

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 11 January 1978****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, CMG, JP
SECRETARY FOR THE NEW TERRITORIES

THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP
SECRETARY FOR SECURITY

THE HONOURABLE DAVID WYLIE McDONALD, CMG, 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*)

THE HONOURABLE SIR SZE-YUEN CHUNG, 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 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, OBE, 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, OBE, JP

DR THE HONOURABLE RAYSON LISUNG HUANG, CBE, JP

THE HONOURABLE CHARLES YEUNG SIU-CHO, JP

IN ATTENDANCE

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

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:	
Dumping at Sea Act 1974 (Overseas Territories) Order 1975. Determination of Licence Fees.....	312/77
Factories and Industrial Undertakings Ordinance. Factories and Industrial Undertakings (Cartridge-operated Fixing Tools) (Amendment of Schedule) (No 3) Notice 1977	313/77
Adoption (Amendment) Ordinance 1977. Adoption (Amendment) Ordinance 1977 (Commencement) Notice 1977...	314/77
Probation of Offenders Ordinance. Probation of Offenders (Amendment) Rules 1977 (Commencement) Notice 1977	315/77
Public Health and Urban Services Ordinance. Pleasure Grounds (Amendment) (No 2) By-laws 1977	316/77
Public Health and Urban Services Ordinance. Public Cleansing and Prevention of Nuisances (Amendment) By-laws 1977.....	317/77
Public Health and Urban Services Ordinance. Public Market (Amendment) By-laws 1977	318/77
Urban Council Ordinance. Urban Council Financial (Amendment) (No 2) By-laws 1977	319/77
Interpretation and General Clauses Ordinance. Specification of Public Office	320/77

<i>Subject</i>	<i>LN No</i>
Dangerous Drugs Ordinance.	
Dangerous Drugs (Amendment of First Schedule) (No 3) Order 1977	321/77
Evidence Ordinance.	
Evidence (Authorized Persons) (No 12) Order 1977.....	322/77
Widows' and Children's Pensions Ordinance 1977.	
Widows' and Children's Pensions Ordinance 1977 (Commencement) Notice 1977	323/77
Control of Publications Consolidation Ordinance.	
News Agencies Registration (Amendment) Regulations 1978.....	1/78
Control of Publications Consolidation Ordinance.	
Newspapers Registration and Distribution (Amendment) Regulations 1978.....	2/78
Police Supervision Ordinance.	
Police Supervision Ordinance (Amendment of First Schedule) Regulations 1978.....	3/78
Hong Kong Airport (Control of Obstructions) Ordinance.	
Hong Kong Airport (Control of Obstructions) (Amendment) Order 1978 ..	4/78
Port Control (Cargo Working Areas) Ordinance.	
Port Control (Public Cargo Working Area) Order 1978.....	5/78
Colonial Prison Service Medal Hong Kong Regulations.....	7/78
Road Traffic (Parking and Waiting) Regulations.	
Temporary closure of car park	8/78
 Sessional Papers 1977-78:	
No 26—Annual Report of the Hong Kong Industrial Estates Corporation 1976-77 (published on 11.1.78.)	
No 27—Income and Expenditure Account of the Prisons Department Welfare Fund for the year ended 31 March 1977 (published on 11.1.78.)	

No 28—Urban Council Estimates of Revenue and Expenditure for the year ended 31 March 1979 (published on 11.1.78.)

No 29—Annual Report of the Director of Accounting Services with the Accounts of Hong Kong 1976-77 (published on 11.1.78.)

No 30—Director of Audit's Report and Certificate on the Accounts of the Hong Kong Government for the year ended 31 March 1977 (published on 11.1.78.)

No 31—Despatch dated 10 January 1978 to the Secretary of State for Foreign and Commonwealth Affairs on the Report by the Director of Audit for the year ended 31 March 1977 (published on 11.1.78.)

Oral answers to questions

Computer usage—policy on

1 MR S. L. CHEN asked:—*In view of the vast expenditure on computer usage by Government, which is believed to be currently costing something of the order of one million dollars per week, does Government have a policy on the application of computers to assist in the administration of Government affairs?*

THE CHIEF SECRETARY:—Sir, it is the Government's policy to employ computers if practicable when this would save staff costs or produce quicker and more reliable results.

MR S. L. CHEN:—*Has the cost effectiveness of the data processing facilities been actually tested, by way of a reflected saving of manpower, and/or improvement in service to the public, such as speedier refund of tax for example?*

THE CHIEF SECRETARY:—Yes, Sir. The considerations which Mr CHEN mentioned are always taken into account before a decision is reached by the Computer Applications Committee when applications for further computerization are put forward. However, I must admit that we have not so far followed this up by detailed investigations of the degree to which in practice the savings which we hoped for have turned out. It is intended to establish a unit in the Data Processing Division which will undertake that task in the future.

MR T. S. LO:—*Is Mr Chen's belief correct that the recurrent cost for computers at present is running at about \$1 million per week?*

THE CHIEF SECRETARY:—Yes, that is approximately right.

Computer usage—policy supervision

2 MR S. L. CHEN asked:—*Is there a watch-dog body with the necessary expertise to ensure that priorities are correctly allocated?*

THE CHIEF SECRETARY:—Yes, Sir, all proposals for computerization have to be approved by a Computer Applications Committee, comprising the Secretary for Administration, the Deputy Financial Secretary and the Secretary for the Civil Service. This Committee also determines the priority to be given in each case.

MR S. L. CHEN:—*With due respect, do you consider the Computer Applications Committee, consisting of the Secretary for Administration, the Deputy Financial Secretary and the Secretary for the Civil Service, have the necessary expertise in this field?*

THE CHIEF SECRETARY:—I believe this is a subject which is far too dangerous to leave to professionals. (*laughter*)

Sports and recreational clubs—promotion

3 MR YEUNG asked:—

- (a) *Sir, in view of the substantial increase in the rateable value of some non-profit making sports and recreational clubs ranging from 500% to 2000% does Government agree that there has been a consequential increase in property tax payable by some clubs from a few hundred dollars to a few hundred thousand dollars?*
- (b) *if so, what plans does Government have to alleviate the grave adverse effect which these increases will have on the promotion of sports and recreation?*

THE FINANCIAL SECRETARY:—The short answer, Sir, in the first case, 'Yes', Sir, and the second case, 'None', Sir, but as these are fiscal questions I think Mr YEUNG's questions deserve a rather longer reply than those short answers.

There have been significant increases in the property tax payable by some sports and recreation clubs. But I think it is important to correct a possible misconception. Property tax is no longer charged on rateable values.

Since 1976-77 property tax has been charged on quite separate assessable values, that is to say, values which, generally, are fixed in line with current market rentals, but which also reflect the effect of restrictions provided for under the Landlord and Tenant (Consolidated) Ordinance.

While Mr YEUNG is right in stating that the increases in the assessable values for sports and recreation clubs ranged from five times to a little over 20 times, the general run of increases did not exceed ten times. I might add that the number of clubs which may, as a result, be liable for tax at over \$100,000 per annum is very, very small indeed, and I only know of two cases. And it is, of course, open to a club to obtain exemption from property tax by ensuring that less than half of its income is derived from voting members, although it will, of course, thereby become liable to profits tax for it will no longer be regarded by the Inland Revenue Department as a private club.

The reason for these increases is that previous assessments were based on an outdated rating formula which had not been revised for many years. With the change-over from rateable values to assessable values as the basis for property tax, values had to be calculated on current market values in accordance with the terms of section 5A(2) of the Inland Revenue Ordinance. This new section was enacted by this Council in 1975 and became effective from 1 April 1976.

As the Government does not believe that the increases have caused what Mr YEUNG describes as 'grave adverse effects' it is not our intention to cushion non-profit-making sports and recreation clubs from these increases.

MR YEUNG:—*Sir, my Friend gave the example of the highest rate of increase in one particular case because the general run of increase is said to be not exceeding ten times. What is the highest increase actually in any particular case?*

THE FINANCIAL SECRETARY:—I don't think, Sir, I should name a specific figure because it could be traced back to the club concerned.

MR YEUNG:—*If 10 times an increase is not grave enough, then what level would be considered by the Government as grave enough for the Government to provide a cushion?*

THE FINANCIAL SECRETARY:—Sir, that is a very hypothetical question. I think I can only repeat that I do not believe that the increased property tax liabilities faced by sports and recreation clubs can possibly be having a damaging effect on the interests of memberships.

MR T. S. LO:—*Could the Government clarify under what part of Standing Orders, that it refused to answer Mr Yeung's first supplementary question?*

THE CHIEF SECRETARY:—I think that what the Financial Secretary is worried about is the danger that if he were to answer the question, there might be an infringement of the secrecy provisions of the relevant ordinance, rather than a breach of Standing Orders.

District Court jurisdiction

4 DR HU asked:—*Will Government increase the jurisdiction of the District Court under the Partition Ordinance to enable it to deal with proceedings where the annual rent, rateable value or annual value does not exceed \$15,000, instead of \$5,000 as at present?*

THE ATTORNEY GENERAL:—Sir, since receiving the question, I have asked that the suggestion be considered.

DR HU:—*I am grateful for the Attorney General's reply, but does the Attorney General know that this point has already been submitted to his Chambers before by the UMELCO Office?*

THE ATTORNEY GENERAL:—No, Sir, I did not.

Film censorship

5 MISS KO asked:—

- (a) *Is Government satisfied that the present arrangements for film censorship adequately reflect public opinion?*
- (b) *if not, what steps will Government take to improve them?*

SECRETARY FOR HOME AFFAIRS:—Sir, in moving the second reading of the Places of Public Entertainment (Amendment) Bill 1976 on 23 June 1976, I outlined, amongst other things, the changes relating to film censorship arrangements which were aimed to reflect public opinion.

Based on the experience since then, I can say that Government is generally satisfied that public opinion has been adequately reflected in film censorship. Though a reply to the second part of Miss KO's question does not arise, I would like to assure her that it is Government's intention to keep the present arrangements under constant review to ensure that appropriate improvements are made wherever necessary. For this reason, the Commissioner for Television and Entertainment Licensing or his staff frequently attend seminars and discussions organized by Mutual Aid Committees, Area Committees, Kaifong Associations, student groups and other groups to exchange views on current censorship problems; these discussions greatly assist the Commissioner to keep abreast with public sentiments.

