campaign through the mass media, particularly T.V. and radio, to make parents more aware of the benefits of the Scheme for their children?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, I shall be very happy indeed to convey the suggestion of my Friend to the School Medical Service Board for consideration.

REV JOYCE M. BENNETT:—*Sir, since only 70% of Government and aided schools participate in the Scheme, will the Government consider forcing all Government and aided schools to allow their children to participate in the Scheme?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—If I hear my honourable Friend correctly, the word used was force. As I have said this is a voluntary and contributory Scheme, I don't think any force should really be necessary.

REV JOYCE M. BENNETT:—*Sir, the reason why I use force was because the children in these schools are not given the option. Sir, will the Government consider allowing, giving the opportunity to the children in these 30% of Government and aided schools to participate?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, again I shall be happy to convey the suggestions of my Friend to the School Medical Service Board for consideration.

### **Learner Drivers—inconvenience and pollution**

12 MR ALEX WU asked:—*Sir, what plans does Government have to reduce the inconvenience and pollution caused by learner drivers to people living in predominantly residential areas?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the concentration of learner drivers in residential areas such as Happy Valley and Kowloon Tong is naturally inconvenient to those who live in such areas. But to allow these drivers to venture into very heavy traffic could be dangerous and they must practise on quieter roads.

The ideal solution would be to provide sufficient off-street sites where learner drivers could at least undertake their basic training, but such sites are difficult to find and there are many competing claims for their use. However, the Government has recently agreed to allocate land in Butterfly Valley to the Automobile Association for a pilot scheme of off-street driver training.

The Transport Department also operates an Indoor Driving Training Centre next to its Kowloon Licensing Office. Since this centre opened in 1974, more than 11,000 trainees have received basic instruction and the numbers of applicants are steadily increasing. This training helps to keep learners off the road until they have acquired some competence in handling a vehicle and it has been shown to produce drivers of above average standard. The Automobile Association is running a similar facility at Marsh Road in Wan Chai.

MR ALEX WU:—*Sir, would Government consider prohibiting learner drivers in residential areas on alternate days so as to offer some relief to the residents from pollution and inconvenience caused by U turns?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, there are at present approximately 100,000 learner drivers who are on the road at some time or another and the number of areas where they can practise have been steadily diminishing. I will promise to look into this possibility but I cannot in any way guarantee that Mr WU's request can be fulfilled.*

### **Social Welfare Department Staff—sense of compassion**

13 MR T. S. LO asked:—*What steps is Government taking to inject a sense of compassion or warmth into the staff of the Social Welfare Department?*

DIRECTOR OF SOCIAL WELFARE:—*Sir, there are two categories of staff coming into the departmental grades of the Social Welfare Department. There are those who have had professional training in social work either at the universities, the Polytechnic or a post-secondary college. They are properly trained to be social workers and their training covered the necessary knowledge, skills and, above all, attitude required of a social worker. The other category consists of officers entering the Welfare Assistant grade who have not had training in social work. However, on joining the Department, they are required to undergo in-service training. All officers, both trained and untrained, have to take an orientation course when they join the Department and for those whose work brings them into contact with the public, the instructor always stresses the need to show compassion and courtesy to all clients, particularly as many of those who seek help are in distress or suffering from strain of one sort or another.*

Those members of my staff who have arduous duties to perform, particularly in the field of social security, where more than 120,000 cases are being handled actively, are also reminded by their supervisors from time to time exhorting them of the need to temper firmness with fairness and kindness. However, it has to be realized that these front-line workers have



an investigative function to perform which is to prevent abuse of the Public Assistance Scheme and this kind of work may not always be conducive to smooth relationships with unsuccessful or difficult applicants.

MR T. S. LO:—*Sir, does Government consider it necessary to improve this aspect of the Department's work and in particular to stress the need for the staff to show compassion and human warmth and not mere cold, trained courtesy?*

DIRECTOR OF SOCIAL WELFARE:—*Sir, I consider the present arrangement satisfactory. However, in the programme of in-service training and orientation training this aspect will be stressed.*

MR T. S. LO:—*Thank you.*

### **Traffic at Clear Water Bay Road/Sai Kung Road**

14 MR PETER C. WONG asked:—*Will Government consider regulating the traffic at the junction of Clearwater Bay Road and Sai Kung Road during rush hours and on public holidays in order to ease the usually very heavy Kowloon bound traffic flow along Sai Kung Road during these periods?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, during peak hours and on public holidays there is always one, and sometimes two, Police patrol cars in the Clearwater Bay Road and Hiram's Highway area that is the Sai Kung Road which Mr WONG mentioned. Apart from doing what they can to assist traffic flow generally and dealing with vehicles which break down, officers from these patrols are instructed to direct the flow of traffic at the junction of these two roads when the situation warrants it. There are sometimes holdups of traffic turning right from Hiram's Highway towards Kowloon along Clearwater Bay Road but, given other priorities for the deployment of Police manpower, they are not yet considered to be sufficiently serious to justify the stationing of an officer permanently at this point to control traffic.*

MR PETER C. WONG:—*Would the Secretary for the Environment clarify the phrase 'not sufficiently serious' in the final sentence of his reply?*

SECRETARY FOR THE ENVIRONMENT:—*Sir, it is a question of the Commissioner of Police and under him the Chief Staff Officer (Traffic) allocating his limited resources amongst the various duties they have to perform.*

### **Labour conditions and legislative provisions in South East Asian countries**

15 DR CHUNG asked:—*Sir, with reference to the debate in this Council on 22 December 1976 when the Commissioner for Labour gave an undertaking*

*to send two labour officers on a tour of South East Asian countries to update and improve the document prepared by his Department on labour conditions and legislative provisions in the countries concerned, will Government inform this Council what progress has been made on this matter so far?*

COMMISSIONER FOR LABOUR:—Sir, between 19 September and 18 November 1977 two Government officers, one from the Social Services Branch of the Government Secretariat, the other a Labour Officer, visited six neighbouring countries—Thailand, Malaysia, Singapore, Indonesia, Korea and the Philippines. The purpose of these visits was to collect up-to-date information on labour legislation and practice as well as social security arrangements in these countries. These officers are now preparing their report. It will be completed by the end of this month. Much of the information gathered will be used to revise and extend the scope of the document referred to by Dr CHUNG in his question.

