

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 23 July 1986

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
(THE HONOURABLE THE CHIEF SECRETARY)
SIR DAVID AKERS-JONES, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY
MR. PIERS JACOBS, O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL
MR. MICHAEL DAVID THOMAS, C.M.G., Q.C.

THE HONOURABLE CHEN SHOU-LUM, C.B.E., J.P.

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

THE HONOURABLE ALLEN LEE PENG-FEI, O.B.E., J.P.

THE HONOURABLE HU FA-KUANG, O.B.E., J.P.

THE HONOURABLE WONG PO-YAN, O.B.E., J.P.

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.
SECRETARY FOR DISTRICT ADMINISTRATION

THE HONOURABLE CHAN KAM-CHUEN, O.B.E., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.

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

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

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

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

THE HONOURABLE CHAN NAI-KEONG, C.B.E., J.P.
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE CHAN YING-LUN, J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, J.P.

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN, J.P.

THE HONOURABLE PETER POON WING-CHEUNG, M.B.E., J.P.

THE HONOURABLE YEUNG PO-KWAN, C.P.M., J.P.

THE HONOURABLE JAMES NEIL HENDERSON, O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE KIM CHAM YAU-SUM, J.P.

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

THE HONOURABLE CHENG HON-KWAN

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

DR. THE HONOURABLE CHIU HIN-KWONG
THE HONOURABLE CHUNG PUI-LAM
THE HONOURABLE THOMAS CLYDESDALE
THE HONOURABLE HO SAI-CHU, M.B.E., J.P.
THE HONOURABLE HUI YIN-FAT
THE HONOURABLE RICHARD LAI SUNG-LUNG
DR. THE HONOURABLE CONRAD LAM KUI-SHING
THE HONOURABLE LEE YU-TAI
THE HONOURABLE DAVID LI KWOK-PO, J.P.
THE HONOURABLE LIU LIT-FOR, J.P.
THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.
THE HONOURABLE PANG CHUN-HOI, M.B.E.
THE HONOURABLE POON CHI-FAI
PROF. THE HONOURABLE POON CHUNG-KWONG
THE HONOURABLE HELMUT SOHMEN
THE HONOURABLE TAI CHIN-WAH
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING
THE HONOURABLE TAM YIU-CHUNG
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.
THE HONOURABLE ANDREW WONG WANG-FAT
THE HONOURABLE JOHN RAWLING TODD, C.V.O., O.B.E., J.P.
SECRETARY FOR HOUSING
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.
THE HONOURABLE HARNAM SINGH GREWAL, E.D., J.P.
SECRETARY FOR TRANSPORT
THE HONOURABLE NIGEL CHRISTOPHER LESLIE SHIPMAN, J.P.
SECRETARY FOR HEALTH AND WELFARE (*Acting*)
THE HONOURABLE STEUART ALFRED WEBB-JOHNSON, J.P.
SECRETARY FOR TRADE AND INDUSTRY (*Acting*)

ABSENT

THE HONOURABLE LYDIA DUNN, C.B.E., J.P.
DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.
THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.
THE HONOURABLE SZETO WAH

IN ATTENDANCE

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

Papers

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

Subject *L.N. NO.*

Subsidiary Legislation:

Road Traffic Ordinance	
Road Traffic (Village Vehicles) Regulations 1986	161
Public Health and Municipal Services Ordinance	
Designation of Libraries (Urban Council Area) Order 1986.....	163
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Road Traffic (Driving-Offence Points)(Amendment) Ordinance 1986	
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Sessional Papers 1985-86:

No. 69-1985 Annual Report by the Commissioner of the Independent Commission Against Corruption

Oral answers to questions**Allocation of industrial land to the bleaching, dyeing, printing and finishing industry**

1. MR. NGAI asked: *In view of the fact that the bleaching, dyeing, printing and finishing industry plays an important supportive role in the manufacture of textile products and garments which are the major components of Hong Kong's domestic exports, will the Government consider allocating industrial land specifically to accommodate bleaching, dyeing, printing and finishing factories so that treatment of liquid and gaseous wastes generated by this industry can be better co-ordinated and that smaller factories can share the costs of waste treatment installations, thus enabling the industry to continue to serve our textile sector?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the Government is aware of the importance of the bleaching, dyeing, printing and finishing industry and I am

delighted to note that the number of establishments and the number of workers in this industry have been increasing in recent years.

Although Government does not allocate land to particular manufacturing industries it does advise and assist manufacturers looking for sites either for sale by auction or for grant under the special industries policy if they qualify through the introduction of new or more sophisticated technology to Hong Kong.

Another option is to introduce the manufacturer to the Hong Kong Industrial Estates Corporation for the corporation to consider whether he qualifies for the offer of a site in one of the industrial estates.

As far as the bleaching, dyeing, printing and finishing industry is concerned, there have already been extensive discussions in the past regarding land acquisition and problems of water supply and effluent disposal. Arising out of recommendations in a report by the Shirley Institute in 1982, the possibility of accommodating such factories in the industrial estates was examined. However the exceptionally high demands of this industry on the water supply and the special needs for waste disposal would have required heavy expenditure on additional installations. This cost would have had to be borne by the factories concerned and as a result no application was made for land in the estates.

I believe the technical, organisational and financial problems involved in bringing together a group of factories wishing to build and operate communal pollution control facilities are considerable but not insurmountable. Some factories in the tanning industry for instance have recently set up such facilities and are operating successfully. If manufacturers in the dyeing and finishing industry were able to come together in a similar manner the Government would be willing to advise and assist them in finding suitable land and in seeking solutions to other problems they would face.

I understand that some factories with waste disposal problems have already been assisted by the Industry Department and the Hong Kong Productivity Council and I would advise others to seek similar assistance.

MR. NGAI: *Sir, given its importance to Hong Kong's textile industry, and the fact that more stringent pollution regulations must necessarily be implemented, which may gradually cause the bleaching, dyeing, printing and finishing industry to decline, what in the Government's opinion should be appropriate measures to allow the industry to grow and prosper?*

SECRETARY FOR TRADE AND INDUSTRY: *Sir, I think that some of the measures I have already mentioned provide solutions to the problems that Mr. NGAI describes and, as I said, the Government stands ready to look for other solutions appropriate to particular needs.*

MR. CHEONG-LEEN: *Sir, as one of the options open to Government in assisting the bleaching, dyeing and printing industry, especially in relocating in the industrial estates, will Government consider the possibility of sharing the cost of some of the additional installations with the industry?*

SECRETARY FOR TRADE AND INDUSTRY: *Sir, I think this is one of the solutions which can be examined when we know what the particular needs are and I would advise that groups of industries come together and speak to the Industry Department about what their particular needs are.*

Manning scale for family services centres

2. MR. HUI asked: *In view of recent increase in the number of family tragedy cases, will the Government inform this Council what is the present manning scale of family casework and whether it has any plans to improve the present family services provision?*

SECRETARY FOR HEALTH AND WELFARE: *Sir, family casework is conducted through a network of 22 family services centres operated by the Social Welfare Department and a further 26 such centres run by eight voluntary agencies. At present there are 209 caseworkers in the department's centres handling a total of 21 747 cases, thus giving an average caseload of 104. In the voluntary agencies' centres there are 90 caseworkers handling 7 668 cases, and thus an average caseload of 85. The overall average is thus 98 cases per caseworker. In addition, staff at the Social Work. Officer rank supervise the caseworkers.*

These statistics represent an improvement upon the position recorded at 31 March 1985, when family caseworkers in the department had an average of 121 cases and those in the voluntary agencies had an average of 84 cases, giving an overall average of 109 cases. This improvement was achieved despite a total increase of over 800 cases.

The Director of Social Welfare will be seeking further improvements in the manning scale. There is not considered to be much scope for additional internal re-deployment of staff within the Social Welfare Department to the benefit of the family casework service, having regard to the staffing needs of the other services which the department provides, and any additional improvement in the family casework manning scale must depend on the creation of additional posts.

MR. HUI: *Sir, in the Government Five-Year Plan for Social Welfare Development, it has been agreed in the year 1981-82 that caseloads of one family case worker should be 70 for voluntary agencies and 90 for workers of the Social Welfare Department. It was further agreed in the year 1983-84 that the caseload of voluntary agencies be further reduced to 50 cases per worker. Could Government inform this Council when the agreed ratio can be implemented?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Social Welfare Department in common with other parts of the Civil Service has had severe constraints on its growth in recent years, despite rising demand for its services and the development of new service areas. There have also been tight expenditure limits on the department and on the voluntary social welfare sector. Despite these constraints, it is pleasing to note that some improvement in the manning scale has been made and I would also note that total expenditure on the family casework service has risen from \$42 million in 1985-86 to \$48 million in the current financial year. The manning scale of 50 cases per caseworker was stated only to be the long-term standard. This is included in the Five-Year Social Welfare Development Plan. It is the Director of Social Welfare's intention to improve the manning scale progressively towards this 1:50 target. However, the date of achievement will depend on staffing and expenditure limits and on other priorities.