MISS KO:—*Is Government satisfied, Sir, that there is sufficient representation of the working classes and of young people on the Public Advisory Groups?*

SECRETARY FOR HOME AFFAIRS:—Sir, if I may give an outline of the composition. There are a total number of 113 persons in the Advisory Group of which 17 are teachers, 13 are students, 22 are social workers, 26 are businessmen and 35 people of grass roots level. Perhaps Miss KO might also wish to be aware that four are below the age of 21, 50 are between the ages of 21 and 35, 28 between the ages of 35 and 45, and 31 are 45 years of age and over.

MISS KO:—*Sir, if necessary will Government consider encouraging employers to release workers thus enabling them to participate in Advisory Groups?*

SECRETARY FOR HOME AFFAIRS:—Yes. Sir, if necessary, but so far it has not proved to be necessary among the members of the Panel.

Marriage Registry—Sunday service

6 MR ALEX WU asked:—*In view of the increasing number of civil marriages and the growing population in Kowloon and the New Territories, will Government consider keeping a Marriage Registry both in Kowloon and the New Territories open on Sunday mornings to perform marriage ceremonies as is done at the City Hall Marriage Registry?*

THE CHIEF SECRETARY:—Sir, yes, if there is shown to be a sufficient demand to justify the opening of further Marriage Registries on Sundays.

MR ALEX WU:—*Sir, in view of the fact that more than 500 Sunday marriages were performed at the City Hall Registry during the financial year 1976-77, would Government consider conducting a survey to determine the need?*

THE CHIEF SECRETARY:—As Mr Wu says, there were over 500 marriages last year, but this was out of a total on Hong Kong Island of about 13,000 marriages, so that the percentage is only about 4. It doesn't seem therefore that the demand on Hong Kong Island is very great. However, I will ask the Registrar General to take such steps as seem sensible to assess public demand in Kowloon.

Magistrates Courts—proceeding time on summons

7 REV JOYCE M. BENNETT asked:—*With reference to non-fixed penalty traffic offences, what is the average time, in cases dealt with by summons*

to be heard in Magistrates Courts where there is no difficulty in serving the summons, between

- (a) the date of the alleged offence and the date of the issue of the summons,*
- (b) the date of the alleged offence and the hearing where the offence is admitted,*
- (c) the date of the alleged offence and the hearing where the offence is not admitted?*

THE ATTORNEY GENERAL:—Sir, the average period, on current figures provided to me by the Traffic Branch of the Police Force, between the date of the offence and the issue of a summons is about 3 months. The average period between the date of the offence and the first appearance of a defendant in a magistrate's court is about 4 months. The average period between the date of the offence and the date fixed for the hearing when proceedings are defended is about 5 months.

REV JOYCE M. BENNETT:—*Sir, is this delay then caused by a backlog of work at the Magistrates Courts or in other Government departments?*

THE ATTORNEY GENERAL:—I do not think the delay is caused at all by a backlog in the Magistrates Courts. There has been a considerable backlog in the Traffic Branch of the Police Force but during 1977 the period between the commission of an offence and the issue of a summons has been reduced quite considerably. There are two factors which account for this. One is, of course, the introduction of the Fixed Penalty for Moving Offences system in November 1976, the benefits of which were working themselves through the system during 1977 and secondly, it has been the policy of the Force in view of the limited resources which they can make available, to concentrate on those traffic offences which are particularly significant in the context of road safety. There has been a backlog in the past. I am told that the backlog has now been almost eliminated, hence the current 3 months' interval.

MR T. S. LO:—*Does Government consider the current position satisfactory?*

THE ATTORNEY GENERAL:—The current position is not ideal. It is, I think, nonetheless acceptable. We would all wish to see the interval between the commission of an offence and its prosecution as short as possible. I say 3 months is acceptable because it is governed by the resources which are made available to the Chief Staff Officer (Traffic). One way in which the interval could be further reduced would be to limit the range of traffic offences on which attention is concentrated. I myself do not believe that that would be in the public interest. I can, I think, assure Members at the same time that the Traffic Branch is very conscious of the need to keep the interval as short as possible. That is the direction in which they are working. I think we shall see yet further benefits coming from the Fixed Penalty system.

MR T. S. LO:—*Is Government aware that even now the interval sometimes between the date of an offence and the issue of a summons is sometimes in excess of 7 months in some cases?*

THE ATTORNEY GENERAL:—I am unable to answer for any particular case. The figures I have given are, of course, average figures. I would not be prepared to deny that there may have been a case such as Mr LO suggests.

MR T. S. LO:—*Would the Government care to have details of such cases?*

THE ATTORNEY GENERAL:—Yes, Sir.

Villages in NT—preservation of

8 MR YEUNG asked in the Cantonese dialect:—

- (甲) 當政府對於有成立已久的村落的地區擬定發展計劃時，有何政策以保存這種村落？
- (乙) 在政府採納這些計劃加以實施前，有否給與村民預早通知及呈遞意見的機會？

(The following is the interpretation of what Mr YEUNG asked:)

- (a) *What is Government's policy in regard to the preservation of established villages when preparing development plans for areas in which such villages are situated?*
- (b) *what prior notices and opportunities of representation are given to the before such plans are adopted villagers by Government for implementation?*

SECRETARY FOR THE NEW TERRITORIES:—Sir, the selection of areas for development is made very carefully. If we could, we would choose areas which did not disturb private rights and ancient villages, but this has not been possible. Generally speaking most areas selected for development consist of reclamation of the sea coupled with development of the adjoining land. Development at Sha Tin and Tuen Mun are typical examples of this. Within these areas it is our policy to preserve villages wherever possible. Nonetheless many villages are well below development levels and would be subject to flooding, and there may be other practical reasons why they cannot remain where they are. At Sha Tin, for example, villages in the valley floor are generally too low and have to be moved, whereas villages higher up the valley or along its sides are able to remain where they are.

With regard to the second part of the question some towns, such as Tsuen Wan, are covered by statutory plans under the Town Planning Ordinance. In such cases the processes for public comment and representation are prescribed by the law. Other towns are covered by layout plans which are publicly available. But, whatever the case, there would be consultation

with local leaders and an exchange of information during the process of selecting a particular area for development. Thereafter draft layout plans are discussed in general terms with Rural Committees and comments are forwarded to the Planning Officers for consideration. Where individual villages are involved, which may have to be moved, villagers and village representatives will be informed, proposals for removal discussed, and, so far as it is possible, local views on a site for re-location taken into account.

In short, villagers are closely and individually consulted where their own village is concerned: where general development plans are concerned, consultation takes place with the Rural Committee.

I would go on, however, to add, that the recent appointment of District Advisory Boards will provide an opportunity for more formal and extensive consultation about local development plans. District Officers will be instructed to discuss local plans with their Advisory Boards and to seek their advice.

Industrial buildings—lease conditions

9 MR TIEN asked:—*Having regard to the traffic congestion in industrial areas caused by the conversion of ground floor parking areas in industrial buildings into other uses such as godowns, machine-shops, garages, etc., undertaken in breach of the lease conditions after issue of an occupation permit by the Building Authority, will Government take steps to enforce strictly the lease conditions of these buildings in order to enable the roads to be used for the purposes for which they were intended rather than for loading and unloading?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the Government takes a serious view of breaches of lease conditions of the kind referred to by Mr TIEN. The requirements for ground floor parking areas are provided to ensure that adequate off-street loading and unloading facilities are made available in large industrial buildings. And the aim is strictly to enforce these conditions, particularly in new buildings and in cases where it is clear that breaches add significantly to traffic congestion.

The process of enforcement naturally depends in practice on the availability of sufficient experienced staff and other competing priorities for their deployment. Additional posts for this work have, however, been created and recruitment and training is proceeding.

MR TIEN:—*Will Government consider further increases in staff for lease enforcement?*

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir, there is a request for an increase in next year's estimates that is for an increase in staff for the New Territories and the urban areas for this purpose.

Private schools

10 REV JOYCE M. BENNETT asked:—*Does Government intend to enforce the regulations concerning the permissible number of students in each class in private schools especially in those classes with bought places?*

DIRECTOR OF EDUCATION:—Yes, Sir, so far as is practical.

REV JOYCE M. BENNETT:—*What is the method of enforcement?*

DIRECTOR OF EDUCATION:—The position up to now has been that schools are given a verbal warning followed by a written warning. We have not in recent years brought anyone to prosecution. Recently, the situation has been one of too many pupils pursuing too few places. In September this year the position should be much better, because, at any rate in Form 1, we shall have enough places guaranteed for all pupils and the schools themselves will know in advance their guaranteed number of pupils. This will enable me to discuss in advance with the consultative bodies which control the different types of school how we are to approach the problem next year.

Fire Brigade Building—redevelopment

11 MISS DUNN asked:—*What are Government's plans for the redevelopment of the site occupied by the present Fire Brigade Building?*

SECRETARY FOR THE ENVIRONMENT:—Sir, when the site on which the Fire Brigade Building now stands becomes vacant, it is the Government's intention to sell it by public auction to allow for full commercial development. However, because the availability of the site depends on the re-provisioning of the Central Fire Station, it is unlikely to be ready for sale for another two or three years.

MISS DUNN:—*Why were plans for the re-provisioning of the Central Fire Station not finalized at the same time as the re-housing of the Trade, Industry and Customs Department, so that this very valuable site would be immediately utilized either for Government purposes or for sale to the private sector?*

SECRETARY FOR THE ENVIRONMENT:—This is a rather complicated question to answer. It relates to what you might call the provision for fire coverage

which has been up-graded over the last year and it is extremely important that fire engines are able to cover the whole of the central area and eastwards and westwards and up into the Mid-Levels from a station in Central, and it turned out that the re-provisioning could not be done in time in the right places and continue to provide this cover. So the Central Fire Station for the moment has to remain in being. Provision is being made for new fire stations which should provide this cover but it will take a little time, I am afraid, to finalize.