DR CHUNG:—*Sir, first does the Commissioner for Labour realize that one of Hong Kong's major competitors, that is Taiwan, is not included in the list of countries visited, and secondly recognizing that difficulties may arise but nonetheless, will the Commissioner for Labour attempt to include Taiwan in the survey?*

COMMISSIONER FOR LABOUR:—Yes, I do realize that Taiwan is not included in the list but there are reasons for this and we will certainly take the conditions in Taiwan into account in producing the report.

### **Dust nuisance by contractors lorries**

16 MR WONG LAM asked in the cantonese dialect:—

政府將採取何種更有效措施，以確保承建商從事發展工程，特別在觀塘及新界方面所使用之貨車，不致引起嚴重妨害公眾衛生的塵土污染問題？

(The following is the interpretation of what Mr WONG Lam asked):—*What measures will Government take to ensure that lorries used by contractors engaged in development projects do not pose a serious dust nuisance to the public, particularly in Kwun Tong and the New Territories?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the problem of dust created by contractors' lorries at large development sites is an endemic one which it is not possible to eliminate. But the Government has for some time been trying to control it by requiring contractors to adopt various mitigating measures. These include:—

—spraying water on accessways to sites to prevent dust from rising;

- sweeping away mud and dust dropped by contractors' vehicles on roads near the site so as to minimize the creation of dust clouds by other passing vehicles;
- and I think more important, covering the tops of earth-carrying vehicles with canvas to prevent soil from spilling onto the road and dust from being blown into the air when the vehicle is in motion.

In addition, at some locations such as Tuen Mun, attention has been taken to re-route earth-carrying vehicles away from densely populated areas; and contractors at these places are also being required to spray the surface of soil stockpiles with bitumen to prevent dust from spreading.

Although it is not easy to enforce compliance with all of these measures, particularly in the case of sub-contractors, prosecutions are being brought against those who create a serious nuisance. Furthermore, in the most flagrant cases of abuse, the contractor's licence to dispose of earth fill can be cancelled.

MR WONG LAM asked in the Cantonese dialect:—

閣下，請問今年六個月內檢控這種違例貨車有多少宗？

(The following is the interpretation of what Mr WONG asked):—*Sir, how many prosecutions in regard to such offence by this type of lorries were taken out within the first 6 months of this year?*

SECRETARY FOR THE ENVIRONMENT:—Sir, I regret that I do not have this information to hand at the moment but I will write to Mr WONG Lam with the answer as soon as possible.

### **Police/ICAC incident at Hutchison House**

17 DR CHUNG asked:—*Will the Attorney General explain the circumstances leading to his decision to prosecute only one person (an ex-policeman) in the Police/ICAC incident at Hutchison House on 28 October 1977?*

THE ATTORNEY GENERAL:—Sir, Members are aware that a prosecution arising out of the incident to which Dr CHUNG's question refers is pending. I would normally postpone an answer to his question until those proceedings had been completed. However, on careful consideration, I have concluded that I can answer the question now without risk of affecting the proceedings. I am glad of this because I am anxious to answer the question now, rather than later, for two reasons.

Firstly, I know that my decision in the matter has aroused public concern. This is because it seems on its face to run counter to facts which to many

who are not fully familiar with the details seem obvious and incontrovertible.

Secondly, people whose views command public attention have consequently portrayed my decision in an unfortunate way, which could prejudice respect for the law. For this reason I must make my position clear.

My sole concern was with the proper administration of the law, in accordance with the duty which is cast on the Attorney General. Anyone who has suggested or implied otherwise has undermined the important principle of the complete independence of the Attorney General over the control of prosecutions. The decision which I reached was not based upon political or other considerations but upon the evidence available. On the material put before me by the investigating officers I could not have decided otherwise than in the way I did.

Sir, the Attorney General, in the discharge of his constitutional duty in relation to the administration of the criminal law, acts wholly independently. He is not subject to directions from anyone, including the Governor. This fundamental aspect of our constitution is designed to ensure that an Attorney General is free of influence and free from extraneous considerations one way or the other. So, Sir, although the idea is one that people find difficult to grasp, an Attorney General's decisions must not be seen as those of the Government as a whole—indeed they are sometimes awkward for it because they cannot always match the public will.

Sir, the report of the Police investigation into the incident at Hutchison House on the 28 of October presents a fairly clear picture of the events which occurred between about noon and some 20 minutes later. The picture is built on statements from officers of the ICAC and members of the press.

As I have said, I decided that one person should be prosecuted. Nothing that I now say should be regarded as constituting, either directly or indirectly, any comment with respect to that particular case.

The three offences most likely to have been committed on that occasion are taking part in an unlawful assembly, assault of one degree or another and criminal damage. The offence of participating in an unlawful assembly involves more than mere presence. It involves, and I emphasize the words, 'taking part' in an unlawful assembly. The case of a person who actually participates actively (whether by fighting, threatening or even shouting encouragement) presents no difficulty. His intention to encourage the formation or continuance of the assembly is clear. The case of a person who is merely present without participating actively is more difficult because although his presence may in fact give some encouragement the Crown has still to establish that he was present with the intention of encouraging the formation or the continuance of the assembly.

Sir, the evidence submitted to me was prima facie adequate to establish the events at Hutchison House that morning. The same cannot be said when one comes to establish who was present and participating.