MRS. TAM: *Sir, in view of the fact that there is an increase in the number of family tragedy cases recently, will the Government consider allocating more resources to the Social Welfare Department to create additional posts to improve the present family service provision?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Director of Social Welfare will indeed be seeking additional resources to meet the needs of all her services and, in particular, the family casework service. Whether these resources will be granted will, of course, depend on other priorities and the overall expenditure limits.

Road markings to restrict stopping of motor vehicles

3. MRS. NG asked (in Cantonese): *In place of the present system whereby 'single yellow line' road markings are used to indicate to vehicular traffic that the stopping of motor vehicles except franchised buses at designated places is prohibited during a certain period(s) in a day, with the specified period displayed on plates erected along the no stopping zone, will Government consider using different road markings for different 'restricted' periods so that drivers do not have to refer to the supplementary plates to obtain the required information?*

SECRETARY FOR TRANSPORT: Sir, two types of 'yellow line' road markings are provided under the Road Traffic (Traffic Control) Regulations. A 'double yellow line' is used to indicate that stopping of motor vehicles except franchised buses is not permitted at any time, while a 'single yellow line' indicates that stopping of such vehicles is prohibited for a period or periods of less than 24 hours in any day.

As a result of a review of the road marking system for restricted zones, it is the intention that the following 'yellow line' markings be provided:

First, a double continuous yellow line to indicate no stopping at any time;

Secondly, a single continuous yellow line to indicate no stopping during peak periods, e.g. 7 am-10 am and 4 pm-7 pm;

Thirdly, a double yellow line, comprising one continuous line and one broken line, to indicate no stopping for a continuous period which is less than 24 hours in any day, e.g. 7 am-7 pm. As far as possible, the three standard restriction periods (that is, at any time; 7 am-10 am and 4 pm-7 pm; and 7 am-7 pm) will be adhered to. However, in some areas, it is necessary to adopt different restriction periods in order to suit particular circumstances. Road markings can therefore only be indicative of the type of stopping restriction in force, that is, 'at any time', 'at peak periods' and 'for a continuous period throughout the day'. There will still be a need to provide time plates for exact information on the restriction periods.

MRS. NG (in Cantonese): *Sir, I am very pleased to note the third proposal, i.e. there will be a double yellow line comprising one continuous line and one broken line to indicate the period of restrictions on stopping. When will this be implemented? Also how much will this design take up of the total restrictive area?*

SECRETARY FOR TRANSPORT: Sir, we intend to include the proposals in a package of proposed amendments to the Road Traffic (Control) Regulations later this year, but of course the implementation of the system will depend very much on financial and staff resources. I would hazard a guess that on the basis of present resources available, it would take about two years from the time of approval to implement the new system throughout the territory. As regards the second part of Mrs. NG'S question, the road markings would occupy the whole of the restricted zone in question.

Radio-active contaminated food

4. MR. CHEONG-LEEN asked: *Will Government inform this Council what measures have been taken to ensure that no radio-active contaminated food has been imported into Hong Kong since the Chernobyl nuclear plant accident?*

SECRETARY FOR HEALTH AND WELFARE: Sir, immediately following the first reports in the mass media at the end of April this year on the accident at the Chernobyl nuclear plant in the USSR, the following steps were taken by the Municipal Services Branch:

- (a) Food commodities flown in from Europe as well as other nearby countries were sampled for detection of radio-active contamination.

- (b) Food commodities imported into Hong Kong prior to the reactor accident were sampled for determination of their background radiation levels so that these could be compared with the levels in food imported thereafter.
- (c) Local consulates of 10 Western European countries likely to have been affected by the accident were requested to supply details of the measures taken by their countries to prevent the export of those food commodities at risk of contamination.
- (d) The United Kingdom Ministry of Agriculture, Fisheries and Foods was approached for assistance in obtaining similar details from Poland and Hungary, which are the main Eastern bloc countries exporting to Hong Kong.
- (e) Plans were drawn up to sample commodities shipped in from Europe, as well as those imported from China, after the reactor accident.
- (f) For safety reasons, the granting of permission for the importation of food from all Eastern bloc countries was temporarily suspended.

Subsequent replies from the Consuls-General concerned, as well as from Poland and Hungary through the Ministry of Agriculture, Fisheries and Foods, assured the Hong Kong Government that stringent measures were being taken in these countries to ensure that food commodities exported to Hong Kong were radiation free.

On 31 May 1986, the European Economic Community (EEC) enacted regulations stipulating the levels of radiation permitted in certain foods. These levels have been adopted as the standards in the monitoring of imported food in Hong Kong. In addition, before permission is granted for the importation of food from Eastern bloc countries, certificates are required to the effect that the level of radiation of each consignment complies with that set out by the EEC countries.

Food samples examined have been found to contain levels of radiation per kg well within the stringent international safety limit.

MR. CHEONG-LEEN: *Sir, is this monitoring for radio-active contamination procedure still continuing and, if so, for how much longer will it be continued?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, this programme is continuing and it will continue until after the EEC review of its arrangements in September, when it will be reviewed here in Hong Kong as well.

Hoisting of No. 8 typhoon signal

5. MR. LEE YU-TAI asked: *At times when there is a reliable indication that No. 8 gale or storm warning conditions will occur during the 'rush hour' period when people are travelling to work or school, will Government consider hoisting the No. 8 signal and/or announcing the closure of schools before the rush hour begins, in order to minimise confusion to the public and to avoid traffic chaos?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the hoisting of the No. 8 signal means that gale or storm force winds (with speed of 63 to 117 km per hour) are expected in Hong Kong and it aims to give six to 12 hours advance warning of the onset of gales. The warning, which enables everyone especially those at sea to take the necessary precautions, must have regard to the time when the relevant weather data and their assessments become available. Given the erratic behaviour of typhoons, premature hoisting of a signal would lead to unnecessary disruption while delay may endanger lives. Since major consideration is given to public safety, it would be inappropriate or even dangerous if the hoisting of the No. 8 signal were to be restricted only to certain hours of the day or night. Furthermore, there will be occasions, as in the past, when incoming observational information received on the typhoon indicates imminent danger thereby warranting the immediate hoisting of the signal.

During inclement weather especially during the approach of a typhoon, the Royal Observatory is in constant contact with public transport operators to enable them to plan for the expected increase in the number of commuters and, if necessary, make appropriate arrangements prior to the suspension or resumption of their services.

Advance advice of deteriorating weather conditions is also given to the Director of Education who has the discretion to announce the closing of schools ahead of the hoisting of the No. 8 signal, taking into consideration factors such as the safety of the pupils, transport problems and possible disruption of school programmes. Because the primary concern of the Education Department is the safety of pupils, the Director of Education, whenever possible, announces the closing of schools either at 6.15 am or at 11.00 am to inform pupils attending the AM and PM sessions *before* they leave home.

It is not the timing of hoisting or announcing the No. 8 signal but the announcement *per se* that tends to cause the strain to the public transport system when everyone rushes home at the same time. To help solving the problem would require the co-operations of the employers and employees so that dispersal of staff could be more evenly spread out bearing in mind that normally there are at least another six to 12 hours before the gale or storm force winds are in Hong Kong. Government, as the employer of the largest workforce, will be looking into the matter.

MR. LEE YU-TAI: *Sir, is it at all possible for the Royal Observatory to consider some sort of advance warning, such as a broadcast announcement for an intermediate signal between Nos. 3 and 8 so that the public will know typhoon signal No. 8 is likely to be hoisted a few hours later?*

SECRETARY FOR DISTRICT ADMINISTRATIONS: Sir, as in the case of the last typhoon on 11 July 1986, the Royal Observatory did give certain indication of the possible hoisting of No. 8 signal at 10.15 am and 12.15 pm, so the public, in fact,

was given ample warning. As for an intermediate signal between No. 3 and No. 8, the present numbering signal system is essentially a warning system of the strength of the winds associated with the tropical cyclone. The signals themselves do not convey information on the weather, which in fact varies from one typhoon to another. Detailed weather conditions over various parts of the territory and precautions to take are described in the bulletins broadcast over the radio. From the point of view of warning of wind strength, there is really no need to have a signal between the No. 3 strong wind signal and the No. 8 gale storm signal. What we need to do is to continue to warn the possibility of the approach of a typhoon and at the same time remind the members of the public not to panic as there are several hours before the gale arrives even after No. 8 signal is hoisted. There is still ample time to stagger the movement of workers from office to home.