Housing Authority accounts

12 MR WONG LAM asked in the Cantonese dialect:—

鑒於公營房屋方面的龐大開支，政府是否同意房屋委員會的帳目應交由核數署長審核？

(The following is the interpretation of what Mr WONG asked:)

In view of the very heavy expenditure on public housing, will Government agree that the accounts of the Housing Authority should be audited by the Director of Audit?

SECRETARY FOR HOUSING:—Sir, it is indeed the case that very large sums of money are allocated to the provision of public housing. The Housing Authority which under the Housing Ordinance appoints its own auditors, reviews the appointment annually. A private firm of accountants has carried out the task since 1954 to the satisfaction of the Authority. May I add, Sir, that the accounts of the Authority are tabled in this Council annually.

MR WONG LAM:—

閣下，現時房屋委員會之核數方式是否如政府核數署長審核政府部門時之全面性，例如人力，物力方面浪費及奢侈問題有無深入研究？

(The following is the interpretation of what Mr WONG asked)

Sir, the auditing of the Housing Authority—does it include an in depth review of wastage of manpower and resources, as is done in the other departments?

SECRETARY FOR HOUSING:—Sir, I was not aware that the Audit Department did in fact conduct in depth surveys of manpower resources of all Government Departments annually. The auditing procedure is as agreed between the Housing Authority and the private firm and it would not include such a survey unless it was specifically requested by the Housing Authority.

MISS DUNN:—*Sir, coming back to the answer to the original question, given the limited role of a commercial audit compared to a Government audit and bearing in mind the vastly increased scope of the Housing Authority activities which have been taken over from different Government departments, would it not be sensible to amend the Ordinance in order to provide for the Director of Audit to be made responsible for auditing the Housing Authority accounts?*

SECRETARY FOR HOUSING:—I must confess I am nearly lost in that question ... I think, without pleading the defence of Standing Orders this invites me to give an expression of opinion and that is Standing Order 19(4), and 18(h) for the benefit of Mr LO. I think the answer to that is that if the Authority felt it was necessary to have a more searching or wider audit, then it would commission that, and I have no reason to believe that a private firm would not be able to do that.

MISS DUNN:—*The Secretary for Housing has just admitted to Mr Wong Lam's supplementary that the private audit firms do not conduct in depth studies, so I go back again ... would you agree that an audit by the Director of Audit would provide some answers that commercial audits do not give at the moment?*

SECRETARY FOR HOUSING:—I think, Sir, I said that I did not understand that the Government Audit Department conducted such in depth surveys; and private accountants did not normally do so, but I am sure they would do so if they were asked.

MISS DUNN:—*Sir, would the Secretary for Housing do so?*

SECRETARY FOR HOUSING:—If, Sir, the Housing Authority requires me to do so, I shall.

SIR S. Y. CHUNG:—*Sir, will the Secretary for Housing say whether the Director of Audit has any right to conduct an audit if he thinks fit, like he has the right to audit the Universities, the Polytechnic and other semi- Government bodies?*

SECRETARY FOR HOUSING:—I think, Sir, the powers and duties of the Director of Audit are as defined by Ordinance and I think that at present or by directions under the Ordinance they do not include the Housing Authority.

SIR S. Y. CHUNG:—*Sir, will Government consider that this should be reconsidered?*

FINANCIAL SECRETARY:—You, Sir, as Governor have the power to authorize the Director of Audit to examine the accounts of any statutory authority or any body which is subvented from public funds.

Child care centres

13 MISS KO asked:—*Will Government take measures to provide more subsidized child care centres in various districts in the coming year to meet the needs of those parents who have to work to earn their livelihood and are therefore unable to look after their children at Home?*

DIRECTOR OF SOCIAL WELFARE:—Sir, in accordance with the existing policy of providing 1,000 more subvented nursery places each year, sufficient accommodation mainly in new public housing estates and temporary housing areas has been earmarked to meet requirements in 1978-79. This would ensure that residents of these new estates who are eligible for using subvented services would have the same chances of getting their children into subvented places as those in existing housing estates in which most of these nurseries are located.

MISS KO:—*Sir, how many new nursery places in fact does Government expect to become available in 1978, and of these, how many places will be Government subvented?*

DIRECTOR OF SOCIAL WELFARE:—Sir, at present there are about 10,000 subvented places and, as I said, there will be about 1,000 new subvented places in the next financial year.

MISS KO:—*Sir, will Government please inform the Council of the progress being made in the development of the non-profit-making nursery programme?*

DIRECTOR OF SOCIAL WELFARE:—Sir, at present there are 1987 child care centres registered with the Social Welfare Department, of which there are 88 private centres, and there are two organizations planning to set up two non-profit-making nurseries in the very near future, one of which will be opened next week.

REV JOYCE M. BENNETT:—*Does the Director of Social Welfare then consider there are enough subvented nursery places in the existing housing estates?*

DIRECTOR OF SOCIAL WELFARE:—Sir, the demand for subvented nursery places is related to the eligibility criteria which were laid down. At present there are sufficient subvented places for those who are eligible.

Industrial Safety

14 MR LEUNG asked:—*In view of the number of workers who recently fell from work at heights to their deaths, will Government issue such needed advice and protection by way of legislation as to reduce the number of such fatal accidents?*

COMMISSIONER FOR LABOUR:—Sir, fatalities caused by falls from workplaces at height are cause for concern and a great deal of advice is already being given. During 1977, the Industrial Safety Training Centre of the Labour Department's Factory Inspectorate organized 79 courses in construction safety. These courses were attended by nearly 2,000 persons employed in the construction industry where the majority of falls from work at height occur. Precautions against falls forms an important part of every course. A mobile exhibition visited MTR sites on three occasions during the year to display safety measures to workers on site. In addition, factory inspectors give written and verbal advice to contractors and workers during the course of their regular inspections of construction sites.

Protection by legislation is now afforded by the Construction Sites (Safety) Regulations which cover the use of lifting appliances and other aspects of work on a construction site and additional amendments have been prepared and will, I hope, be introduced later in the session.

I hope that a combination of enforcement, advice and education by the Labour Department will encourage safer working practices. But in the end it is the vigilance of contractors and individual employees which effectively reduces the number of these casualties.

Illegal building works—control of

15 MR LEUNG asked:—*Will Government state when it will be in a position to control illegal building works in all domestic premises that do not fall into the category of life and limb hazard?*

DIRECTOR OF PUBLIC WORKS:—Sir, Government is now conducting a major review of existing building control legislation and is exploring means of increasing public awareness of the law relating to building and the dangers of carrying out illegal building works. As part of this review a study will be conducted into the types of illegal works commonly carried out and their effects so as to ascertain what further exemptions under the legislation could be given in order to reduce the overall problem to one of practicable dimensions. At the same time, methods of improving environmental conditions in multi-storey buildings are also being examined.

The current policy regarding illegal building works was established in 1975, when it was decided, in view of the size of the problem and the staffing situation in the Buildings Ordinance Office, that for buildings completed after 31 July 1975, action would be taken against all works which contravene the Buildings Ordinance and for buildings completed on or before that date action would be restricted to removing illegal works which are a risk to life and limb.

The question therefore mainly relates to the very large number of post-war domestic buildings constructed before August 1975 and, while it is not possible to forecast when illegal building works in these premises can be brought under control, it is anticipated that legislative proposals to be made in the next session following the review I have referred to, together with a further expansion of the Buildings Ordinance Office, will enable substantial progress to be made in this field.

Industrial accidents in 1977

16 MR TIEN asked:—*Will Government make a statement as to the total number of industrial accidents and their main causes in 1977 in respect of*

- (a) the construction industry*
- (b) the manufacturing industry and*
- (c) other industries?*

COMMISSIONER FOR LABOUR:—Sir, the total numbers requested will not be available until late February. The Data Processing Division has already started work on compiling the figures, but at this time of the year there are still a number of accident notifications to be received and processed. I expect the full figures to be ready at the end of February.

I can thus at the moment only give a rough indication of the 1977 figures.

During the first three quarters of 1977 there were:

- (a) 67 fatal and 9,300 non-fatal accidents in non-registrable industrial undertakings. (These include 56 fatal and 7,990 non-fatal accidents in the construction industry),*
- (b) 30 fatal and 16,600 non-fatal accidents in registrable industrial undertakings, and*
- (c) 86 fatal and 8,700 non-fatal accidents in other circumstances.*

Assuming that the pattern of main causes for these accidents follows that of 1976, and this is expected to be the case, these causes were during 1977 as follows:

- (a) for fatal accidents in the construction industry:*
 - (i) 32% were caused by falling from heights*
 - (ii) 22% were caused by vehicles and mechanical equipment*
- (b) in the case of non-fatal accidents in the construction industry:*
 - (i) 30% were caused by persons stepping on or striking against objects*
 - (ii) 18% were caused by persons falling from heights*
 - (iii) 17% were caused by so-called handling without machinery (that is injury caused in moving materials manually)*

- (c) and in the case of non-fatal industrial accidents:
- (i) 28% were caused by person stepping on or striking against objects
 - (ii) 27% were machinery accidents

As soon as the annual figures are available I will send them to Mr TIEN.

MR TIEN:—*Sir, are those numbers higher than those for the same period in 1976?*

COMMISSIONER FOR LABOUR:—Yes, Sir, the increases are, in the case of fatal accidents in the comparative three-quarterly periods, 11 fatal and 4,400 nonfatal. I think these can be ascribed in part to the significant increase in industrial expansion and construction which give rise of course to more activity, more plant and equipment and an increased work force. And, secondly, there is better reporting by management and workers and there has been an improved system of accident reporting introduced during the past year.