Although the investigating officers were able to pick out from the numerous available photographs of the events, a number of persons as having various degrees of resemblance to known police officers, that standard of identification falls short of being sufficient on its own to support the institution of criminal proceedings. Members, Sir, will recall the concern which has been expressed recently in other jurisdictions, and is felt here, about the need for care with identification evidence. Clearly, the identification of someone as a participant in crime merely from the appearance of a person depicted in a photograph or film taken at the scene is not adequate unless the identification from the photograph is certain. That, Sir, was not the case here.

Furthermore, even if the identifications from the photographs had been certain in themselves, there was in some of the cases no evidence of any participation from the photographs alone. In other cases the indications of participation from the photographs alone would not have been sufficient to warrant proceedings had the identification itself been certain.

In one case only was a person considered to be sufficiently identifiable as an active participant from the photographs and from information available to the investigators to warrant his being put on an identification parade as a suspect. That man appears in a now well-known photograph pulling the tie of an ICAC officer. When this suspect was put on an identification parade, he was not identified by any of the 3 ICAC officers who believed that they might be able to recognize him again.

Sir, in this case the investigating officers did not have the benefit of the sort of information which is often available to them in the investigation of crime, and they were not able to find any police officer who was able, or willing, to identify any fellow officer as an active participant. So the report submitted to me by the investigating officers contained, save in one case, no evidence at all as to the identity of those who participated in the events and no admissible evidence even as to who was present.

DR CHUNG:—*Sir, is the Attorney General aware of the frustration of the general public that whilst the Commissioner of Police has sufficient evidence to initiate disciplinary action against the other eleven policemen, the Attorney General has not seen fit to prosecute them and if so, will he explain the situation for the understanding of the public at large?*

THE ATTORNEY GENERAL:—Sir, I am aware of the fact that the community at large finds it difficult to distinguish between criminal proceedings and disciplinary proceedings. In fact, Sir, no significant comparison can be drawn between a criminal prosecution and disciplinary proceedings. First, charges

in disciplinary proceedings are not charges for criminal offences and there is much greater flexibility. Second, the standard of proof required in disciplinary proceedings does not have to reach that high standard required in criminal cases. Third, the strict rules of evidence do not apply in disciplinary proceedings. So significant are these differences that to attempt to relate the two quite different types of proceeding is really quite useless. Plainly, Sir, I cannot comment in relation to the particular disciplinary proceedings to which Dr CHUNG refers.

DR CHUNG:—*Sir, does the Attorney General agree that these differences should be left to the Magistrates to decide?*

THE ATTORNEY GENERAL:—Indeed not, Sir.

DR CHUNG:—*Sir, referring to the three ICAC officers failing to identify the man clearly appears in the well-known photograph pulling the tie of an ICAC officer and hence that man could not be prosecuted, is the Attorney General satisfied that the police has used other means of identification such as the matching of facial profiles and markings by scientific methods?*

THE ATTORNEY GENERAL:—No, Sir, I'm not aware that the police used any such method.

MR T. S. LO:—*Sir, with regard to this man allegedly to be pulling a tie, or photographed to be pulling a tie, were any steps taken to ensure that the suspect, when he was taken before the identification parade, did not alter his normal appearance?*

THE ATTORNEY GENERAL:—Sir, I am, of course, not in any way answerable for the conduct of the Police Force in the handling of investigations. I do not know whether in fact the man changed his appearance.

MR T. S. LO:—*Sir, although the three ICAC officers, who obviously didn't work with the suspect, could not identify him from an identification parade, has the Attorney General considered seeking to have him identified in other ways such as simply by a policeman from the photograph?*

HIS EXCELLENCY THE PRESIDENT:—I'm not quite sure that came across as a question.

MR T. S. LO:—*The question, Sir, is, has the Attorney General considered seeking to have suspect identified by other ways such as by a policeman from the photograph?*

THE ATTORNEY GENERAL:—The investigating team itself as I have already said, has picked out a number of police officers as having some degree or

other of resemblance to known police officers. They have done what they can. I have already said in answer to the question that they were not able to find any other police officer who either could, or was willing to identify any of his fellow officers as a participant in the events of that day.

### **Public Assistance applications**

18 REV JOYCE M. BENNETT asked:—*What measures are taken by the Social Welfare Department to ensure that persons who are qualified for Public Assistance do not have their applications turned down?*

DIRECTOR OF SOCIAL WELFARE:—Sir, when an application is received in a social security field unit, the financial circumstances of the applicant are thoroughly investigated by a Welfare Assistant. The information is then assessed by a Principal Welfare Assistant to determine the eligibility and the amount of assistance to which the applicant is entitled. This assessment is again checked and authorized by the Supervisor of the Field Unit at the rank of Social Welfare Officer. This three-tier system of work is considered necessary and adequate to ensure that those who qualify for public assistance do not have their applications turned down. If the applicant is not satisfied, he is encouraged to approach the Supervisor of the Field Unit direct. He can also appeal to me personally.

It has been proposed in the Green Paper for Social Security Development that an Appeal Board be established to provide an avenue of appeal against a decision taken by the Social Welfare Department with regard both to eligibility and to the amount payable.

REV JOYCE M. BENNETT:—*Sir, what qualifications do the Welfare Assistants possess so that they are able to ensure that the applicants do provide the fullest information for the assessment?*

DIRECTOR OF SOCIAL WELFARE:—A Welfare Assistant has to have a Hong Kong School Certificate and must be aged 21 or over before they are eligible to apply for the post of Welfare Assistant. As I answered the previous question they are given in-service training and orientation course in the Department so that they have the knowledge necessary to do the investigation work.