MR. POON CHI-FAI: *Sir, paragraph 4 of the answer says that the cause of the strain to the public transport system is that everyone rushes home at the same time, so can the Government inform this Council whether it has discussed with the public transport operators on how to solve these problems and how to co-ordinate efforts. Sir, I understand that this question may be a slight digression from the original question. However, since this is a matter of public concern, I would appreciate an answer. Thank you.*

SECRETARY FOR DISTRICT ADMINISTRATION: *Sir, the Royal Observatory does keep a very close contact with the public transport operators during the approach of a typhoon. As I said in my reply, if everybody rushes home, I don't think there is any public transport system that can cater for that situation. The important thing is to give sufficient warning so that the dispersal of workers could spread out more evenly and avoid the chaos which inevitably follows whenever typhoon No. 8 is hoisted.*

HIS EXCELLENCY THE PRESIDENT: *The Secretary for Transport will supplement that information.*

SECRETARY FOR TRANSPORT: *Sir, if I may be allowed to supplement the Secretary for District Administration's reply, Transport Department is in regular touch with the public transport operators and indeed starting at 2.30 this afternoon is having a meeting with representatives to find out, first of all, whether there are any lessons to be learned from the typhoon on 11 July and what measures can be taken to improve the situation.*

MR. LI: *Do principals of schools have the authority to exercise their discretion to suspend classes and send students home before the Education Department makes a decision, if the weather conditions in certain districts or outlying districts of the territory become very bad?*

HIS EXCELLENCY THE PRESIDENT: I shall ask the Secretary for Education and Manpower to answer that question.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the answer to the fast ball from left field is that certainly principals do have discretion if they have any reason to be concerned about the safety of the children in their charge. The relevant circular dealing with this matter which is sent to schools says, amongst other things, that 'heads of schools must however realise that in periods of heavy rain and thunderstorm, situations can develop in which it may be necessary for the department to announce the closure of schools while they are in session or even while pupils are on their way to school. Under such circumstances, it is essential that heads and staff of all schools are particularly mindful that the safety and well-being of pupils in their charge must be their prime concern.'

MR. CHEONG-LEEN: *Sir, in view of what the Secretary for Education and Manpower has just said, could the Education Department consider the option of having all primary schools closed once the No. 3 signal is hoisted in order to alleviate the problem of transportation?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the present position, as perhaps Mr. CHEONG-LEEN knows, is that at No. 3 all kindergartens close. Whether it would really be necessary for all primary schools to close at that signal is perhaps more debatable, but I will certainly put MR. CHEONG-LEEN'S suggestion to the Director for consideration.

Phasing out of Kennedy Town incinerator

6. MR. LIU asked (in Cantonese): *Will Government inform this Council whether it has any long-term plan to dismantle the Kennedy Town Incinerator and what measures are being taken to ensure that the health of residents in the area is not adversely affected by the emission from the incinerator?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Government's long-term strategy is to make greater use of the sanitary landfill method for disposal of municipal waste. This will enable Kennedy Town and other incinerators to be phased out. Planning of the new landfill sites, otherwise known as controlled tips, and their supporting facilities to replace the Kennedy Town Incinerator Station is well in hand and present indications are that 1991-92 is a realistic target date for the changeover.

In the meantime the waste disposal capacity provided by the Kennedy Town Incinerator Station is indispensable, and the Government is taking steps to make the station environmentally acceptable, as far as is practicable. By the end

of this year, the whole station will have been fitted with electrostatic precipitators, which will greatly improve the quality of the chimney emissions by removing most of their dust particles and grit content.

Most industrial and commercial wastes and all toxic or hazardous wastes are not accepted for disposal in the incinerator. This practice is designed to ensure that no harmful quantities of toxic or hazardous gas are generated. Random monitoring of the stack emissions has shown that the gaseous emissions at Kennedy Town are not a cause for alarm.

From November this year, the Environmental Protection Department will start a regular monitoring programme of the chimney emissions at Kennedy Town and this programme will be maintained until the incinerator is closed down.

MR. LIU (in Cantonese): *I am very pleased to learn that the Government will be taking a number of remedial measures, but will Government inform this Council whether there are any other plans to expedite action to reduce the nuisance caused by the emission from the incinerators?*

SECRETARY FOR HEALTH AND WELFARE: Sir, because of the time taken to plan the alternative facilities such as transfer stations and new landfill sites, the programme of closure for Kennedy Town cannot be accelerated. However, as I indicated in my principal answer, the electrostatic precipitators to be installed will be capable of removing more than 95 per cent by weight of the dust and grit particles and they will also lead to a perceptible reduction in the emission of unpleasant odours.

MR. CHUNG: *Sir, will the Secretary for Health and Welfare inform this Council whether the practice mentioned in paragraph 3 of his answer also applies to other incinerators, including the one at Lai Chi Kok?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir.

Difference of removal allowance between domestic and commercial tenants in public housing states

7. DR. LAM asked: *In view of the fact that after the removal allowance was increased by the Housing Authority in January 1986, many tenants affected by the Public Housing Redevelopment Scheme have in recent months expressed dissatisfaction at the effective date of introducing the revised allowance, will the Government inform this Council:*

(a) *why commercial tenants and domestic tenants are treated differently; and*

(b) *whether the Government will conduct a further review of its existing policy on account of the aforesaid reaction from the tenants concerned?*

SECRETARY FOR HOUSING: Sir, the reason for the different treatment of domestic and commercial tenants arises from the different rationale behind these two types of allowances.

Domestic tenants are moving from their flat to another and in doing so have to incur removal expenses and have to fit out their new flat. Their allowance is based on these costs and when it is revised current costs are taken into account and the new rates are paid to all tenants affected after the date of revision.

As for commercial tenants, their tenancy conditions provide for termination of tenancy by giving three months notice by either party and there is no legal requirement for any compensation to be paid. However, in addition to providing opportunities for its commercial tenants to re-establish their business in the authority's commercial premises elsewhere, the Housing Authority recognises the disturbance caused and pays an ex-gratia allowance as a form of compensations for monetary loss. This allowance is based mainly on loss of business, costs on removal and the costs of starting a new business. In this case as the allowance is based on past earnings as well as current figures, it is applied to all commercial tenants affected by a specific phase of the redevelopment programme.

There have been recent public comments on the question of equity in applying two different systems and I am pleased that Dr. LAM has raised this question in this Council. I appreciate that there is scope for consideration whether sufficient justification exists for the continuation of the current practice and a paper is now being prepared for further discussion by the Management Committee of the Housing Authority to see whether changes are needed.

DR. LAM (in Cantonese): *Sir, in paragraph 4 of the answer given, it is mentioned that there will be a paper to be submitted to the Management Committee of the Housing Authority for discussion. I would like to ask, in preparing the paper, whether the Government would consult and consider seriously the opinions of district boards. Also when will the paper be submitted to the Management Committee of the Housing Authority?*

SECRETARY FOR HOUSING: Sir, I hope and I think that the Housing Authority always considers seriously the proposals made by district boards and certainly we will do so in this case. The Wong Tai Sin District Board has already been consulted on this particular subject as it's of particular relevance in that district, and the views expressed by the district board will be reflected in the paper under preparation. I hope that it will go before the Management Committee in September.

MRS. NG (in Cantonese): *Sir, there is discrepancy not only between domestic and commercial tenants. Within the same stage of redevelopment programme, there is also discrepancy and difference of treatment among domestic tenants. Because of the difference in removal date, there is a difference of \$1,000 in the removal allowance. Would the Government consider simultaneously this discrepancy among domestic tenants?*

SECRETARY FOR HOUSING: Yes, Sir, that will also be considered in the paper going to the Housing Authority.

Dosing of fish with cyanide

8. MR. LAI asked: *Will Government inform this Council of:*

- (a) the measures taken to tackle the problem of fishermen dosing their catches of fish with cyanide in order to catch them alive and thereby fetch a higher price in selling live fish to restaurants; and*
- (b) the health controls and checks carried out on fish sold direct to restaurants?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am advised by the Agriculture and Fisheries Department that they have not so far apprehended a fisherman in possession of cyanide and that, as far as the department is aware, the practice described in part (a) of the question is not widespread in Hong Kong waters. The Fisheries Protection Ordinance prohibits the use of toxic substances listed in its schedule for fishing activities but the schedule does not include cyanide. I understand that the question of its inclusion, together with various other amendments to the same Ordinance, is currently under consideration between the department and the Economic Services Branch. Meantime, if a fisherman were apprehended in possession of cyanide, action could probably be taken under the Pharmacy and Poisons Ordinance.

The Agriculture and Fisheries Department does periodically remind fishermen that they may not use toxic substances to catch fish.

As to part (b) of the question, the Municipal Services Branch has on its monitoring programme a sampling schedule for fish in retail outlets as well as in restaurants. Based on the results of these tests, the public can be assured that there is little risk of fish unfit for human consumption reaching the market.

I am advised that only fish which have received small doses of cyanide would remain alive and, according to research by the World Health Organisation, most of the small amounts of inorganic cyanide present in foods are destroyed by the process of cooking.