MR TIEN:—*What steps has Government taken or plans to take to reduce the number of such industrial accidents?*

COMMISSIONER FOR LABOUR:—Sir, there are several steps that will be taken and indeed have been taken: for example, the factory inspectorate will certainly increase its effort by enforcement and advisory services, by the educational services provided at the Industrial Safety Training Centre in Kowloon and we are setting up a new committee of the Labour Advisory Board to promote industrial safety, on a voluntary basis. But this, of course, will entail an increase over the present 120 inspectorate force, and I hope to have about 50 next year, 50, because this is all the department can recruit and train in any one year. I think this may well be an on-going requirement. The other thing that we shall be doing is to consolidate, up-date and introduce new legislation.

SIR S. Y. CHUNG:—*Sir, referring to the answer given to the original question, is the Commissioner aware that, according to International practice, industrial accidents are usually and more meaningfully reported on number of accidents per thousand or per hundred thousand or per one million man hours or man days for different industries and will the Commissioner supply to this Council the annual figures when they are available in accordance with such International practice?*

COMMISSIONER FOR LABOUR:—Yes, Sir, I will certainly do that. Indeed, one of the items in the legislation I referred to is, an amendment that will enable an improved reporting system.

Housing for civil servants

17 MR CHEONG-LEEN asked:—*Will Government soon set up a loan scheme for the approximately 8000 local civil servants who are presently ineligible for any form of public housing, quarters or housing allowances, so that they can purchase their homes by a long-term instalment plan?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, in reply to two questions about a year ago in this Council, my predecessor said that possible methods of assisting officers who qualify neither for the allocation of public housing nor for housing allowances were then being considered. He said that housing loan schemes were among the methods under consideration.

It is not possible to consider loans to civil servants who do not receive any form of assistance at the present time in isolation from the type of assistance given to other civil servants. It has therefore been decided that it is necessary to review all the existing policies for the housing of civil servants, to decide whether they should be modified and, if so, how those modifications should be carried out. The views of the main Staff Associations have been obtained informally and a full scale review is now underway.

I expect that this review will be completed by about the middle of this year.

REV JOYCE M. BENNETT:—*Is the Government aware that there are a number of police constables and others of sergeant rank and higher who are very concerned about their housing?*

SECRETARY FOR THE CIVIL SERVICE:—I think the Government is very conscious that a very large number of civil servants are very concerned about housing; it is obviously a serious problem for many people in the civil service as for the rest of the community.

Statement

Hong Kong Industrial Estates Corporation Annual Report ending 31 March 1977

MR F. W. LI:—Your Excellency, among the various papers laid on the table of this Council today is the Annual Report of The Hong Kong Industrial Estates Corporation for the year ended 31 March 1977.

The year under review in fact constitutes only the first month of the Corporation's activities but includes the ten months operations of its predecessor the Hong Kong Industrial Estates Provisional Authority which was established on 30 April 1976. The Statement of Accounts and Director of Audit's Report for the Provisional Authority at 28 February 1977 are also tabled and should be read together with the Accounts and Report of the Corporation.

The period has in every sense been a formative one covering the reclamation and formation of Stage I of the first estate at Tai Po, the formation and establishment of the Provisional Authority and subsequently the Corporation, and the formulation of policies, rules and procedures to govern and control the selection of applicants and the leasing of sites.

The formation of land comprising Stage I at Tai Po is now substantially complete and contracts have been let for Stage II. Since the announcement of the general terms and conditions of leasing in December 1976 a steady flow of applications has been received and these now total 84 of which 10 have been approved. The lease document which has been the subject of considerable discussion and amendment to meet particular criticisms by interested parties has now been finalized. Some of the approved applicants are expected to execute Agreements within the next few weeks thus enabling them to proceed with the preparation of plans for the erection of their own factory buildings. The public in general, and industrialists in particular, have understandably been expecting for some time the announcement of the names of the successful applicants, but this cannot be made until lease documents are actually signed. Honourable Members will appreciate the necessity for the rather complex procedures involved as described in my Statement in the Annual Report. As long as they are not fully completed, the Corporation is bound to respect the confidential nature of all applications.

Although the level of demand and quality of applicants has not been as high as we may have hoped, particularly from overseas, it has nonetheless been encouraging and commensurate with the supply of land. The Corporation and the Provisional Authority in establishing the selection criteria and leasing conditions were mindful of the special purpose of industrial estates and the special price of the land and have therefore sought by strict imposition of the criteria and conditions to prevent misuse and speculation so as to ensure that the basic objective of broadening the base of industry is achieved.

The task thus facing the Corporation is far from easy but it believes the course on which it has set out to be the right one and that only if the ultimate objective will be better served should the present policies be modified. At the moment, however, the Corporation considers its main task is the formation of the maximum amount of land as quickly as possible because until a sufficiently large area of formed and serviced land is available it is not reasonably possible to assess or prove demand accurately. The availability of such land will in itself stimulate demand and prove a positive attraction to the desired types of industry.

In this connection, the recent approval by Executive Council of the Corporation's proposal to proceed with the development of the second estate at Yuen Long is welcomed and it is hoped loan funds from the Development Loan Fund will shortly be made available to enable construction to commence in the first half of this year.

Sir, as the operations of the Provisional Authority form the largest part of the period covered by this first Annual Report of the Corporation I would like, in conclusion, to express our appreciation of the work done by the Provisional Authority under the able Chairmanship of Mr M. G. R. SANDBERG.

Government business

Motion

MASS TRANSIT RAILWAY CORPORATION ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—Sir, the purpose of this motion is quite simple to provide authority for the Government to give payment guarantees to a Mass Transit Railway contractor (Siemens), whose work for the Corporation will be financed through AKA, a German consortium bank providing export credit facilities. The guarantee item which will be amended by this motion already provides authority for the Government to give payment guarantees direct to AKA; but this organization is unwilling to make funds available until the Government issues a separate guarantee in favour of contractors. This is a purely technical amendment, and it does not add in any way to the total amount of Government guarantees which this Council has approved.

Question put and agreed to.

First reading of bills

THE HONGKONG AND SHANGHAI BANKING CORPORATION (AMENDMENT) BILL 1978

MERCANTILE BANK NOTE ISSUE (REPEAL) BILL 1978

Second reading of bills

THE HONGKONG AND SHANGHAI BANKING CORPORATION (AMENDMENT) BILL 1978

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Hongkong and Shanghai Banking Corporation Ordinance.’

He said:—Sir, this Bill and the Mercantile Bank Note Issue (Repeal) Bill 1978 which is also due to be read the second time today, seek to repeal the note-issuing powers that the Mercantile Bank presently enjoys and to transfer to the Hongkong and Shanghai Banking Corporation its authority to issue notes up to \$30 million against securities.

In 1964 the Mercantile Bank was acquired by the Hongkong Bank and since then its operations within Hong Kong have been progressively absorbed within the Hongkong Bank; as a result all but one of its branches in Hong Kong have now been closed. Thus, the Mercantile Bank's position as a note-issuing bank has become quite anomalous. Moreover there are only about \$30 million of the bank's notes in circulation and they account for less than 1% of the total note circulation. Both the Government and the Hongkong Bank Group now feel the existence of a third note-issuing bank is no longer necessary or desirable.

Apart from repealing the Mercantile Bank's note issuing powers, the Bills also transfer the Mercantile Bank's authorised issue to the Hongkong Bank. At present the three note-issuing banks may issue small amounts of notes, known as 'authorized issues' against interest bearing securities in a form approved by the Secretary of State and deposited with the Crown Agents, or the Government. The two banks mentioned are permitted to issue \$30 million each and the Chartered Bank for historical reasons have an authorized issue of \$35 million. Additional notes, that is, say, the vast bulk of the total circulation, are issued against non-interest bearing Certificates of Indebtedness issued by the Exchange Fund.

The Hongkong and Shanghai Banking Corporation (Amendment) Bill seeks to raise up the bank's authorized issue from \$30 million to \$60 million and raise to the same amount the securities required to be deposited with the Crown Agents or the Government. The Hongkong Bank's authorized note issue will still be relatively small compared with that of the Chartered Bank in view of the fact that over 80% of the total note circulation is issued by the Hongkong Bank.

The most significant point in the Bill for the public is clause 2(2) of the Mercantile Bank Note Issue (Repeal) Bill which provides that any Mercantile Bank note in issue when the Bill becomes law will be deemed to have been issued by the Hongkong Bank. This ensures that when the Mercantile Bank's note issuing powers cease its notes will remain legal tender and the Hongkong Bank will be obliged to redeem them. There is, therefore, no danger that such notes in the hands of the public will lose their value.

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

Question put and agreed to.

MERCANTILE BANK NOTE ISSUE (REPEAL) BILL 1978

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to repeal the Mercantile Bank Note Issue Ordinance and to make consequential amendments.’

He said:—Sir, I move that Mercantile Bank Note Issue (Repeal) Bill 1978 be read the second time. Sir, I have already fully explained the purpose of this Bill when moving the second reading of the Hongkong and Shanghai Banking Corporation (Amendment) Bill 1978 and so all I need do now is to move that the debate of this motion be also adjourned.

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

Question put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1978**Resumption of debate on second reading (21 December 1977)**

Question proposed.

MR CHEONG-LEEN:—I recall a taxi-driver telling me many years ago how much more expensive it was to die and be put into the ground than to keep alive, such was the great respect for traditional funeral ceremonies and the high cost of burial plots in those days. The words he used with an air of resignation and his mournful expression have left an indelible impression in my mind even to this day.

Gone for good are the long funeral processions on foot, in which the sack-cloth covered relatives of the deceased slowly accompanied the heavy coffin carried shoulder-high on the streets to the burial ground to the plaintive tunes of Western origin played by a hired funeral band.

Because of the volume of traffic on the roads, such elaborate funeral arrangements must now of necessity be held indoors in a funeral hall. With the decline in the value of the Hong Kong dollar over the years, it can be claimed with reason that it costs just as much to be alive today than to die and be buried. Hong Kong people being both philosophical and pragmatic by nature would of course much prefer to remain alive and kicking, whatever the cost.

But to enable the living, especially those families who have a limited income, to provide a dignified and inexpensive funeral service for their departed ones, it is proper and fitting for this Council to support and approve the amending Bill.

Once enacted, the Bill will enable the Urban Council to allow those families with restricted incomes to afford a decent and dignified funeral service at economical cost when the need arises. It is expected that this service to the community will commence when the new Hung Hom Public Funeral Hall is opened in March this year.