REV JOYCE M. BENNETT:—*Would the Director of Social Welfare consider raising their qualifications to the possession of a matriculation certificate or one of our universities, preferably of the HK University?*

DIRECTOR OF SOCIAL WELFARE:—Sir, I do not think this is necessary. We have social workers in the rank of Assistant Social Welfare Officers in the Department who possess the qualification mentioned and if a Welfare

Assistant is in any doubt about whether a case could be handled adequately by the Welfare Assistant the case is always referred to the Assistant Social Welfare Officer.

REV JOYCE M. BENNETT:—*How often are applicants for public assistance who are refused help referred for counselling to the Family Services Division of the Social Welfare Department?*

DIRECTOR OF SOCIAL WELFARE:—This happens very often but I do not have the figures to show the frequency of such occurrences.

MISS KO:—*Sir, how long is the period for investigation?*

DIRECTOR OF SOCIAL WELFARE:—Sir, the normal period is two weeks.

## **Statement**

### **ANNUAL REPORT OF THE HONG KONG PRODUCTIVITY COUNCIL FOR THE YEAR 1976-77**

MR S. L. CHEN:—Your Excellency, among the various papers laid on the table of this Council today is the Annual Report of the Hong Kong Productivity Council for the year ended 31 March 1977.

The year under review marked the end of the first ten years work of the Productivity Council. It was a year of general expansion on all fronts of industry in Hong Kong but because of the exceptionally high level of performance achieved, it was also recognized that it would be a difficult task to maintain the tempo of economic progress in the following year.

With intensified competition from neighbouring manufacturing countries and the growing protectionism in overseas markets, Hong Kong will need to diversify and produce more sophisticated and high quality products at competitive prices.

In order to provide increased technical support to industry to meet these challenges, the Productivity Centre, under the leadership of the new Executive Director, Dr J. C. WRIGHT, began to move in a new direction with particular emphasis in the development of more technologically based services. As a result, the training activities of the Centre were more selective and more carefully geared to industrial aspects of productivity. There was also a sustained improvement in the quality of the Centre's technical assistance, industrial consultancy and electronic data processing services, which was matched by an increased response from industry. During the year, the Centre conducted courses for 6,500 participants and completed 117 consultancy and technology projects.

To provide more technological services, the Centre strengthened its technical information activities. Plans were developed during the year for setting up



a Plastic Technology Information Unit which would be regarded as a prototype for several similar units to be established within the Centre on topics which deserve high priority in Hong Kong's industrial development. The Centre also acted as a co-ordinating body for the possible establishment of an industrial information centre with the co-operation of other organizations.

The Council has formulated its Third Five-Year Plan covering the period 1977-82 with a view to providing industry with sharply increased technological services. Given the support of Government and the continued co-operation of industry, I am confident that the Centre will be able to play an even more effective role in the productivity movement in Hong Kong.

Sir, my statement would not be complete without paying tribute to my Friend Dr the Honourable S. Y. CHUNG for his able leadership as Chairman of the Hong Kong Productivity Council from 1974 to 1976 and Deputy Chairman since the inception of the Council in 1967. With his able chairmanship, Dr CHUNG has established a strong base from which the Centre can further fulfil its role in industrial development.

Sir, may I also take this opportunity to express the Council's sorrow at the passing away of Mr W. H. NEWTON in August this year. He was the first Executive Director of the Centre, who retired in June 1976 after nine years of dedicated service to the Centre.

#### **Government business**

#### **First reading of bills**

#### **HONG KONG TRADE DEVELOPMENT COUNCIL (AMENDMENT) BILL 1977**

#### **LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1977**

#### **FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1977**

#### **WORKMEN'S COMPENSATION (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****HONG KONG TRADE DEVELOPMENT COUNCIL (AMENDMENT) BILL 1977**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Hong Kong Trade Development Council Ordinance.’

He said:—Sir, the Bill makes two minor amendments to the principal Ordinance. The first is designed to enable the Council to introduce a new staff retirement benefit scheme. The second is designed to speed up the recruiting of staff. The details are included in the Explanatory Memorandum.

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

*Question put and agreed to.*

**LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1977**

THE SECRETARY FOR HOUSING moved the second reading of:—‘A bill to amend the Landlord and Tenant (Consolidation) Ordinance.’

He said:—Sir, the aim of this Bill is to permit small rent increases for controlled tenancies—both domestic and non-domestic—in pre-war buildings; and to regulate the periodic increases in rents permitted in respect of domestic tenancies in post-war buildings as controlled under the existing legislation.

*First as to Pre-war Premises*

The Bill provides for increases in permitted rents in pre-war buildings of the order of 16.5% for domestic tenancies and 32% for non-domestic tenancies, bringing permitted rents to standard rent plus 200% in the case of the former, and to standard rent plus 500% for the latter. These percentage figures of course appear very high, but it should be borne in mind that they are based on rent levels obtaining in 1941, some 36 years ago. In money terms, by comparison the proposal would mean an average increase of the order of \$20 per month in the case of a domestic upper tenement floor, and of \$110 per month for a non-domestic ground tenement floor. Where subletting occurs in domestic tenement floors, it is usual to find three or four families sharing, so that the increase in rent per family would be some \$5 to \$7 per month only. The tenancies which would be affected include 6,500 tenement floors, 500 flats and 3,000 non-domestic tenement floors.

For over 20 years, until January 1976, permitted rents of pre-war premises remained unaltered, that is, no increases were allowed. As a result, the rents now stand around one-fifth of fair market rents. The small increase proposed would bring rents up to about one-quarter of full market rents.

The proposed increases are interim, pending more detailed study of existing rent controls, particularly in regard to sub-tenancies. This study is intended to lead to the formulation of longer term proposals for the future of controls on the rapidly diminishing stock of pre-war premises.