MR. LAI: *Sir, would the Secretary elaborate a little but more on the monitoring programme operated by the Municipal Services Branch, for example, the procedure of the sampling schedule for fish and the frequency of such tests?*

SECRETARY FOR HEALTH AND WELFARE: *Sir, there are staff permanently engaged in visiting restaurants and retail outlets and taking samples of fish for testing. Hitherto, the danger of cyanide in seafood has been thought to be low so no specific tests were conducted on a regular basis. However, in view of the recent reports that some fishermen were using cyanide to catch fish, special tests have been instituted but the results so far have been negative and I should also point out, Sir, that cyanide is an unstable substance, and traces of it can readily disappear from the fish.*

Overcharging by taxi drivers during typhoons

9. MRS. FAN asked: *Will the Government inform this Council what measures are taken during typhoon to prevent taxi drivers from charging excessively?*

SECRETARY FOR TRANSPORT: *Sir, overcharging of taxi fares is an offence under regulation 47(2) of the Road Traffic (Public Service Vehicles) Regulations which carries a maximum penalty of a fine of \$3,000 and six months' imprisonment. This regulation is in force at all times and under all circumstances, irrespective of whether a typhoon signal is hoisted.*

Taxi drivers who attempt to charge passengers excessive fares during typhoons, or at any other time, render themselves liable to prosecution. However, during the approach of a typhoon police officers have to concentrate on the control and direction of vehicular traffic and the regulation of pedestrian movements which, at such times, are inevitably abnormal. As weather conditions deteriorate, police activity is centred upon protecting life and property and police officers' attention has, by necessity, to be directed away from relatively minor infringements of the law. This puts an onus on the public to report cases of overcharging to the police so that an investigation may be conducted. If a complaint is substantiated prosecution action will be taken.

There is no evidence that the malpractice is widespread. In the past three years, there have been only 163 reported cases of overcharging, generally, and this includes overcharging during typhoons and in other circumstances, with the number of complaints received by the Transport Complaints Unit decreasing from 80 in 1982-83 to 34 in 1984-85. Of this total 71 cases were prosecuted by the police.

Sir, the number of complaints does not seem to call for any exceptional measures. However, in brief the problem of overcharging is being tackled in three ways:

Firstly, as I have indicated, the police investigate cases of overcharging and take enforcement action when a case is substantiated;

Secondly, amendments to the Road Traffic (Public Service Vehicles) Regulations are in hand which will require taxi operators to display inside taxis clear signs which indicate fare rates in Hong Kong dollars and the telephone number of the Transport Complaints Unit. This measure is expected to be implemented by November 1986; and

Thirdly, the Transport Department issues regular warnings to taxi operator associations at its regular conferences with them with a view to appealing to their members to warn their drivers not to engage in any type of malpractice, including overcharging.

In addition, the general problem of taxi malpractices will be examined by the sub-committee which has been recently set up by the Transport Advisory Committee to conduct a comprehensive review of taxi policy and operations.

MRS. FAN: *Sir, is the Government aware that exorbitant rates were charged during the typhoon on 11 July, up to \$300 for a trip from Central to Sai Kung, and that the intending passengers had little choice but to pay if they wanted to get to their destination in a hurry. Has the Government considered any interim measure to improve such a situation, apart from waiting for the outcome of the review of the sub-committee, the change of legislation and advising the intending passengers to complain afterwards which does not really help the passengers at that point of time?*

SECRETARY FOR TRANSPORT: *Sir, that is quite a complex question. The answer to the first part is yes. Government is aware of the problem; it does occur also in other situations from time to time as I have mentioned. The extent of that problem would appear to be limited from the number of complaints that have actually been lodged. There is the possibility of course that quite a lot of cases are unreported because people can't be bothered; there is also the possibility that there is perhaps a degree of acceptance, albeit reluctant on the part of the public, but the fact remains that a taxi passenger is not obliged to pay anything more than the approved fare. If an excessive fare is demanded or the intending passenger is refused hire because he doesn't agree to pay the higher sum, he should report the case with full details to the police afterwards. Quite clearly, as Mrs. FAN points out, this does not really help the intending passenger secure the transport he wants in that particular situation, but it is nevertheless a necessary step in countering the problem in the long run.*

MR. POON CHI-FAI (in Cantonese): *Sir, during an attack of a typhoon the work of a taxi driver is very dangerous and they are not covered by the normal insurance policies unless they pay extra premium. So, has Government considered that if the taxi drivers were allowed to levy only the charge indicated on the meter, they might*

suspend their service during a typhoon and this may cause inconvenience to the public. Will the Government therefore consider that during typhoons e.g. when typhoon signal No. 8 is hoisted, fares can be raised to a reasonable extent?

SECRETARY FOR TRANSPORT: Sir, this is an interesting suggestion from Mr. POON and on the face of it perhaps one which carries some degree of logic. As I say the problem of overcharging does not exist only in typhoon circumstances. In the broader context also, other public transport operators might expect to be accorded the same facility and be allowed to increase their fares. The implications therefore go beyond what needs to be done for taxis during typhoons, beyond just the taxi trade itself and would indeed need very careful consideration. As I mentioned in my main reply, Sir, the general problem of taxi malpractices is to be looked at in the context of the overall review of taxi policy and operations which the TAC has recently initiated, and I would like to await the outcome of that review.

MRS. CHOW: *Sir, talking of logic, has it not occurred to the Secretary for Transport that logically, that the low figures of reported cases which he cited in his reply may be evidence not so much of an absence of widespread malpractice of overcharging but rather of a failure on Government's part to effectively offer and publicise the service of the Transport Complaints Unit such as the setting up of a hot-line and publicising that number and may I suggest that the sub-committee mentioned in paragraph 5 will take this on board?*

SECRETARY FOR TRANSPORT: Sir, I can't accept Mrs. CHOW's contention that the Transport Complaints Unit is not publicised sufficiently. I think it is publicised but I shall certainly see to what extent it can be given further exposure. As regards supply of taxis, of course taxi operators have full discretion in deciding whether to remain in operation during typhoons. There is really no way in which Government could increase the supply in such situations. On the other hand, the demand for taxis depends also on the level of service provided by other public transport modes, such as ferries, buses, trains, MTR and minibuses as well as on the weather itself. During typhoons public transport operators maintain normal service, or where possible operate additional services on major routes after the hoisting of No. 8, or indeed a higher typhoon signal, for as long as weather conditions permit.

Cleaning up of watercourses in the New Territories

10. MR. TAI asked: *Will the Government inform this Council whether the relevant authorities have any firm plans to clean up the heavily polluted nullahs, rivers and estuaries in the New Territories so as to avoid nuisance to the general public; and with specific reference to the section of the Yuen Long Nullah which runs through the middle of the town centre?*

SECRETARY FOR HEALTH AND WELFARE: Sir, action is in hand to improve the condition of polluted watercourses in the New Territories by tackling the problem at source.

The most important cause of pollution is the indiscriminate disposal of animal waste and proposals to control this source of pollution will be announced shortly.

Despite the significant investment in the sewage disposal infrastructure, nullahs and other watercourses continue to be polluted by domestic sewage from unsewered residential areas and by industrial discharges, many of which do not meet the requirements of the Buildings Ordinance. Several projects for the interception of polluted surface water drains and the diversion of their contents into foul sewers have been undertaken and others are being planned. However, stepped-up enforcement of statutory drainage provisions will require additional resources. A concerted programme of action, based on priorities, is now being developed so that these resources can be fully justified and subsequently deployed in a cost-effective manner.

In parallel with New Town developments, there are schemes to extend the sewerage network into rural areas. In areas without main drainage, septic tanks and small treatment works are required in new developments. In addition, the drainage in a number of rural communities is being examined with a view to installing communal systems.

The Water Pollution Control Regulations provide controls on new polluting industrial effluents and limit the increase in discharges from existing ones. The regulations will be implemented in the Tolo Harbour and Channel Water Control Zone in 1987 so that industrial pollution in that area can be contained in the short term and improved in the longer term.

To improve co-ordination at the district level, district working groups on watercourse maintenance and management were established in late 1983 throughout the New Territories under the chairmanship of District Lands Officers. These groups have been active in identifying sources of pollution, co-ordinating local action to control the pollution of rivers and nullahs and producing plans for the future development of major watercourses.

Pollution in the Yuen Long Nullah follows the general pattern which I have described. The new controls on the disposal of animal waste will be extended to the Yuen Long town area in the second phase of the programme. Domestic and industrial sewage from the sewered area of the town drains to a screening plant and the new sewage treatment works, which were commissioned in the middle of last year, ensure that these wastes are now given biological treatment before the effluent is discharged into the lower stretches of the nullah. Action to reduce the incidence of unauthorised connections will be taken in Yuen Long as part of the concerted programme which I have mentioned. Meanwhile, the annual desilting operation in the nullah provides some temporary abatement of the foul

odours. Measures to intercept the dry-weather flow or confine it to a restricted channel are not practicable in the Yuen Long Nullah because of its shallow gradient and the influence of tides.

MR. LAU (in Cantonese): *Sir, according to the different degrees of pollution in the New Territories watercourses, do you have a schedule for the different cleansing programmes?*

SECRETARY FOR HEALTH AND WELFARE: Well, Sir, the most important type of pollutant is industrial waste which contributes to about 70 per cent on average of the total biochemical oxygen demand load. So, the proposal which I referred to in my principal answer for the control of animal waste will be one of the first priorities and certainly the most important in terms of reducing pollution in the New Territories watercourses.