The details of the service to be provided, which might include having a trained Master of Ceremonies, suitable background music, and the organizing of reception arrangements for those attending the funeral, are being worked out by the Urban Council.

It is to the credit of the Urban Council and the Select Committee concerned that the initiative was taken to plan and provide for this necessary service for the public in the urban areas.

The experience of the Urban Council in the operation of the new Hung Hom Public Funeral Hall may well indicate future demand for this service in other parts of the urban areas and in the New Territories as well.

Sir, I support the motion.

SECRETARY FOR THE ENVIRONMENT:—I am most grateful to Mr CHEONG-LEEN for his support and I join with him in congratulating the Urban Council on their initiative in seeking to provide this much needed service.

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).

WORKMEN'S COMPENSATION (AMENDMENT) (NO 2) BILL 1977

Resumption of debate on second reading (23 November 1977)

Question proposed.

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

督憲閣下：有關一九七七年勞工賠償（修訂）（第二號）法案，立法局非官守議員方面成立了一個特別小組，詳加討論，並於去年十二月十四日與勞工處長進行討論磋商，小組的意見如下：

- （一） 將勞工賠償條例適用範圍擴大，以便包括月入不超過五千元之非體力勞動工人，（以代替現時之月薪二千元），實在是相當合理的。體力與非體力勞動工人，同為僱員階級，所以在享受勞工福利方面，兩者不應有太大的分別。梁達誠議員則更認為不應有薪金限額，以使所有僱員，無論屬於體力或非體力性質，皆可享受該法例之保障。

- (二) 有關局部傷殘的賠償方面，修訂條例以使估計第一附表規定之損傷及估計未經規定而性質相同之損傷時，得以達到一致，原則是對的；但第一附表所規定的賠償沒有照顧到不同背景的工人所可能受到的工作能力上不同的損失，例如對一個從事高度技術精密零件工作的工友而言，損失一隻食指便要比一個普通工廠工友的損失為大，但根據第一附表的規定，兩者的工作能力上的損失同為百分之十四，這方面仍有待改善之地方。我們知道勞工處長現正成立一個部門間的工作小組，專門研究及檢討勞工賠償法案，對上述一點，我們希望工作小組能夠加以研究。
- (三) 將申請賠償限額由十二個月延長至廿四個月的提議，實在是適合環境的需要的。很多時工人所受的損失，短期內未必明顯或加以肯定，如果能夠有兩年之久來決定損失的輕重，從工人觀點而言，固然是有利無害，在各政府有關部門方面亦可減少各種行政上不必要的麻煩。
- (四) 增設對付僱主延遲支賠償費之條例，我們認有此需要；但我們認為政府應更深入考慮，是否可以把賠償附加費與延遲付款的時間相應增加，因為五十元或相近的數目對有意延遲支付賠償費的僱主所起的阻撓作用未必足夠。

小組的決定，已如上文所述。本人一向希望在適當的環境及合理的步伐下，我們的勞工階級能得到更合理的保障，此修訂法案的精神，實在也有這種意義。

督憲閣下，本人支持此項動議。

(The following is the interpretation of what Mr Wong Lam said)

Sir, the provisions of the Workmen's Compensation (Amendment) (No 2) Bill 1977 have been studied in depth by an *ad hoc* group of the Unofficial Members of this Council which also had an informal discussion on 14.12.77 with the Commissioner for Labour. The group's views, which are supported by my Unofficial Colleagues, are broadly as follows:

- (a) It is reasonable to extend the application of the principal Ordinance to all non-manual workers earning not more than \$5,000 a month. Whether manual or non-manual, all workers belong to the same class of beings—they are all employees. As such there should not be any substantial difference in the benefits they enjoy. Honourable LEUNG Tat-shing considers that it would be even more advisable to remove completely the income ceiling for non-manual workers so that all workers would be given the same legal protection.
- (b) The amendment intended to achieve uniformity between assessments for injury specified in the First Schedule of the principal Ordinance and assessments for similar injury but not so specified is basically sound; but the present rates of compensation stipulated in the First Schedule do not take account of the varying degrees of loss which may be suffered by workers belonging to different trades. For example, the loss of an index finger would have vastly different effects on a highly-skilled craftsman and an ordinary factory hand; yet in both cases the loss of earning capacity is regarded as 14%. We understand that the Commissioner for Labour is in the process of establishing an interdepartmental working party to look into the entire issue of workmen's compensation.

It is hoped that the said inadequacy of the basis on which compensation is assessed will receive the close attention of this working party.

- (c) To extend the time limit within which applications for compensation have to be made from the existing 12 months to 24 months is a practical proposal. Very often, the degree of permanent incapacity arising from an injury and hence the loss suffered by the worker concerned cannot be assessed before the expiry of the present limitation period. With the proposed extension, not only will the worker benefit from a more realistic assessment but also the amount of unnecessary administrative work of all the Government departments concerned will be reduced.
- (d) Finally we agree that there is a need to introduce a clause to the principal Ordinance governing late payments of compensation. However, since the proposed surcharge is as little as \$50 or thereabout, we feel that Government should consider more carefully whether it is possible to increase it pro-rata with the length of delay.

Sir, it has always been my desire that within acceptable limits and at a reasonable pace, our workforce should obtain better protection in the field of workers' benefits. I am glad that the Bill before this Council represents another step forward in this direction.

Sir, I support the motion.

MR LEUNG:—Sir, I rise to speak in support of the Bill before Council.

The proposal to extend the application of the Workmen's Compensation Ordinance to all non-manual workers earning more than \$2,000 but less than \$5,000 per month is, for the time being, reasonable. As it is at present, such category of non-manual workers are apparently suffering from a disadvantage. They cannot claim workmen's compensation under the said Ordinance and are liable for the cost of any court proceedings for the recovery of civil damages, even if they can prove that their employers owe them a civil liability to pay damages.

I now take this point further to look at those non-manual workers earning more than \$5,000. We may assume that this other category of non-manual workers belong to the senior or executive grades and are also assumed to be sufficiently educated or resourceful to be able to look after their own interests. Yet the law presupposes that all workers, be they manual or non-manual, highly paid or otherwise, shall be afforded the same protection. It can be difficult, and often-times not practicable, to draw a line along the scale of earnings to distinguish those who should be included in the law from those who should not. Manual workers are not currently debarred from the protection given under the principal Ordinance on an income basis. I can see no justification, nor the wisdom in imposing any income limit on non-manual workers. I am, however, happy to note that the Government intends to undertake a comprehensive review of the principal Ordinance

through an interdepartmental working party to be set up soon. I strongly recommend that the working party will consider in due course the advisability of removing completely the income ceiling for non-manual workers.

The other proposal to impose a surcharge of 5% or \$50, whichever is the greater, on payment of compensation made 21 days after the date stipulated in an agreement, is to be lauded. However, as pointed out by my honourable Friend Mr WONG Lam, it would be desirable if the working party could look into the question of increasing the surcharge pro-rata with the length of delay of payment to guard against the more unscrupulous employers.

With these remarks, Sir, I support the motion.

REV MCGOVERN:—Sir, I support this Bill as it stands now because I understand that a working party is to consider various other points connected with workmen's compensation which remain unsatisfactory.

Some of the points I should like to see reviewed by the Working Party are the same as those already brought to our notice by the previous speakers:

- 1 That instead of setting the ceiling for non-manual workers at \$5,000 as in this Bill, the ceiling be lifted completely.
- 2 That the general inadequacy of the basis on which compensation is assessed, and consequently the inadequacy of the compensation paid, be looked at more realistically.
- 3 In particular, while no doubt ease of administration is achieved by bringing uniformity to the assessment of scheduled and non-scheduled injuries, ease of administration should not be the main consideration. The purpose of workmen's compensation is primarily to help the injured person to a degree which will justly compensate for the loss he has suffered. What is administratively convenient may cause inconvenience and even injustice to the victim who is injured. There is at present a real injustice to a skilled worker to whom the loss of, as already mentioned, one index finger, could mean the total loss of his livelihood in his skilled occupation. In a constructive critical letter to the editor of an English language newspaper the example of a watchmaker was given. The same loss to an unskilled worker, though very real, would be relatively less serious. Both should be adequately compensated, but however ever inconvenient from the point of view of assessment, justice demands higher compensation for the worker whose loss is the greater, even though the physical injury is the same.
- 4 The final point I should like to see reviewed is the desirability of surcharges for late payment being made pro-rata with the length of the

delay. The present position is open to serious abuse. There should not be any insuperable administrative difficulty in introducing such pro-rata surcharges. But even if the Labour Department does find problems I am sure that advice could be sought from the Inland Revenue Department which seems to have a highly efficient, almost instantaneous, method of getting out demand notices, and surcharges for late tax payments. The method may perhaps be based on some simple formula which works in inverse proportion to the speed, or rather the pace, of the repayment of tax rebates.

Until the Working Party gives us a more comprehensive review of the Workmen's Compensation Ordinance, I support this motion as an interim measure.

COMMISSIONER FOR LABOUR:—Sir, I am most grateful to Honourable Members for their helpful comments on, and support, of this Bill.

The Bill generally represents part of our continuing efforts to improve conditions for our workforce. When passed into law, it will place the majority of non-manual workers within the protection of the Ordinance, discourage employers from delaying payment of compensation to injured workmen and, by extending the time limit for application for compensation, reduce not only the time of the Courts but also the anxiety of injured workmen.

Workmen's Compensation is an area that needs constant review and improvement, and the speakers today have referred to the Working Party that is now about to start work on a comprehensive review of the Workmen's Compensation Ordinance.

I know that there are several areas covered by the Ordinance that require examination and improvement, and the suggestions made by my honourable Friends today will be included in the purview of the Working Party's examination. I would also assure Honourable Members that the work of this group will be conducted vigorously.

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).

HONG KONG POLYTECHNIC (AMENDMENT) BILL 1978

Resumption of debate on second reading (21 December 1977)

Question proposed.