*Now, Sir, as to Post-war Domestic Premises*

As for controlled tenancies in post-war domestic premises, the Bill proposes a further reduction in the factor regulating the biennial rent increases of these premises. The factor is a proportion of the difference between fair market rents and current rents, and it can be varied to regulate the rate at which rents are permitted to increase. If the factor were to remain constant, and assuming other conditions did not alter significantly, the biennial increases expressed as they are as a percentage of rent paid, would become progressively smaller, and the gap between current rents and fair market rents could never be closed. A factor of FIVE was approved in 1973; it was reduced to FOUR in 1975. It is now considered that the factor should be further reduced; for otherwise the process of narrowing the gap between regulated and market level rents would slow down perceptibly. This would be particularly noticeable in the case of premises first came under control in 1970.

The reduction of the factor to THREE would make the proposed increases generally similar, in money terms, to the increases of 1974 and 1976.

Sir, in any matter affecting persons whose interests are as polarized as landlords and tenants, Government has to try to achieve a sensible balance, taking into account not only individual interests but also the interest of the community as a whole. From the landlords' viewpoint, the reduction of the factor now proposed would further close the gap between controlled and open market rents. On the other hand, tenants are protected by the overriding restriction which limits increases in rents to not more than 21% of the current rent, except in the case of relatively few luxury flats and houses; and in practice average increases have in the past generally been less than the 21% maximum. Tenants will also continue to have the security of tenure provided by the principal Ordinance.

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

*Question put and agreed to.*

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1977**

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to amend the Factories and Industrial Undertakings Ordinance and to make consequential amendments to other enactments.’

He said:—Sir, a general review of the provisions in the Factories and Industrial Undertakings Ordinance has been carried out during the past year and I now propose introducing a number of amendments, some of which are needed to bring the Ordinance up-to-date.

The purpose of the amendments is fourfold. First, a number of amendments are made to the Factories and Industrial Undertakings Ordinance and the Boilers and Pressure Receivers Ordinance which result directly from establishing the new grade of Industrial Hygienist in the Labour Department and from the change of title of the head of the Factory Inspectorate from Labour Officer (Industrial Undertakings) to Chief Factory Inspector.

Second, clause 2(a)(ii) extends the definition of ‘Industrial Undertaking’ to cover the loading, unloading or handling of goods at an airport. This amendment will make the definition accord with Article 1 of International Labour Convention No 90. We have consulted the Director of Civil Aviation on this, and he agrees with it.

Third, the scope of the Ordinance needs some extension. Under subsection 2(3)(a) of the Ordinance, any undertaking which is not carried on by way of trade or for purposes of gain, is excluded from the scope of the Ordinance. Clauses 2(b), 2(c) and 5 of the Bill provide for one exception to the general provision in this subsection 2(3)(a) of the Ordinance—that such an undertaking, other than a registered school, will now be subject to the prohibition of child employment in Regulation 4 of the Factories and Industrial Undertakings Regulations. This amendment will incidentally enable Hong Kong to comply fully with Article 2 of International Labour Convention No 5.

And fourth, clauses 4(a)(ii) and 4(b) will empower the Commissioner for Labour to employ temporary consultants as and when required to advise him on technical and other aspects of industrial health and safety. Hong Kong’s industry has become very complex in parts and this trend will increase. The present resources of the Factory Inspectorate cannot fully cover the highly specialized health and safety circumstances that arise from time to time in the supervision of advanced technology. And it would not be sensible to create permanent posts for specialists in particular fields—the demand for their services is occasional and the field of expertise widespread, embracing the areas of chemical, mechanical, electrical and civil engineering. It is envisaged that consultants will need to accompany factory inspectors on visits to installations to advise on accident prevention, precautions and, in

some cases, they will assist in accident investigations to determine the root cause of plant or structural failures. Whatever their status may be, there is a need to impose restraint on their divulging information gained during the course of inspections, in the same way as public officers are restrained under section 5 of the Factories and Industrial Undertakings Ordinance.

The Labour Advisory Board has endorsed these amendments which are mainly technical in nature.

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

*Question put and agreed to.*

### **WORKMEN'S COMPENSATION (AMENDMENT) (NO 3) BILL 1977**

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to amend the Workmen’s Compensation Ordinance.’

He said:—Sir, it was only at the last sitting of this Council, when moving the second reading of the Workmen’s Compensation (Amendment) (No 2) Bill 1977 that I said, ‘Workmen’s Compensation is an area of social activity which requires regular review and amendment’. This Bill now before the Council is another case in point.

Its main aim is to ensure that when workers suffer injuries at work or arising from it, the medical expenses involved are met by their employers.

At present, our legislation makes no provision for this, although some good employers meet such expenses as a normal responsibility. But in most cases injured workmen go to Government hospitals where the fees, although very significantly subsidized, are met by the workmen themselves. Where an injured workmen cannot afford the charge, it is either waived or reduced by the Medical Department. In this way the Government subsidizes employers of injured workman from public funds, when in fact the responsibility for providing free medical care and allied benefits for an injured workman should properly rest with the employer.

The Bill establishes a liability by employers to pay workmen’s medical expenses. The proposed amendment would, incidentally, enable Hong Kong to comply fully with Article 9 of International Labour Convention No 17.

The Labour Department has made a study of the standards adopted in seven neighbouring Asian countries, for providing injury benefits for workers—in Japan, Thailand, Malaysia, the Philippines, Singapore, Taiwan and the Republic of Korea. This study shows that all seven countries provide medical care and allied benefits in one form or another, either as an employer’s

liability or through insurance schemes to which employers are required to make contributions. The proposal would therefore place Hong Kong in a comparable position with its neighbouring countries in this field.

The Bill does limit the employers' liability. An injured workman would be entitled to claim reimbursement for medical expenses actually incurred up to a maximum calculated at the rate of \$10 each day for out-patient treatment and \$20 each day for in-patient care in hospital. These rates have been arrived at after a study of the present charges made in Government subvented hospitals and in seven private hospitals. They would be revised as necessary by resolution in this Council.