MR. TAI: *May I ask why no enforcement action is being taken in respect of unauthorised connections from the domestic and non-domestic units into the nullah system, and secondly can the Secretary elaborate on the concerted programme of action as mentioned in paragraph 3 of his answer, and would he be able to clarify the criteria on the sets of priority he mentioned?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the question of lack of enforcement against unauthorised connections is something which the Government is now aware of. It is related of course in part to resources in the present Building and Lands Department. We would also hope that the new arrangements for pollution control, in particular the establishment of the Environmental Protection Department with certain overall co-ordinating responsibilities for the reduction of pollution will certainly help in that regard.

The project that I referred to for the interception of polluted surface water drains and diversion into foul sewers is being undertaken in various areas, in particular in the watercourses that flow into the Tolo Harbour area which of course is one of our principal priorities. To extend measures these more widely will have resource implications and resources and these are being sought—and also a proper ordering of priorities is being drawn up.

MR. CHEONG-LEEN: *Sir, can the Administration give an assurance that the Chief Secretary will, as much as time will permit, visit the New Territories more often to ensure that this comprehensive programme will not drag and lose steam?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I know the Acting President is well familiar with the New Territories and visits that area very frequently.

MR. CHEONG: *In the Secretary's reply to Mr. LAU'S question, he first mentioned that industrial waste accounts for about 70 per cent of polluted problems, and he then went on to describe the priority being given to treating agricultural waste. I'm sure he's got it mixed up somewhere. Could you please clarify?*

SECRETARY FOR HEALTH AND WELFARE: Sir, what I thought I said or intended to say was that agricultural sources contribute 70 per cent of the total organic pollution loading, the industrial sources contribute about 15 per cent on average, and the remaining 15 per cent come from domestic sources.

MR. CHEONG: *Thank you, Mr. Secretary. I think it's clear enough that although industry do contribute to pollution, it's not really as bad as everybody thinks or makes it out to be.*

HIS EXCELLENCY THE PRESIDENT: Order!

MR. CHEUNG: *Sir, in paragraph 6 of the answer it is said that the working groups are headed by District Lands Officers. Can the Government inform this Council whether the working groups are funded sufficiently for this work?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, these district working groups are groups of civil servants drawn from the main departments involved. Their principal role is to identify the most effective ways of remedying pollution at each particular watercourse and recommending that the responsible department should undertake that work and make a bid for the necessary resources to do so.

Written answers to questions

Appointment of a Commissioner for Administration

11. MR. CHEUNG asked: *Has the Government any plan to appoint a 'Commissioner for Administration' to assist the UMELCO Office in dealing with complaints in connection with malpractices of Government departments?*

CHIEF SECRETARY: Hon. Members will recall that a review has been conducted by the Administration of the channels for the redress of grievances and complaints, and also that UMELCO itself reviewed these matters last year. A consultative document is now being finalised and is expected to be published within the next two months, to invite the views of the public. The public response will assist Government in formulating such proposals as may appear necessary for improving or adding to the present channels and remedies.

Vietnamese refugees

12. MRS. FAN asked: *With regard to the huge increase in the number of Vietnamese refugees arriving in Hong Kong so far this year: 1 196 as at 9 July 1986 as compared with 545 for the same period in 1985, will the Government inform this Council:*

- (a) of the reasons for the recent influx; and*
- (b) what measures will be taken to deter Vietnamese refugees from coming to Hong Kong in view of the fact that there are still over 9 000 such refugees staying here?*

ATTORNEY GENERAL:

- (a) This year, 1 204 refugees had arrived from Vietnam by mid-July, more than for the whole of last year. When they are interviewed on arrival, they are asked why they left Vietnam to come to Hong Kong. This year, most of them claimed they were leaving because of the poor state of the economy, particularly in the rural areas of the North.

Our assessment is that there are other factors at work such as rumours that the Vietnamese Government is going to introduce stricter measures to control illegal departures, rumours that the Vietnamese Government is going to introduce harsh economic measures such as an increased levy on each harvest and devaluation of the currency, and the fact that ocean-going boats are in short supply which encourages coastal navigation from the North of Vietnam to the South China Coast.

- (b) For as long as the international presumption remains that all arrivals from Vietnam are refugees rather than illegal immigrants, there is little the Hong Kong Government can do to deter them from coming to Hong Kong other than to maintain the closed camp policy. On humanitarian grounds there can be no question of turning them away.

As I stated in this Council earlier this year on 8 January, involuntary repatriation of arrivals who are not genuine refugees to Vietnam is a viable option, as far as the Hong Kong Government is concerned, provided the Government of Vietnam would accept them and provided we could be satisfied that they would not be treated inhumanely on their return. We are still pursuing this possibility with HMG.

Statement

Hong Kong and the Daya Bay Nuclear Power Project

FINANCIAL SECRETARY: Sir, at the end of the adjournment debate last week I informed Members that I had approached the chairman of the Hong Kong Nuclear Investment Co. regarding my proposal that there be distributed to Members of this Council the feasibility study dealing with site selection, equipment study and system design, and I said that when I heard further from the chairman I would make another statement in this Council.

I am pleased to inform Members this afternoon that I have now heard from Lord KADOORIE, the Chairman of China Light & Power Co., that Vice-Minister ZHOU Ping of the Ministry of Nuclear Industry of the People's Republic of China has agreed with the proposal, subject to discussions as to the exact mechanics of distribution taking place between the chairman of Hong Kong Nuclear Investment Co. and the president of the joint venture company. I hope to see the arrangements completed within the next few days because I regard it as important that Members should have this feasibility study well before the projected overseas fact-finding missions.

1985 Annual Report by the Commissioner of the Independent Commission Against Corruption

MR. CHEN: Sir, I am pleased to introduce the Annual Report by the Commissioner of the Independent Commission Against Corruption for 1985, which is tabled today in this Council.

The report shows that the 2 550 corruption reports received by the commission in 1985 was the highest annual total since 1975. Of the total 1 009 corruption reports against the private sector was the highest ever annual number of such reports received by the ICAC. For non-corruption complaints, there was an increase of 25 per cent over 1984. This reverses the downward trend established over the last five years.

The review of the work of the Operations Department shows that the department has been at full stretch in dealing with large scale corruption-related commercial fraud investigations. Special task forces have had to be formed to handle these lengthy and complicated cases, and this in turn has put a strain on other areas of operations.

The Community Relations Department has continued its work in bringing the anti-corruption message to all sectors of the community. A special effort was made towards young people during the International Youth Year of 1985, ranging from liaison with primary and secondary schools in promoting social morality, to the launching of special community involvement programmes. The mass media were also used to enlist public support for the commission, and during 1985, the department produced its fourth drama series, Vanguard II, which drew an average viewership of 780 000.

In the corruption prevention field, more corruption prevention groups have been formed within Government departments with the aim of involving them more directly in identifying areas of their own activities which may provide opportunities for corruption. The total number of such groups now stands at 31.

A milestone in the work of the Corruption Prevention Department was reached in 1985 when the 1 000th assignment report was considered by the Corruption Prevention Advisory Committee on 7 November 1985.

In April 1985, the Advisory Services Group was formed specialising in providing corruption prevention advice to the private sector. With the expansion of this kind of service, it can be seen that the ICAC places great importance on private companies understanding the law and regulating themselves accordingly.

The commissioner in his review has pointed out the importance of public support for the ICAC. The 1984 Mass Survey Report, published in 1985, showed a high level of community confidence in the commission and a healthy trend in public attitudes towards corruption. Fewer people now regard corruption as the major social problem it once was.

The report shows that the work of the ICAC has continued to gain international recognition. In 1985, the commissioner and some of his senior officers attended the second International Conference on Corruption and Economic Crime Against Government in New York, where considerable interest was shown by delegates in the commission's work. At the end of the conference, agreement was obtained for the ICAC to host the next International Conference in Hong Kong at the end of 1987.

Sir, before closing, I would like to take this opportunity to pay tribute to Sir Roger LOBO on his retirement at the end of 1985 from the chairmanship of the Advisory Committee on Corruption. Sir Roger served on the committee, first as a member and then as chairman since 1975. The commission has benefitted greatly from Sir Roger's wise counsel and enthusiastic support. We are all very grateful for his valuable service to the commission.

Government Business

Motion

TRAMWAY ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion: That the approval given by the Executive Council on 8 July 1986 to an addition to the tramway system, by relocating the depot facilities at Sharp Street to Sai Wan Ho and Sai Ying Pun, be confirmed.

He said: Sir, I rise to move the motion standing in my name on the Order Paper.

Section 3(4) of the Tramway Ordinance (Chapter 107) provides that any addition to or extensions of the tramway has to be approved by the Governor in Council, and that such approval must be confirmed by a resolution of this Council.

On 15 July 1986, the Governor in Council approved an application made by the Hongkong Tramways Limited to relocate its depot facilities by closing its existing depot at Sharp Street and replacing it by two new depots at Sai Ying Pun and Sai Wan Ho. The proposed relocation of tram depot facilities will benefit the travelling public by improving the efficiency of the tramway and maintaining tram fares at the present level until the end of 1988.