HIS EXCELLENCY THE PRESIDENT:—DR CHUNG ... I beg your pardon, Sir S. Y. CHUNG (*laughter*)

SIR S. Y. CHUNG:—Your Excellency, I rise to support this Bill which seeks to amend substantially the Polytechnic Ordinance for the first time since its enactment by this Council more than six years ago. At that time, the Polytechnic was about to be developed upon the small but solid foundation of the former Hong Kong Technical College, which had a full-time equivalent student population of three and a half thousand.

Today, the full time equivalent population of the Polytechnic is over nine thousand, and the spectrum of courses has widened to provide studies in new areas such as computing science, chemical technology, business and management studies, and medical and health care. Social Work studies, so ably pioneered by the Social Welfare Department of the Government are also now included in the curriculum of the Polytechnic and all the various disciplines in the field of Engineering have been further streamlined and developed.

The need for expansion in higher technical education has been fully recognised and supported by you, Sir, and by my honourable Friends in this Council for many years. If further evidence of need is required, let me refer to two types of statistics. Despite the fast expansion of the Polytechnic, only 6% of last year's graduates were still unemployed by October 1977, and the ratio of qualified applicants to full-time places available for the current academic year is maintained at a high level of about 6 to 1.

But expansion and diversification invariably brings greater complexity into management and administration, and it is for this reason that one of the most important provisions in the amending Bill now before Council is that which provides for an enlargement of the Governing body from 15 to 23 members. Four of these additional members of the Board of Governors, which the Bill incidentally seeks to retitling the 'Council of the Polytechnic', will be drawn from Industry and Commerce and this will increase the representation of the 'private sector' by 50%. This will not only provide an opportunity to further diversify the variety of commercial and industrial experience and expertise on the Governing body, but will also lighten the managerial burden which has been imposed upon all too few members in the past. Since its establishment in 1972, the Board and its various Committees have held well over 200 meetings and, as its Chairman, I would like to take this opportunity to pay tribute to its members who, despite other onerous and important duties elsewhere, have nevertheless given unstintingly of their time, energy and enthusiasm so as to ensure that the Polytechnic has developed along the right lines for Hong Kong.

An additional provision of some significance which is contained in the same clause of the amending Bill, will enable the staff of the Polytechnic to elect three representatives to serve on the new Council. Staff participation in the

management process is, I understand, a common feature of institutions of tertiary education elsewhere, as it is in the two Universities in Hong Kong. The Polytechnic is of course different in many respects from the two Universities and has approached this question of staff representation with some caution, perhaps even over-cautiously. For more than two years, however, two staff members have been in regular attendance at Governing Board meetings and there is every indication that this experiment has been a success.

Another important provision of the amending Bill gives statutory recognition to the Polytechnic's internal Academic Committee. This Committee is similar to the Universities' Senates, which are similarly recognized in the Ordinances of the two Universities in Hong Kong. Although English is not my mother tongue, nonetheless, I am told, Sir, that the word 'Senate' means a gathering of old men, and whilst the wisdom of advancing years may be invaluable to the running of a University, as indeed it is to the deliberations of this Council, it is perhaps less important, and certainly more difficult to find, in the young and fast-developing world of technology in which the Polytechnic is now finding its place. Its foremost council of 'technocrats', Sir, does not therefore seek to call itself the Senate, but the 'Academic Board' of the Polytechnic, and to function with a stability and perpetuity which its enshrinement in the Ordinance will hopefully bring about.

The last provision of the Bill which I shall mention, Sir, which is by no means the least, is that which confers the Presidency of the Polytechnic upon the Governor. Your Excellency was kind enough to accept the Presidency, by a non-statutory arrangement, in early 1973 and your regular officiation at the Polytechnic's graduation ceremonies during all these years has done much to enhance the prestige of the institution and to demonstrate to the graduates the high value which Hong Kong places upon their future contribution to our society.

Sir, before closing may I echo the words of the Secretary for Social Services when moving the second reading of the Bill that its purpose is to strengthen and not to change the existing character of the Hong Kong Polytechnic. Any changes in the future will hopefully take the form of further expansion in student numbers, particularly in respect of those pursuing part-time studies who need to up-date and in some cases restrain themselves to new technologies in order to meet the ever-changing circumstances in Hong Kong. We are all acutely aware in this Council of the urgent need to diversify Hong Kong's industries, and the Polytechnic must and will play an ever-increasing role in this vitally important endeavour.

With these words, Sir, I support the motion before Council.

DR HUANG:—Sir, it is a gratifying fact that the Polytechnic, despite a scarcity of old men on its staff, may now be considered as coming of age. Its expansion within the short span of time of the past six years has been truly remarkable. With the wide range of courses it now offers to a rapidly increasing student

population, its contribution to Hong Kong in providing well trained, and well educated, young people to meet the needs of industry, commerce and the community has become manifestly substantial. In the years to come, as Hong Kong moves towards diversification of its economy, the Polytechnic will have an even greater role to play in providing technical personnel in a host of disciplines.

The time has therefore come for Poly's teachers, who have now settled in their jobs and have become conversant with local conditions in Hong Kong and its needs, to be given a greater part in the governance of the institution. This will provide them with an opportunity to help in charting the course of the Poly's future developments and at the same time give them a greater sense of participation and belonging. The amendments to accord statutory status to the Academic Board and to include teachers in the enlarged Council will help to achieve these ends. I have therefore great pleasure in supporting the Bill.

Question put and agreed to.

Bill read the second time.

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

Committee stage of bills

Council went into Committee.

CRIMES (AMENDMENT) BILL 1977

Clause 1

THE ATTORNEY GENERAL:—Sir, I move that clause 1 be amended as set out in the paper before Honourable Members.

Proposed amendment

Clause 1

That clause 1 be amended by deleting '1977' and substituting the following—

'1978'.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2

THE ATTORNEY GENERAL:—Sir, I move that clause 2 be amended as set out in the paper before Honourable Members.

Proposed amendment

Clause 2

That clause 2 be amended—

(a) in paragraph (d), by deleting ‘section 128’ and substituting the following—

‘section 123’;

(b) by deleting paragraph (f) and substituting the following new paragraphs—

‘(f) in subsection (3), by inserting after ‘aforesaid’ the following—

“, or who incites a girl under the age of sixteen years, who is to his knowledge his granddaughter, daughter or sister, to have sexual intercourse with him,”; and

(g) in subsection (4)—

(i) by deleting “female” wherever it appears and substituting the following in each place—

“woman”; and

(ii) by inserting after “age,” the following—

“or of inciting a woman under that age, who is to his knowledge his granddaughter, daughter or sister, to have sexual intercourse with him,”.’.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 and 4 were agreed to.

Clause 5

THE ATTORNEY GENERAL:—Sir, I move that clause 5 be amended as set out in the paper before Honourable Members.

*Proposed amendment***Clause 5**

That clause 5 be deleted and the following substituted therefor—

'Amendment of section 50 **5** Section 50(2) of the principal Ordinance is amended—

(a) by deleting “section 5, 6 or 10 of the Protection of Women and Juveniles Ordinance” and substituting the following—

“section 123, 124 or 125”; and

(b) by deleting “section 5, 6 or 10, as the case may be, of the Protection of Women and Juveniles Ordinance” and substituting the following—

“section 123, 124 or 125, as the case may be”.’.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clause 6

THE ATTORNEY GENERAL:—Sir, I move that clause 6 be amended as set out in the paper.

*Proposed amendment***Clause 6**

That clause 6 be deleted and the following substituted therefor—

'Addition of new Part XII **6** The principal Ordinance is amended by adding after section 116 the following new part—

“PART XII

SEXUAL AND RELATED OFFENCES

Interpretation

Interpretation **117** (1) In this part, unless the context otherwise requires—
[*cf.* 1956 c. 69, s. 45.]

“defective” means a person suffering from a state of arrested or incomplete development of mind which includes subnormality of intelligence and is of such a nature or degree that that person is incapable of living an independent life or guarding himself against serious exploitation, or will be so incapable when of an age to do so;

“owner” in relation to any premises means any person holding the premises direct from the Crown, whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of the premises, solely or with another and on his behalf or that of any person, or who would receive the same if such premises were let to a tenant, and, where such owner as above defined cannot be found or ascertained, or is absent from Hong Kong or is under disability, also includes the agent of such owner.

(2) The use in any provision of this part of the word “man” without the addition of the word “boy”, or vice versa, shall not prevent the provision applying to any person to whom it would have applied if both words had been used, and similarly with the words “woman” and “girl”.

(3) Premises, vessel or any place shall not be treated as a vice establishment for the purposes of this part unless—

- (a) the premises, vessel or place are or is used wholly or mainly by two or more women for the purposes of prostitution; or
- (b) the premises, vessel or place are or is used wholly or mainly for or in connexion with the organizing or arranging of prostitution.

Sexual offences

118 (1) A man who rapes a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. Rape [*cf.* 1956 c. 69, s. 1.]

(2) A man who induces a married woman to have sexual intercourse with him by impersonating her husband commits rape.

119 (1) A person who procures a woman, by threats or intimidation to have unlawful sexual intercourse in Hong Kong or elsewhere shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. Procurement of woman by threats [*cf.* 1956 c. 69, s. 2.]

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

120 (1) A person who procures a woman, by false pretences or false representations, to have unlawful sexual intercourse in Hong Kong or elsewhere shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years. Procurement of woman by false pretences [*cf.* 1956 c. 69, s. 3.]

(2) For the purposes of subsection (1), “pretence” or “representation” includes a pretence or representation relating to the past, the present or

the future and any pretence or representation as to the intention of the person using the pretence or representation or any other person.

(3) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Administering
drugs to obtain or
facilitate
intercourse [*cf.*
1956 c. 69, s. 4.]

121 (1) A person who applies or administers to, or causes to be taken by, a woman any drug, matter or thing with intent to stupefy or overpower her so as thereby to enable any man to have unlawful sexual intercourse with her shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Indecent assault on
a woman [*cf.* 1956
c. 69, c. 14.]

122 (1) Subject to subsection (3), a person who indecently assaults a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

(2) A girl under the age of 16 cannot in law give any consent which would prevent an act being an assault for the purposes of this section.