The injured workman would also be entitled to claim medical expenses for a maximum period of 24 months from the date of the injury. By this time, he should either have recovered from his injury or be entitled to receive compensation for permanent incapacity. The 24 month period is in line with the maximum period laid down in subsection 10(5) of the Workmen's Compensation Ordinance dealing with temporary incapacity.

The Bill also sets out the circumstances in which employers may be exempt from liability, the manner in which a workman may bring a claim against his employer for medical expenses, the procedure by which disputes between employers and workmen over medical expenses may be determined by the Commissioner for Labour, and the means by which a workman may recover medical expenses from the employer who fails to discharge his liability.

The Labour Advisory Board has endorsed the amendments and the four major employers' associations have also indicated agreement with them.

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

*Question put and agreed to.*

## **POLICE FORCE (AMENDMENT) (NO 3) BILL 1977**

### **Resumption of debate on second reading (23 November 1977)**

*Question proposed.*

MR CHEONG-LEEN:—(*Address delivered in the Cantonese dialect*)

督憲閣下：——我支持這項修訂法案。有了這項法案，警署警長及職級較低的警務人員，只要協會的章程獲得警務處處長核准，就可以組織他們自己的協會。

在我們的警察隊伍中，初級警務人員為數最多。現在其他警務人員，已有警司協會、本地招募督察協會、和海外招募督察協會等三個組織。因此在情理，初級警務人員亦應該自己有一個類似的協會。他們如果有委屈需要申訴，或有事情需要建議改善，將可以透過該會，向警務處處長提出。

隨着這個新協會的成立，他們跟高級警務人員，特別是領導高層之間的關係和互相溝通，又一定會有更進一步的改進。假如我們的警察隊伍要保持正直、自律、及保障治安的責任感，就非此不可。

港督數週前宣佈特赦之後，一般市民都希望所有警務人員，不論初級人員、督察或警司，從今以後應該同心協力，使到距離理想仍遠的本港治安情況得以改善。

此外，所有警務人員，不論服務時間久暫，現在可以毋須憂心或被互相猜疑的陰影所籠罩，而得以攜手合作，使本港警察隊伍長久以來在賭博、毒品和賣淫三大害中有組織貪污的污點，終於洗脫，令人對警察隊伍產生新的印象。

警察隊伍究竟絕大部份係本港人士，市民對它充滿善意，並加以支持和尊敬。因此它每一個成員都應該發揮責任感和自律精神，用執行任務的積極行動來加以表現，毋負本港市民的期望。

*(The following is the interpretation of what Mr Cheong-leen said)*—I support the amendment Bill because it allows police officers of the rank of station sergeant and below to form their own Association, subject to the rules being approved by the Commissioner of Police.

Junior Police Officers comprise the largest number in the Police Force and it is fair and reasonable that they should have their own Association, similar to the other three associations of police officers, the Superintendents' Association, the Local Inspectors' Association and the Expatriate Inspectors' Association. Through their own Association, the Junior Police Officers will be able to put forward their complaints and proposals for improvement to the Commissioner.

With the formation of this new Association, it will also be reasonable to expect that communications and relations with the upper ranks, and particularly the top leadership of the Police Force, will continue to improve even further. This is ever so necessary if the Force is to retain its sense of integrity, self-discipline and sense of duty in the preservation of law and order in Hong Kong.

With the announcement of the amnesty by the Governor several weeks ago, it is the feeling and wish of the community at large that all members of the Force, whether they be Junior Officers, Inspectors, Superintendents or otherwise, should from now on work in unison to improve the state of law and order in Hong Kong, which is still far from ideal.

Not only that, the way is now clear for all Police Officers, irrespective of their length of service, to join hands together, without being overshadowed by mutual distrust or personal anxieties, to transform the image of the Hong Kong Police Force into one that has at long last freed itself from the historical taint of syndicated corruption in narcotics, vice and gambling.

There is much public goodwill for the Police Force, which is after all comprised in the main of Hong Kong men and women. It is up to all members of the Force by their sense of self-discipline and responsibility, and their very actions in carrying out their duties, to retain the goodwill, support and respect of the people of Hong Kong.

REV MCGOVERN:—Sir, it gives me double pleasure to support this motion. The first is on the general grounds that a group of employees who have been denied their basic right of association will at last have that injustice remedied. My second cause of pleasure is more personal and is connected with the fact that this advance in human rights specifically concerns the rank and file of the Police Force.

I am in the fortunate position of being able to prescind from recent happenings and look at this event with a longer view. In the middle of the 1950's I had the pleasure of living with a clerical colleague whose name will be remembered with gratitude by some of the longer serving members of the Force. He was Father Michael MORAHAN(莫神父) who in the 50's became chaplain to the Police Force. His chaplaincy soon led him to realize the many shortcomings which the rank and file policeman had to suffer in his conditions of living and work. He sought remedies for these, with the result that he was appointed by Government as a Welfare Officer to the rank and file. It was partly through his initiative that advances were made in providing staff quarters and other improvements which continued long after he left the Colony in 1960. Having lived with him I know from that earlier date something of the problems which then existed. I can therefore view with sympathy the desire of the rank and file to have an Association through which they can communicate their problems.

The Police Force Ordinance came into effect in 1948. Section 8(3) was added only in July 1972. It should of course have been in the original Ordinance of 1948 with the present amendment. As we have waited some 29 years for this amendment I feel justified in asking your indulgence for another few minutes delay while I offer some suggestions regarding the proposed staff association. I offer them not only to this Council as a help to your vote, but also for the consideration of those who are engaged in writing the constitution of the new association.

In general a staff association is in itself a good and necessary means of communication. But not every staff association succeeds. If I were asked to pinpoint the causes why an association sometimes fails I would have no hesitation in lumping 90% of the causes under one general heading—namely, the failure of democracy within the association. The points I make are obvious points but could be overlooked by the inexperienced members of a new association.