The Sharp Street depot is located in the middle of the tramway. The need for trams to leave and return to the centrally located depot before and after the scheduled hours creates waste mileage estimated to be about 8 per cent of the total daily mileage covered by trams. Relocating the depot facilities to both ends of the tramway would eliminate such uneconomic tram mileage and reduce the operating cost of the tramway. The Hongkong Tramways Limited has stated publicly not to increase tram fares until the end of 1988 if the relocation proposal is approved.

The Sharp Street depot is located in a residential area and the inevitable noise caused by overnight maintenance and the movement of empty trams late at night and early in the morning in and out of the depot has for many years been a source of complaint by neighbours. From an urban planning standpoint relocating the depot to non-residential areas would be logical and would eliminate the present environmental problems.

Question put and agreed to.

Second Reading of Bills

DOMESTIC VIOLENCE BILL 1986

Resumption of debate on Second Reading (9 July 1986)

DR. IP: Sir, the Domestic Violence Bill offers immediate remedy to the spouse of a marriage who needs immediate but temporary relief from the violent act of the other by, inter alia, excluding the offending spouse from the matrimonial home, for a period of up to six months, so that the couple can either cool down and sort out their matrimonial disputes in a more rational manner, or one of them commences matrimonial proceedings so that full remedies under the Matrimonial Causes Ordinance becomes available to the victim. It is a much needed piece of legislation which has taken some time to go through our law-making mechanism.

In 1979 'the Year of the Child', a group of professional women embarked on a joint effort to advance the protection of women and child through legislation. The group included Dr. Judith MACKAY, Dr. Edith HORSFALL, Miss Fanny CHEUNG of the Hong Kong Council of Women, Miss Elsie LEUNG and Miss

Maria TAM of the Hong Kong Federation of Women Lawyers and myself as representative of the Hong Kong Paediatric Society. We first compiled a digest of an evaluation report on the Year of the Child and then some of us were involved in different campaigns including the War on Rape, which brought about the amendment to section 154 of the Crimes Ordinance, to protect the identity of the victim of child abuse. This resulted in the setting up of the voluntary agency 'Against Child Abuse'; as well as a Women Centre, which because of the cost involved did not materialise. However, the Hong Kong Council of Women did manage to set up a refuge centre with the support of Government and give shelter to women battered by their husbands. The Domestic Violence Bill is the final touch in the package of changes in law that we manage to put on the statute book. And Dr. MACKAY and others remain the main strength in the last stage effort to complete the exercise.

In introducing the Bill, the Attorney General has given a compassionate and detailed description of its objectives, and mechanism. Suffice it to say that the *ad hoc* group set up by the Legislative Council, after three sessions of discussions, accepts the Bill after the following clarifications were made:

- (a) the protection given by this Bill should extend to a spouse of a marriage or a cohabitee but exclude violence towards the older generation in the family, although we shall be monitoring closely the incidence of abuse of the elderly and seek other remedies;
- (b) that we keep the age limit of the 'child' at 21 instead of 18 so that more children of a family can enjoy the protection (clause 2(1));
- (c) cohabitees (clause 2(2)) should also be protected and the court be allowed to decide whether the relationship is a permanent one or not;
- (d) that the victim can obtain an injunction after proving that she has been molested, or, in effect, threatened with molestation (clause 3(1));
- (e) that actual bodily harm has to be proved, as opposed to a threat, to justify attaching a power of arrest to an injunction (clause 5(1));
- (f) that the protection of the child under 21 is achieved through the action of the parent alone because there are protections under the Protection of Women and Juveniles Ordinance for children under age 18 in single parent families, while those between 18 and 21 are protected like everyone else by criminal law (clause 3(1)(b));
- (g) that a spouse who is subjected to exclusion order and refuses to pay rent might be found in contempt of court (clause 3(1)(c)) if the court is satisfied that he has sought to circumvent the order;
- (h) that an injunction can be obtained from a high court judge in cases of urgency or other special circumstances (clause 4) or at a district court even on a Sunday; and legal aid could be obtained within 24 hours;
- (i) that the details of an order with the power of arrest attached (clause 5(2)) would be described in the injunction and there should be a copy of it served on the district police station for record so that if it is activated the police officers are clear as to the scope of their power;

- (j) that for exclusion orders and power of arrest attached, the maximum effective period is three months plus (on second application) a total period of six months; but there is no time limit on a non-molestation order (clause 6(1) and clause (7)).

As this is a new Ordinance, Sir, and a new concept in Hong Kong, I would like the Administration to monitor its effect for a period of say three years and make a review on: whether the speed on which the victim can obtain relief; and the problems, if any, in executing the power of arrest.

We recommend that:

where a power of arrest is to be attached to an injunction, or where an exclusion order is to be granted, the alleged culprit should first be given an opportunity to be heard by the court; and that the judges may advise the offending spouse voluntarily to accept counselling.

We hope that Government and private doctors can speedily provide the necessary evidence to support the applicant in an urgent hearing.

We also feel that the women's centre continues to play an important role in grey areas. And may I officially put on record our appreciation of their invaluable contribution, in particular, before this legislation is passed.

We have pleasure to support this Bill before Council.

MR. CHEONG-LEEN: Sir, this is one Bill where the fair sex in this Council have adopted a united front and have received the sympathetic and well considered support of those who are not of the fair sex in this Council.

This is a very serious matter indeed—this problem of spouse battering. The total number of reported battered spouse cases between 1 April 1985 to 31 March 1986 was 838, out of which 787 were male abusers and 51 female.

The most numerous types of battering were 578 cases of beating with hand or fist, 101 cases of kicking and 131 cases of beating with or against an object.

These are only reported cases. There must be also quite a large number of unreported cases.

This Bill will cover not just spouse abuse, but also abuse of children under 21 who are living with the parties. It does not cover parents or grand-parents who may be living in the same household, and who are abused, but this has to be a matter for separate investigation and study altogether.

According to Family Welfare Society statistics, about one third of their clients who are abused do not go to the police for help. Perhaps it is timely for Government to encourage the setting up of more district-based family life education committees, with more actual citizen input and which, if called upon to do so, also act as a form of domestic mediation committee.

It would be worthwhile for the Administration to analyse the different types of spouse-battering cases so as to adopt a 'rifle-type' approach in seeking out groups who could benefit through some form of group counselling or civic education against spouse battering.

The obtaining of an injunction with the power of arrest attached is an additional means of protecting the battered spouse, but it is only temporary in nature pending a decision by the parties concerned whether to be reconciled, or be permanently separated or divorced. The Administration could explore the idea of mutual aid committees taking a more active interest in promoting reconciliation in family dispute cases.

Furthermore, I would hope that in cases where there appears to be a need to require the offending spouse to seek counselling treatment, the court should be empowered to so require.

As regards abused children, it would appear that a more co-ordinated effort is required to reach out to child abusers, most of whom are mothers of the victims. For example, nurses in maternity and children health centres, and workers in youth centres and other centres where youth congregate should be on the look-out for cases of child abuse. Action could then be taken by visits to the parents concerned and giving advice, counselling, or taking whatever appropriate action which may be required.

As the technical aspects and many other aspects of the Bill have been covered by my colleagues, I do not propose to be repetitive on this matter.

Sir, I support the Bill.

MR. HUI: Sir, the call for redress to battered wives, which has been mounting in the past few years, has finally been answered in the Domestic Violence Bill. In addressing the problem of domestic violence, the new legislation places family and human relationship higher up the priority list of Hong Kong's many and varied social problems awaiting much needed attention and provisions. This Bill in essence represents a turning point that may hopefully lead to attitude and behavioural changes among members of the public.

While we social workers fully agree with the Bill that provides a molested spouse with speedy relief through an injunction order issued by district or high courts, we emphasise the importance of counselling service for parties under-going a traumatic experience. Casework counselling not only heals the wound during the cooling off period, but is also conducive to reaching a happy and satisfactory solution for all concerned. In view of the financial and administrative difficulties envisaged in providing a mandatory service, follow-up counselling work, which many voluntary agencies are ready to offer, should be clearly made known to those who may opt to seek this service voluntarily.

Perhaps one minor shortfall of the Bill is the lack of provision for elderly persons in domestic violence cases. While it is understood that coverage would be given to abused elderly people in a separate legislation being drafted, we urge that the law drafting procedures be speeded up in view of the growing number of elderly abuse cases.

Lastly, I must point out the need to provide quick, efficient legal aid to those who are in dire need for assistance. Publicising the locations of legal aid offices from which victims of domestic violence can get help would be an urgent task for the Administration to undertake.

Sir, with these remarks, I beg to support the motion.

MR. LEE YU-TAI: Sir, statistics for the year 1985-86 show that there were in Hong Kong 838 known cases in which spouses were subjected to domestic violence by their spouses. Women were the victims in 94 per cent of these violence cases while 6 per cent of the victims were men. Many women associations and other civic bodies have pressed for legislation to protect the victims of domestic violence. It is evident that the enactment of this Bill is necessary and should be made in good time.