(Cap. 181.)

(3) Where a marriage is invalid under section 27(2) of the Marriage Ordinance by reason of the wife being under the age of 16, the invalidity shall not make the husband guilty of any offence under this section by reason of her incapacity to consent while under that age, if he believes her to be his wife and has reasonable cause for the belief.

(4) A woman who is a defective cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of indecently assaulting a defective by reason of that incapacity to consent, if that person knew or had reason to suspect her to be a defective.

Intercourse with
girl under 13 [*cf.*
1956 c. 69, s. 5.]

123 A man who has unlawful sexual intercourse with a girl under the age of 13 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

124 (1) Subject to subsection (2), a man who has unlawful sexual intercourse with a girl under the age of 16 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Intercourse with girl under 16 [*cf.* 1956 c. 69, s. 6.] (Cap. 181.)

(2) Where a marriage is invalid under section 27(2) of the Marriage Ordinance by reason of the wife being under the age of 16, the invalidity shall not make the husband guilty of an offence under this section because he has sexual intercourse with her, if he believes her to be his wife and has reasonable cause for the belief.

125 (1) Subject to subsection (2), a man who has unlawful sexual intercourse with a woman who is a defective shall be guilty of an offence and shall be liable on conviction to imprisonment for 5 years.

Intercourse with defective [*cf.* 1956 c. 69, s. 7.]

(2) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a woman if he does not know and has no reason to suspect her to be a defective.

126 (1) A person who, without lawful authority or excuse, takes an unmarried girl under the age of 16 out of the possession of her parent or guardian against the will of the parent or guardian shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Abduction of unmarried girl under 16 [*cf.* 1956 c. 69, s. 20.]

(2) In subsection (1), “guardian” means any person having the lawful care or charge of the girl.

127 (1) A person who takes an unmarried girl under the age of 18 out of the possession of her parent or guardian against the will of the parent or guardian with the intention that she shall have unlawful sexual intercourse with men or with a particular man shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years.

Abduction of unmarried girl under 18 for sexual intercourse [*cf.* 1956 c. 69, s. 19.]

(2) In subsection (1), “guardian” means any person having the lawful care or charge of the girl.

128 (1) Subject to subsection (2), a person who takes a woman who is a defective out of the possession of her parent or guardian against the will of the parent or guardian with the intention that she shall have unlawful sexual intercourse with men or with a particular man shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years.

Abduction of defective from parent or guardian for sexual intercourse [*cf.* 1956 c. 69, s. 21.]

(2) A person is not guilty of an offence under this section because he takes such a woman out of the possession of her parent or guardian as mentioned in subsection (1), if he does not know and has no reason to suspect her to be a defective.

(3) In this section, “guardian” means any person having the lawful care or charge of the woman.

Exploitation of women for sexual purposes

Trafficking to or from Hong Kong in women

129 (1) A person who takes part in bringing a woman into, or taking a woman out of, Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years.

(2) It shall not be a defence to a charge under this section to prove that the woman consented to being brought into or taken out of Hong Kong whether or not she knew it was for the purpose of prostitution or that she received any advantage therefor.

Control over woman for purpose of unlawful sexual intercourse or prostitution

130 (1) A person who—

(a) harbours a woman or exercises control, direction or influence over a woman; or

(b) assists another person in harbouring or in exercising control, direction or influence over a woman,

either—

(i) with the intention that she shall have unlawful sexual intercourse with men; or

(ii) for the purpose of or with a view to her prostitution, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Causing prostitution of woman [*cf.* 1956 c. 69, s. 22.]

131 (1) A person who—

(a) procures a woman to become, in Hong Kong or elsewhere, a prostitute; or

(b) procures a woman to leave Hong Kong, intending her to become, elsewhere, an inmate of or frequent any premises, vessel or place kept as a vice establishment; or

(c) procures a woman to leave her usual place of abode in Hong Kong, intending her to become an inmate of or frequent any premises, vessel or place kept as a vice

establishment, in Hong Kong or elsewhere, for the purpose of prostitution,
shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years.

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

132 (1) A person who procures a girl under the age of 21 to have unlawful sexual intercourse in Hong Kong or elsewhere with a third person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Procurement of woman under 21 [*cf.* 1956 c. 69, s. 23.]

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

133 (1) Subject to subsection (2), a person who procures a woman who is a defective to have unlawful sexual intercourse in Hong Kong or elsewhere with a third person shall be guilty on an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Procurement of defective [*cf.* 1956 c. 69, s. 9.]

(2) A person shall not be guilty of an offence under this section because he procures a defective to have unlawful sexual intercourse, if he does not know and has no reason to suspect her to be a defective.

(3) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

134 (1) A person who in any manner or by any means detains a woman against her will—(a) with the intention that she shall have unlawful sexual intercourse with men or with a particular man; or (b) on any premises or vessel, or in any place, kept as a vice establishment, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.

Detention of woman for intercourse or in vice establishment [*cf.* 1956 c. 69, s. 24.]

(2) Where a woman is on any premises or vessel for the purpose of having unlawful sexual intercourse or is on any

premises or vessel, or in any place, kept as a vice establishment, a person shall be deemed for the purposes of subsection (1) to detain her there if, with the intention of compelling or inducing her to remain there, he either withholds from her her clothes or any other property belonging to her or threatens her with legal proceedings in the event of her taking away clothes provided for her by him or on his directions.

(3) A woman shall not be liable to any legal proceedings, whether civil or criminal, for taking away or being found in possession of any clothes she needed to enable her to leave premises or a vessel on which she was being detained for the purpose of having unlawful sexual intercourse or to leave any premises, vessel or place kept as a vice establishment.

Causing or
encouraging
prostitution of,
intercourse with, or
indecent assault on,
girl under 16 [*cf.* 1956
c. 69, s. 28.]

135 (1) A person who causes or encourages the prostitution of or unlawful sexual intercourse with, or an indecent assault on, a girl under the age of 16 for whom he is responsible shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

(2) Where a girl is a prostitute, or has had unlawful sexual intercourse or has been indecently assaulted, a person shall be deemed for the purposes of this section to have caused or encouraged the same, if he knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) Subject to subsection (4), the persons who for the purposes of this section are to be treated as responsible for a girl are—

- (a) any person who is her parent or legal guardian;
- (b) any person who has actual possession or control of her, or to whose charge she has been committed by her parent or legal guardian or by a person having the custody of her; and
- (c) any other person who has the custody, charge or care of her.

(Cap. 290.)

(4) In subsection (3), “parent” does not include, in relation to any girl, a person deprived of her custody by order of a court of competent jurisdiction but, subject to that, in the case of a girl who has been adopted under the Adoption Ordinance means her adopters and in the case of a girl who is illegitimate, and has not been so adopted, means her mother and any person who has been adjudged to be her putative father.

136 (1) Subject to subsection (2), a person who causes or encourages the prostitution in Hong Kong or elsewhere of a woman who is a defective shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

Causing or encouraging prostitution of defective [cf. 1956 c. 69, s.

(2) A person shall not be guilty of an offence under this section because he causes or encourages the prostitution of such a woman, if he does not know and has no reason to suspect her to be a defective.

29.]

137 (1) A man who knowingly lives wholly or in part on the earnings of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Man living on earnings of prostitution [cf. 1956 c. 69, s.

(2) For the purposes of subsection (1), a man who lives with or is habitually in the company of a prostitute, or who exercises control, direction or influence over a woman's movements in a way which shows he is aiding, abetting or compelling her prostitution with others, shall be presumed to be knowingly living on the earnings of prostitution, unless he proves the contrary.

30.]

138 A woman who, for the purposes of gain, exercises control, direction or influence over a woman's movements in a way which shows she is aiding, abetting or compelling her prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Woman exercising control over prostitute [cf. 1956 c. 69, s. 31.]

139 A person who on any occasion—

Keeping a vice establishment

(a) keeps any premises, vessel or place as a vice establishment; or

[cf. 1956 c. 69, s. 33]

(b) manages or assists in the management, or is otherwise in charge or control, of any premises, vessel or place kept as a vice establishment,

shall be guilty of an offence and shall be liable—

(i) on summary conviction to a fine of \$20,000 and to imprisonment for 2 years; or

(ii) on conviction on indictment to a fine of \$20,000 and to imprisonment for 7 years.

Use of premises, etc. for illicit sexual purposes

Permitting girl under 13 to resort to or be on premises or vessel for intercourse [*cf.* 1956 c. 69 s. 25.] **140** An owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers a girl under the age of 13 to resort to or be on such premises or vessel for the purpose of having unlawful sexual intercourse with men or with a particular man or for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

Permitting girl under 16 to resort to or be on premises or vessel for prostitution or intercourse [*cf.* 1956 c. 69, s. 26.] **141** An owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers a girl under the age of 16 to resort to or be on such premises or vessel for the purpose of having unlawful sexual intercourse with men or with a particular man or for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.

Permitting defective to resort to or be on premises or vessel for prostitution or intercourse [*cf.* 1956 c. 69, s. 27.] **142** (1) Subject to subsection (2), an owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers a woman who is a defective to resort to or be on such premises or vessel for the purpose of having unlawful sexual intercourse with men or with a particular man or for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(2) A person is not guilty of an offence under this section because he induces or knowingly suffers a woman who is a defective to resort to or be on a premises or vessel for any purpose mentioned in subsection (1) if he does not know and has no reason to suspect her to be a defective.

Letting premises for use as a vice establishment [*cf.* 1956 c. 69, s. 34.] **143** A person who, being the owner or tenant of any premises or his agent—
 (a) lets the whole or part of the premises with the knowledge that it is to be kept, in whole or in part, as a vice establishment; or
 (b) where the whole or part of the premises is used as a vice establishment, is wilfully a party to that use continuing,
 shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 2 years.

144 A person who—

(a) being the tenant or occupier, or person in charge, of any premises permits or suffers the whole or part of the premises to be kept as a vice establishment; or

(b) being the owner, or the master or other person in charge, of any vessel permits or suffers the whole or part of the vessel to be kept as a vice establishment,

shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 2 years.