Democracy must be safeguarded in the constitution of an association first by clear and stringent rules concerning secret ballots. All associations have a secret ballot for the election of officers. I would suggest that there should be a secret ballot also for any question concerning named persons, even at committee level. I would also suggest a secret ballot for votes concerning major matters of policy. Otherwise the 'face' of individuals will prevail over the good of the whole association. In large gatherings especially, a show of



hands is often a show of weakness by the majority in falling in with the wishes of a vociferous minority or a persuasive orator.

But that is an obvious administrative matter relatively easy to safeguard. What is more important to democracy is that an association must take all possible steps to encourage members to overcome apathy or laziness in order that as many as possible take an active part in the work of the association. The minimum for all members is that they take the trouble to exercise their right to vote. Otherwise a small group can take over control of an association.

There are factual examples in the world, especially in large associations, where the chairman has been elected by less than 1% of the voting members. The silent majority must make the effort to be heard in elections and policy making decisions. To help this, methods must be set up—for example a postal ballot with suitable safeguards—for those who cannot be physically present at a meeting. To encourage participation another method sometimes used is to limit in the constitution the number of consecutive years any individual may serve on the committee. In this way there will be on the committee sufficient experienced members to ensure continuity but also an opportunity for new members to serve and gain experience.

I could go on at length on this subject of democracy in staff associations but will mention only one more point on this subject. There will be a particular difficulty in a police association in that the same association will have members of different ranks. By their training deference will be paid to those of higher rank or greater seniority. That system is necessary in the working life of a disciplined organization like the police. But if such a system or such an attitude of mind got into a staff association it would kill the association at the first meeting. In an association every member who pays his dues is of completely equal standing with every other member. This is particularly vital in elections. The cardinal rule for elections is that each member votes for the member he judges most suitable for the job. If that member happens to be the most recently recruited constable, then, without fear or favour, that most recently recruited constable gets the vote.

To go further with this subject would mean writing a book, so let me turn to another subject.

It would be unfair or even dishonest of me to speak at such length on generalities and ideals and end without making some mention of recent events in the Police Force. Let me be content with saying that in recent years all has not been well within the Police Force. I am told that as a result of what has been uncovered by the ICAC and proved in court there are policemen walking the streets who are ashamed of their uniform and ashamed to look the public in the eye. One could elaborate on reasons, excuses and traditions which go back as far as the old Shanghai customs, or indeed, to use Christian terminology, as far back as Adam and Eve and

original sin. I would prefer in the spirit of the partial amnesty to look forward and not backward. There are honest policemen who have not got enough credit for what must have taken heroic strength of character to stay out of the system. There are those others who on account of the system had little or no option but to passively tolerate it. All that and more, is I sincerely hope, past history.

By means of the association permitted by today's amendment there is now in the hands of the rank and file a legitimate means of communication by which real grievances can be aired and remedied. Could I appeal to the members of the proposed association to start out in a positive way and not in a negative way. It is easy to be negative. It is easy to be against things—against the ICAC, against authority, against even the black looks of the public. It is easy to knock down. It is much harder to build up, harder to be positive and constructive. The purpose of an association is to promote and maintain the good of its members. But this must also respect the rights of others and the common good of the whole community.

The foundation of this new association is a new opportunity, once in a lifetime, for all those who have the interests of the Police Force and the interests of the public at heart to make a new start. I appeal to the silent majority in the Force to join the association, to work for it, to vote for the best leaders, and to use the association not only to remedy grievances but to build up whatever has been knocked down.

There is a lot of talk nowadays about 'job satisfaction'. Given reasonable wages and basic conditions of work many employees regard job satisfaction as more important than extra money or better material conditions. It is not something that money can buy. It is something within a man himself. He knows he is doing a good job, and while not being dependent on what others think of him, he knows too that what he is doing is appreciated.

My hope is that through the help of this new association each individual member of the rank and file will get back his legitimate confidence in himself, in the Force he serves and in the public he serves. I hope through the companionship and support of his colleagues in the association each one on the beat in Hong Kong can walk the streets with his head up and again look the public in the eye—not with arrogance but with legitimate pride. He can do this if he has confidence in himself. He can have confidence in himself only because he himself knows that he is doing a competent and professional job. No one else can do this for a man. He can only do it himself. But the association by its solidarity and support can help him. If the association can achieve this for its members then I am sure that it will not be long until the public will respond and look him straight in the eye too. And the policeman will see in that eye of the public, appreciation for a job well done, and respect for the man who is doing it. That is the sort of job satisfaction and building up which I hope the association will bring to its members. I wish it a good start and steady progress.

MR WONG LAM:—(*Address delivered in the Cantonese dialect*)

督憲閣下：——本人支持此項動議賦予警務處長權力可承認任何警察級之協會。

目前警察內部已有三個為警務處長所承認之協會，即警司協會、海外招募督察協會及本地招募督察協會，而人數最多的初級警務人員卻沒有這項組織，實在是難於理解的；所以賦予警務處長權力承認初級警務人員協會之舉，實在是必須和極為恰當。

現今警察部門是採取層級管理制度，着重的是在指揮上「如臂使指」，一級指揮一級，而下級人員在向上表達意見時，亦只能向頂頭上司提出，不能越級行事，這種觀念，在執行職務時，自然有極大的好處；但在人事關係方面，卻有其不利之處，使初級警務人員較難將意見直接向警務處長表達，但有了這個協會的成立，卻可以減少初級與高級警務人員之隔閡，從而促進兩者之間之溝通及瞭解。另一方面，初級警務人員人數眾多，如果高級人員要徵詢他們對某項措施或問題的意見，過往相信較難找到具代表性的對象，但有了此一組織，則不難迅速地得到該會具代表性的意見。

督憲閣下，本人樂於見到初級警務人員協會之成立，亦相信會因此而使警隊內高層的政策制訂者與基層的政策執行者有更好的溝通和合作，同時也使各初級警務人員對任何不滿的措施能夠透過此協會，循正確和合法途徑提出申訴。如此對警隊士氣之提高，必有極大的作用，而對治安之維持，民生之安定，必有更大的貢獻。

(*The following is the interpretation of what Mr Wong said*):—Sir, I support the motion, which will enable the Commissioner of Police to recognize an association composed of police officers of any rank.