This Bill provides that a spouse who is subjected to violent abuse can seek an injunction from the court requiring the offending spouse to desist. Should the victim be a child, a parent may apply to the court for an injunction on his or her child's behalf against the offending parent. There is, however, no provision in the Bill to cover parents or parent-in-law being ill-treated by their grown-up children or sons/daughters-in-law. I must admit that domestic violence to spouses (wife battering cases in particular) poses a serious problem that requires immediate attention and it is advisable to enact legislation in this respect first. None the less, further steps should be taken by the Administration to deal with domestic violence to old people and children of single parent families. Suitable provisions should be made to ensure that the above two categories of people are well-protected. A single-parent family is one where one of the parents is not staying with the children for reason of death, divorce or separation. Should the remaining parent abuse his or her child, there is no one to seek an injunction on the child's behalf.

Domestic violence to the spouse is basically a social problem. The enactment of legislation is just a means to provide temporary relief for the victim. The remedy is by nature far from radical. The tension of life, the keen competition, and the pressure of work in this modern age have made domestic violence an act of letting off one's tension and grievances on his or her spouse or children so very common today. Furthermore, dazzled by all the glitters of this materialistic world, many adults have lost their sense of self-control. They indulge themselves in revels and gambling and neglect their families. The resultant quarrels between husbands and wives would easily develop into domestic violence. On the other hand, the nuclear family system has already become prevalent in this congested

community. Couples generally live with their children and there are no elders in the family to act as buffer or to offer the couple advice. Family quarrels and clashes easily occur. I would suggest that social services bodies should promote family education extensively, take initiative in reaching out to the problem families, give appropriate counselling to the victimised as well as the offending spouses or offer them psychotherapy if required. At the same time, we may follow some of the South-eastern Asia countries examples in advocating the live-in grand-parents concept. Young couples should be encouraged to live with their parents or parents-in-law so that members of the family may share the household chore together and the burden on the young couples may be reduced. Parents may act as buffer and may be helpful in solving some of the family problems too.

Sir, with these remarks I support the Bill.

MRS. TAM (in Cantonese): Sir, according to statistics prepared by the authorities concerned, domestic violence in Hong Kong is getting more and more serious. Since October 1984, when the Social Welfare Department first started to prepare statistics on this subject, a total of over 1 300 cases has been recorded so far. What deserves special attention is that women are the victims of domestic violence in most cases. Under the complicated procedures of existing legal arrangements, these victimised women often fail to obtain *timely* assistance and protection, so that they have to be subjected to domestic violence continually.

The Domestic Violence Bill 1986 tabled for its Third Reading in this Council today could undoubtedly tackle the above-mentioned problem in a successful manner. This is because it proposes to allow victims of domestic violence to apply to the courts for an injunction order without applying for divorce, and so it serves to provide timely and appropriate protection. I strongly support the spirit behind this Bill. But since this Bill basically aims to provide instant assistance, emphasis must be laid on *efficiency* and *effectiveness* once it is implemented. The goal is to ensure that appropriate assistance and protection could be provided in the swiftest manner.

In terms of *efficiency*, I am concerned about two aspects of the Bill. First, legal aid is very important to those victims who have financial difficulties. It is learnt that in handling cases of domestic violence, senior officers of the Legal Aid Department will be responsible for examining the applications and determining whether instant assistance should be provided according to the urgency of each case. In my opinion, the Legal Aid Department should draw up a set of specific guidelines, so that officers responsible could clearly judge the urgency of each case. Second, the Bill also proposes that a judge/magistrate could attach the power of arrest to an injunction order if he is satisfied that the opposite party in a case has caused bodily harm to the applicant or the applicant's child, so that the police would be authorised to arrest the opposite party if he or she continues to use violence. The spirit of this proposal is

affirmative. But to ensure that a warrant of arrest could be issued as soon as possible and to prevent the applicant from further suffering from any bodily harm, the relevant procedures must be simplified for an applicant required to prove the bodily harm he or she has suffered.

I am concerned about two aspects of the Bill in relation to its *effectiveness*. First, it is suggested that a judge can issue three types of injunction orders to the other spouse in accordance with the victim's application, so that different ways of protecting the latter could be provided. I think these three types of court orders must carry a sufficient degree of legal sanction so as to produce the necessary restraining power to deter the recipient of such orders from contravening their requirements and to prevent the recurrence of domestic violence. Second, although an injunction order might be a means to prevent cases of domestic violence from getting worse, such cases are not isolated incidents by themselves. Very often, there are many family clashes and conflicts hidden behind such cases. It is also reflected in many cases that unless incidents of domestic violence are handled properly, they can easily recur. Therefore, in order to help, effectively and thoroughly, both parties of a case to face their problem and re-establish their relations, I think it is not enough to rely on an injunction order alone. Their problems should be thoroughly solved with the assistance of family counselling. I suggest that the courts should consider to provide the relevant counselling information to a victim when they are handling such cases.

I hope the authorities concerned would carefully consider the efficiency and effectiveness of the Bill in relation to this enforcement.

Sir, I support the motion.

ATTORNEY GENERAL: Sir, I wish to thank Dr. IP and her colleagues for their support to this much needed Bill. I also wish to thank Members of the Legislative Council *ad hoc* group who have spent a great deal of time scrutinising its provisions.

Some Members of the *ad hoc* group have expressed concern about reports of domestic violence against the elderly and they have wondered whether it would be possible to see protection extended to them under this Bill. While I sympathise with the concern, I am afraid the solution is not as simple as adding the elderly to this Bill. The protection of the elderly from domestic violence raises a number of new issues which require separate consideration. Does the present law fail to provide adequate protection? How old must a person be to be entitled to protection? Should the relief extend to violence committed by anyone or only by the old person's relatives, and if so, by which relatives? Should an elderly person who is living with children be entitled to an exclusion order against those children, who may be the persons accused of committing the violence? Bearing in mind that the law does not give the elderly a right to be supported unlike wives and children, would a re-entry order be acceptable?

In response to the *ad hoc* group's concern, the Social Welfare Department has been asked to look into domestic violence to the elderly and to report on the need for legislation. Meanwhile, I am glad that the hon. Members who have spoken today agreed that this question should not become confused with the known and pressing problems of battered spouses and children, nor should it delay the implementation of the provisions that have been carefully tailored in this Bill to meet their needs.

Mrs. Rosanna TAM is concerned too about the availability of legal aid to battered husbands and wives who wish to take advantage of the new procedures introduced by this Bill. I have been assured by the Legal Aid Department that all applications for legal aid from victims of domestic violence will be handled sympathetically and will be given urgent attention whenever an emergency appears to be developing. An emergency legal aid certificate can be granted the same day and certainly within 24 hours. I shall refer to the Director of Legal Aid Mrs. TAM's suggestions that legal aid should be made available at weekends and on public holidays for these cases, as well as the idea of a set of guidelines for handling such cases.

Sir, finally, the Government recognises the value of counselling in appropriate cases. Where there is bitter conflict between husband and wife leading to violence, counselling is unlikely to be helpful before there has been a cooling-off period. And in any case as hon. Members recognise, compulsory counselling is rarely productive. A willingness to acknowledge the existence of a problem and to take advice is essential to its success of counselling. Hon. Members may think, as Dr. IP does, that it should be left to the good sense of the judge in each case to decide whether or not to advise the parties to make use of counselling services.

Sir, as Dr. IP quite rightly pointed out, this is a new piece of legislation embodying a new concept in Hong Kong. The Government will closely monitor its implementation and will welcome all comments from interested organisations and others in the light of experience.

Sir, in passing this Bill into law, Members are providing a new remedy to all victims of domestic violence for which there is clear support in the community.

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).

LAND REGISTRATION (AMENDMENT) BILL 1986**Resumption of debate on Second Reading (9 July 1986)**

Mr. Ho: Sir, I welcome Government's plan to computerise the storage of land registration records.

It is well-known that Hong Kong has a remarkably active property market. There are already over one million items of data stored at the Land Office and these are reasonable expected to continue to increase in line with the recovery in the property market. There is thus an urgent need to introduce a more efficient and reliable system of land registration. I am delighted to know that the planned computerised land records system will simplify search procedures and reduce the time required for making a land search, thereby offering better service to the public. In addition, the project will increase cost-effectiveness by achieving saving on manpower and storage space. The computerised land records system will also pave the way for the Registrar General to take charge of all land records throughout the territory.

As the project will be time-consuming, I suggest that Government should implement it as early as possible.

Sir, with these remarks, I support the motion.

SECRETARY FOR LANDS AND WORK: Sir, I am grateful to Mr. Ho Sai-chu for his support of the Land Registration (Amendment) Bill 1986. I would like to assure Mr. HO that the Government will make every effort to ensure the early implementation of the computerisation programme.

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

DOMESTIC VIOLENCE BILL 1986

Clauses 1 to 11 were agreed to.

LAND REGISTRATION (AMENDMENT) BILL 1986

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

The Attorney General reported that the

DOMESTIC VIOLENCE BILL 1986 and the

LAND REGISTRATION (AMENDMENT) BILL 1986

had passed through Committee without amendment, and moved the Third Reading of the Bills.