Tenant etc.
 permitting
 premises or
 vessel to be
 used as a vice
 establishment
 [cf. 1956 c.
 69, s. 35(1).]

145 A person who—

(a) being the tenant or occupier, or person in charge, of any premises permits or suffers the whole or part of the premises to be used for the purposes of habitual prostitution; or

(b) being the owner, or the master or other person in charge, of any vessel permits or suffers the whole or part of the vessel to be used for the purposes of habitual prostitution,

shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for 2 years.

Tenant etc.
 permitting
 premises or
 vessel to be
 used for
 prostitution
 [cf. 1956 c.
 69, s. 36.]

Miscellaneous offences and provisions

146 (1) A person who commits an act of gross indecency with or towards a child under the age of 14, or who incites a child under the age of 14 to commit such an act with or towards him or another, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Indecent
 conduct
 towards child
 under 14 [cf.
 1960 c. 33, s.
 1(1).]

(2) It shall not be a defence to a charge under this section to prove that the child consented to the act of gross indecency.

147 A person who in a public place or in view of the public—

(a) solicits for any immoral purpose; or

(b) loiters for the purpose of soliciting for any immoral purpose,

shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000 and to imprisonment for 6 months.

Soliciting for
 an immoral
 purpose

148 (1) A person who, without lawful authority or excuse, in any public place or in view of the public indecently exposes any part of his body shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000 and to imprisonment for 6 months.

Indecency in
 public

(2) A person under the age of 12 shall not be guilty of an offence under subsection (1) by reason only of his bathing unclothed.

- Conviction for offence other than that charged Schedule
- 149** (1) If on the trial of a charge for an offence specified in the second column of the Schedule the accused is acquitted, but it is proved that the accused is guilty of any offence specified opposite thereto in the third column of the Schedule or of being party to any such offence, he shall be convicted of such offence or of being a party to any such offence and shall be liable to be punished accordingly.
- (2) Nothing in this section shall exclude the application to any offence of any other law authorizing a court to find a person guilty of an offence other than that with which he is charged.
- Proof of exceptions [cf. 1956 c. 69, s. 47.]
- 150** Where in any section in this part the description of an offence is expressed to be subject to exceptions mentioned in the section, proof of the exception is to lie on the person relying on it.
- Power of search in case of man living on earnings of prostitution [cf. 1956 c. 69, s. 42.]
- 151** Where it is made to appear to a magistrate by information on oath that there is reasonable cause to suspect that any premises or vessel is used by a woman for the purpose of prostitution, and that a man residing in or frequenting the premises or vessel is living wholly or in part on her earnings, the magistrate may issue a warrant authorizing a police officer to enter and search such premises or vessel and to arrest the man.
- General power of search and seizure
- 152** (1) If a police officer of the rank of superintendent or above has reason to suspect that an offence under this part has been or is being committed in or in respect of or in connexion with any premises or place or any vessel, he may in writing authorize any police officer for the purposes of this section.
- (2) A police officer authorized under subsection (1) for the purposes of this section, and any other police officer assisting him may—
- (a) enter, by force if necessary, the premises or place or vessel specified in the authorization and search the same;
 - (b) search any person found in such premises or place or vessel;
 - (c) seize and detain anything found in such premises or place or vessel which appears to him to be or to contain evidence of an offence under this Part.
- (3) No person shall be searched under subsection (2) except by a person of the same sex.

153 (1) Without prejudice to section 152, if a police officer reasonably suspects that any premises, vessel or place is being kept as a vice establishment, he may seize and detain anything found in such premises, vessel or place, or on any person found in such premises, vessel or place, which appears to him to have been used in or for or in connexion with the commission of an offence under section 139. Seizure and forfeiture in respect of vice establishment

(2) If, in any proceedings for an offence under section 139, 143 or 144 or otherwise on application by or on behalf of the Commissioner of Police, a court or magistrate is satisfied that anything in the possession of the court or magistrate or the police, not being immovable property, has been used in or for or in connexion with the commission of an offence under section 139, the court or magistrate may order that it be forfeited to the Crown, whether or not any person has been convicted of an offence under section 139.”.’.

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7

THE ATTORNEY GENERAL:—Sir, I move that clause 7 be amended as set out in the paper.

Proposed amendment

Clause 7

That clause 7 be deleted and the following substituted therefor—

‘*Addition of new Schedule* **7** The principal Ordinance is amended by adding at the end thereof the following new Schedule—

“CHEDULE

[s. 149.]

OTHER OFFENCES OF WHICH ACCUSED MAY BE CONVICTED

<i>Item</i>	<i>Offences charged</i>	<i>Other offences of which defendant may be convicted</i>
1	Rape (section 118)	Procurement of woman by threats (Section 119) Procurement of woman by false pretences (section 120)

<i>Item</i>	<i>Offences charged</i>	<i>Other offences of which defendant may be convicted</i>
		Administering drugs to obtain or facilitate intercourse (section 121) Indecent assault on a woman (section 122)
2	Intercourse with girl under 13 (section 123)	Intercourse with girl under 16 (section 124) Indecent assault on a woman (section 122)
3	Intercourse with girl under 16 (section 124)	Indecent assault on a woman (section 122)
4	Intercourse with defective (section 125)	Indecent assault on a woman (section 122)".

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Clause 8 was agreed to.

Schedule

THE ATTORNEY GENERAL:—Sir, I move that schedule be amended as set out in the paper.

Schedule

That the Schedule be deleted and the following substituted therefor

‘SCHEDULE

[s. 8.]

CONSEQUENTIAL AMENDMENTS

- (Cap. 213.) Protection of Women and Juveniles Ordinance
- 1 Section 2 is amended by deleting the definitions of “brothel”, “keeper”, “occupier” and “owner”.
 - 2 Sections 3 to 15 and sections 17 to 25 are repealed.
 - 3 The Schedule is amended by deleting paragraph 4 and substituting the following—
 - “4. Section 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 140, 141 or 146 of the Crimes Ordinance.”.

- (Cap. 221.) Criminal Procedure Ordinance “Proof of sexual intercourse
- 1 The following new section is added after section 65D.
- 65E** Where in any criminal proceedings it is necessary to prove sexual intercourse, it shall not be necessary to prove the completion of the intercourse by the emission of seed, but intercourse shall be deemed complete upon proof of penetration only.”.
- 2 The Second Schedule is amended by—
- (a) inserting opposite “The Crimes Ordinance” in the third column after “Part VI (Incest)” the following—
“and Part XII (Sexual and related offences)”;
- (b) deleting in the first, second and third columns “Cap. 213. The Protection of Women and Juveniles Ordinance. The whole Ordinance.”.
- 3 The Third Schedule is amended in item 6 by deleting “section 7 of the Protection of Women and Juveniles Ordinance” and substituting the following—
“section 122 of the Crimes Ordinance”.
- (Cap. 222.) Corporal Punishment Ordinance
- The Schedule is amended in Part I—
- (a) in item 7, by deleting “section 5 or 6 of the Protection of Women and Juveniles Ordinance” and substituting the following—
“section 123 or 124 of the Crimes Ordinance”;
- (b) in item 8, by deleting “section 7 of the Protection of Women and Juveniles Ordinance” and substituting the following—
“section 122 of the Crimes Ordinance”.
- (Cap. 224.) Police Supervision Ordinance
- The First Schedule is amended by deleting item 9 and substituting the following—
“9 The Crimes Ordinance—sections 118, 119, 121, 122, 123, 124, 125, 126, 127, 129, 130, 131, 132, 134, 135, 137, 138, 139, 140, 141 and 147.”.
- (Cap. 228.) Summary Offences Ordinance
- 1 Section 4 is amended by deleting paragraph (24).
- 2 Section 12 is repealed.
- (Cap. 238.) Arms and Ammunition Ordinance
- The Fourth Schedule is amended by—
- (a) inserting after “62” under “Crimes Ordinance” the following—
“, 118, 119”;

- (b) deleting “Protection of Women and Juveniles Ordinance. Sections 21(1), 22, 24, 25, 26.”.’.

The amendment was agreed to.

Schedule, as amended, was agreed to.

CRIMINAL PROCEDURE (AMENDMENT) BILL 1977

Clause 1

THE ATTORNEY GENERAL:—Sir, I move that clause 1 be amended as set out in the paper.

Proposed amendment

Clause 1

That clause 1 be amended by deleting “1977” and substituting the following—

‘1978’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2

THE ATTORNEY GENERAL:—Sir, I move that clause 2 be amended as set out in the paper.

Proposed amendment

Clause 2

That clause 2 be amended, in the proposed new section 73A(3), by inserting after “shall” the following—

‘, except where the amount is fixed by the court,’.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3

THE ATTORNEY GENERAL:—Sir, I move that clause 3 be amended as set out in the paper.

Proposed amendment

Clause 3

That clause 3 be amended, in the proposed new section 83XX(5), by inserting after “shall” the following—

‘, except where the amount is fixed by the Court of Appeal,’.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4 was agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1978

Clauses 1 to 3 were agreed to.

WORKMEN’S COMPENSATION (AMENDMENT) (NO 2) BILL 1977

Clause 1

THE COMMISSIONER FOR LABOUR:—Sir, I move that clause 1 be amended as set out in the paper.

Proposed amendment

Clause 1

That clause 1 be amended by deleting ‘(No 2) Ordinance 1977’ and substituting the following—

‘Ordinance 1978’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 to 5 were agreed to.

HONG KONG POLYTECHNIC (AMENDMENT) BILL 1978

Clauses 1 to 10 were agreed to.

Schedule was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL and the

HONG KONG POLYTECHNIC (AMENDMENT) BILL

had passed through Committee without amendment and that the

CRIMES (AMENDMENT) BILL 1977

CRIMINAL PROCEDURE (AMENDMENT) BILL 1977 and

WORKMEN'S COMPENSATION (AMENDMENT) (NO 2) BILL 1977

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

Question put on each bill and agreed to.

Bill read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 25 of January.

Adjourned accordingly at four o'clock.