At the moment, there are 3 associations recognized by the Commissioner of Police; namely the Superintendents' Association, the Expatriate Inspectors' Association and the Local Inspectors' Association. However, for the rank and file, who out-number all the other members of the Police Force, there is no such association. As this is a matter which is difficult to understand or appreciate, it is not only essential, but most fitting, that the Commissioner of Police should now be empowered to recognize an association composed of rank and file police officers.

At present the Police Force uses a rank structure which is particularly important for the purposes of command, with each rank giving orders to a more junior one like the arm directing the fingers (如臂使指). Under this system, where the rank and file wish to make submissions, they can only do so through their immediate superiors. They are not able to by-pass their immediate superiors and go directly to more senior ranks. This sort of thing is naturally essential when carrying out police functions, but in the sphere of human relationships it must have serious disadvantages. It would, for instance, be difficult for the rank and file to communicate their views to the Commissioner of Police. With the establishment of the new association, the gap between the rank and file and the very senior officers will be narrowed, thus leading to better communication and mutual understanding. A further aspect is that the rank and file are very numerous. If senior officers wished to ascertain their views on a procedural step or particular matter, I believe that up to now it would have been difficult to obtain a really representative

viewpoint from junior police officers. However, with the establishment of the new association, it should be much easier to obtain from the association a consensus which is representative of the rank and file.

Sir, I am happy to see that steps are being taken to establish this new association for the rank and file of the Police Force, and believe that as a result of this association coming into being there will be better communication and co-operation between the senior ranks responsible for policy formulation and the junior ranks responsible for implementing those policies. At the same time, the association will become an instrument through which the rank and file may correctly and legitimately make submissions on any matter with which they are dissatisfied. This will definitely help to raise the morale of the Police Force which in turn will contribute substantially to the maintenance of law and order and of public stability.

SECRETARY FOR SECURITY:—Sir, I welcome the support given to this Bill by Honourable Members and I thank Mr CHEONG-LEEN, Fr MCGOVERN and Mr WONG Lam for what they have said. I know that their remarks about the Police Force generally and the Bill in particular will be a source of encouragement to the Force and to the proposed association.

Mr WONG Lam has expressed the view that through the association it should be much easier to obtain a consensus which is representative of the Rank & File, whilst Fr MCGOVERN has warned of the effect of a failure of democracy. These two views identify the desired end result and the possible pitfalls in trying to achieve it. But in looking forward it is clearly of the greatest importance that as wide a representation of the Rank & File as possible in a forum in which they can express their views should be achieved. The opportunity to do this exists to some extent already in the Junior Consultative Council as I said when moving the motion. We shall now watch to see how the two associations organizations fare.

I shall certainly see that the constructive comments of Fr MCGOVERN, based on such long and wide experience, are passed on to those who are engaged in forming the association.

The draft constitution has reached an advanced stage and it is intended that a request for registration will be submitted shortly. Once the society is registered, it is the intention to start enrolling members in accordance with the provisions of the constitution and then to proceed to elections by secret ballot.

The draft constitution provides for representation at Unit level, then up to District level and from there to the Governing body of the association. Provision is also included so that at the Unit level representatives will consist of one NCO, one constable and one further member of either rank. This should, therefore, meet Fr MCGOVERN's point that each voter should be able to elect the man he thinks most suitable for the job, regardless of rank.

But the effectiveness of the association will depend upon the support which it is given by the Rank & File and the extent to which members having *joined*, exercise their right to vote and to play a part in its management.

What has been said about the individual officer having confidence in himself is even more important for the Force as a whole. It has had its difficulties and its troubles. But it has also had notable successes in the fight against crime and in its service to the community. These have been achieved by dedication and much hard work by many officers at many different levels. The Force serves the community of which it is a part. It is now moving forward to render further service to the public.

*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).*

## **LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL 1977**

### **Resumption of debate on second reading (23 November 1977)**

*Question proposed.*

MR T. S. LO:—Sir, although I wouldn't like what I have to say to be interpreted as criticism of those responsible for deciding the amounts to be paid to dependents of men who were killed during the war, I do feel that the present payment schedule does make life very difficult to anyone who has to rely on these payments alone to achieve a reasonable standard of living. And in so saying, I am aware that the present schedule would have looked far worse but for the fairly generous increases which have been made over recent years. The point is that Society does owe a substantial obligation to those who sacrificed their lives for the defence of Hong Kong. We should ensure at least that their dependants are looked after reasonably well. May I urge that the Committee under its new and able leadership exercises generosity and flexibility and reconsiders the schedule of payments in the light of the needs of the beneficiaries. I support the motion.

THE SOLICITOR GENERAL (ACTING):—Sir, I feel sure that the Hong Kong War Memorial Fund Committee will accept Mr LO's remarks in the spirit he intends. The Committee is, I believe, Sir, meeting on 14 December to review the level of payments and other matters connected with the administration of the Fund.

*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.

### **POLICE FORCE (AMENDMENT) (NO 3) BILL 1977**

Clauses 1 and 2 were agreed to.

### **LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL 1977**

Clauses 1 to 3 were agreed to.

First Schedule and Second Schedule were agreed to.

Council then resumed.

### **Third reading of bills**

THE ATTORNEY GENERAL reported that the

**POLICE FORCE (AMENDMENT) (NO 3) BILL**, and the

**LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL**

had passed through Committee without 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, 21 of December.

*Adjourned accordingly at fifteen minutes past four o'clock.*