Question put on the Bills and agreed to.

Bills read the Third time and passed.

Unofficial Member's Bill**First Reading of Bill****CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF SHAW COLLEGE)
BILL 1986**

Bill read the First time and ordered to be set down for Second Reading pursuant to Standing Order 41(3).

Second Reading of Bill**CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF SHAW COLLEGE)
BILL 1986**

MR. CHEN SHOU-LUM moved the Second Reading of: 'A Bill to provide for the declaration of Shaw College as a constituent college of The Chinese University of Hong Kong and to make consequential amendments to The Chinese University of Hong Kong Ordinance'.

He said: Sir, I move the Second Reading of the Chinese University of Hong Kong (Declaration of Shaw College) Bill 1986.

Since its incorporation and establishment in October 1963 under the Chinese University of Hong Kong Ordinance, the University so named in the Ordinance has provided Hong Kong with an institution of higher learning of which it can be proud. More than 15 000 graduates have passed through the gates of the Chinese University and many of them have made significant contribution to the Hong Kong community. Some are among the leaders in the various professions in Hong Kong and many are active in public life.

Today, each of the three original colleges, namely, Chung Chi College, New Asia College and The United College of Hong Kong, already has between 1 600 to 1 800 students, and existing facilities have long reached maximum utilisation levels. It has become apparent that there will be a need for an expansion of collegiate facilities currently available at the university. The time has come, therefore, for consideration to be given to the establishment of a fourth college along much the same lines as the three existing ones.

Fortunately for the university, a well-known benefactor of education in Hong Kong has come forward at just this juncture with a generous donation of \$100 million. This benefactor of the university is none other than Sir Run Run SHAW. With this level of funding, the university will be able to build a multi-storey hostel for 1 200 students with suitable amenities like canteens and reading rooms, a number of conference and seminar rooms, computer labs and gymnasias, as well as offices and quarters for college staff. Planning for the establishment of the new fourth college is already underway, and, in recognition of Sir Run Run's long time contribution to education, the university has decided to name the new college Shaw College and has invited Sir Run Run to become its Patron.

Although the funds are available for the university to establish the new college, it is now necessary to give legal effect for such a development. The Chinese University of Hong Kong Ordinance 1976, provides for the establishment of new colleges by Ordinance in accordance with a special resolution of the University Council. Accordingly, the council have passed such a special resolution to establish Shaw College as a college of the university, and I now have the honour to present for members' consideration The Chinese University of Hong Kong (Declaration of Shaw College) Bill 1986.

In essence the Bill provides for a fourth schedule which deals with the establishment and constitution of Shaw College. In the existing Ordinance, The Chinese University of Hong Kong Ordinance 1976, the three original colleges are governed by the provisions of the third schedule. The new fourth schedule will now govern the constitution of Shaw College. Consequent to that, there is a need to make minor amendments to certain sections of the original Ordinance to take account of this development.

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

4.10 pm

HIS EXCELLENCY THE PRESIDENT: At this point. Council might like a short break.

4.32 pm

HIS EXCELLENCY THE PRESIDENT: Council resumes.

Adjournment

Motion made. That this Council do now adjourn—THE ATTORNEY GENERAL.

HIS EXCELLENCY THE PRESIDENT: AS 12 Members have given notice of their intention to speak, I do not think we can finish in half an hour. So I propose to exercise my discretion under Standing Orders 9(7) and 9(8) to allow Members such time as is necessary to complete their speeches, and such time as is then necessary for the Official Member to reply to those speeches, before putting the question on the Adjournment.

Laws in Chinese

MR. HU: Sir, upon the publication of the Discussion Paper on Laws in Chinese in April this year, Unofficial Members of this Council formed an *ad hoc* Group to study the paper in depth. The group held six meetings including meeting with hon. Justice YANG and meeting with the Administration. The legal sub-group under the convenership of hon. Maria TAM held three meetings to deal with the legal aspects of the paper. The group also invited public representation. Because of the highly technical and legal nature of the subject, the group received only one written comments from the Hong Kong Bar Association and one solicitor, and their advice proved to be most helpful in our detailed study of the problem. The Administration also sent us for our reference some written opinions they have received.

Twelve Members of this Council will speak today on this adjournment debate on various aspects including basic principles and objectives, legal technicalities, Bilingual Laws Advisory Committee, and other suggestions and comments. As convener of the *ad hoc* group, I am pleased to report that the group is agreeable to recommendations (i)(a)(b)(c), (iv), (vi), (vii), (viii), (x), (xi), (xii), (xvi), (xvii),

(xviii), (xx) and (xxx). It was agreed to leave recommendations (xxi) to (xxviii) to be dealt with by the legal sub-group under hon. Maria TAM. The consensus of the remaining recommendations are as follows:

Recommendation (ii): The Administration should work out a set of criteria as soon as possible to decide which ordinances fall into the 'archaic' category.

Recommendation (iii): The group was worried that given the difference between two legal systems in China and Hong Kong, misconceptions can easily arise. Strict adherence to the terminology of the Chinese legal system without giving due consideration to local circumstances should be avoided. If differences in interpretation arise from this attempt, the language commonly used and understood by Hong Kong people should be adopted. It is more desirable to have informal rather than formal consultation with China.

Recommendation (v): The group considered that the priorities of the bilingual laws project should be more flexible taking into account the needs of the community and available resources in the Government. The importance of preparation and updating of a glossary of terms cannot be overlooked.

Recommendation (ix): The Governor in Council and not the Governor should be empowered to decide which bill is so urgent that it could be enacted in one official language initially.

Recommendation (xv): The group considered that the setting up of the Bilingual Laws Advisory Committee should be provided by statute so that there will be statutory control on the composition of the committee and the sustainment of the policy of bilingual legislation could be ensured.

Recommendation (xix): The group agreed that to ensure continuity and uniformity a select committee serving for a full Legislative Council session should be formed for this purpose.

Recommendation (xxix): Apart from the facing-page format, separate English and Chinese versions should also be published. The English and the Chinese text of the same section of an ordinance should be placed alongside each other in the facing-page format.

As regards recommendations (xiii) and (xiv), some members of the group are of the view that in addition to the Committee of Experts, a special commissioner should be appointed to be responsible for the translation work and that a committee of the Legislative Council should be set up to monitor the standards of the translation project.

In view of the magnitude of the project such as the translation of existing ordinances into Chinese of a sufficiently high standard, I consider it is imperative that a Special Commissioner must be appointed to assume overall responsibility for the project. The procedure should be something like this:

1. Translations of ordinances are produced by the Law Drafting Division of the Legal Department. They will be sent to the special commissioner for scrutiny and amendments where necessary.
2. The commissioner should form part of the structure of the Attorney General's Chambers and work to the Attorney General as he would be responsible for the day-to-day translation work. He should not be an independent entity.
3. A Bilingual Laws Advisory Committee should be set up. It should consist of experts from various professional fields to be able to give advice on legal, technical and translation matters.

It should be available for consultation by the commissioner and advise the Governor through the Attorney General on the publication of authentic translations which would have been scrutinised and endorsed by the commissioner.

4. The Legislative Council would be accorded a significant role in the monitoring of the standard of authentic translations. Legislative Councillors should not be involved in the scrutinising of the translation in detail, as the translations would have been scrutinised by the commissioner and passed by the advisory committee.

It would be difficult but not impossible to recruit a person of the right calibre to fill the post of special commissioner. I consider that the appointment of the commissioner is a prerequisite if we are to get the system right and to ensure that it works. Furthermore, the setting up of the commissioner's office would be a tangible sign of Government's determination to accord high priority to the project of bilingual laws.

Sir, I submit that in the circumstances of Hong Kong today, a subject such as the production of an authentic Chinese version of the existing statute law enacted in Hong Kong must be viewed as a historic project and one of the most important tasks to be undertaken by the Government and must therefore be accorded with the highest priority. The *ad hoc* group has made its recommendations on the discussion paper and the public concerned have also expressed their views. I hope the Government will expedite the process and pursue the project with vigour, following the recommendations and comments to be made by my hon. colleagues this afternoon.

MR. PETER C. WONG: Sir, it has sometimes been said that the law is an ass. Hon. Members will no doubt dismiss such statement as a hyperbole not to be taken seriously. Be that as it may, in a community where 99 per cent of the population is Chinese, and many of them do not have a basic command of English, it cannot be right to have our legislation enacted only in English. In this respect, I would not defend the Government if local inhabitants, particularly those who do not know English, consider our law an ass.

The discussion paper on the laws in Chinese is therefore to be welcomed. And this is particularly so in view of 1997.

Many of my colleagues will be speaking this afternoon. No doubt, they will have much to contribute.

On my part, I will concentrate on the overall policy in the implementation of the basic policy of developing Chinese as one of the languages of the law. I am pleased to say, Sir, that my view in this respect is shared by my colleague Mr. Martin LEE.

In this connection, it should be stressed that in so far as evidence is concerned, the ultimate aim must be to use Chinese in all our courts. However, it is my considered opinion (and also that of Mr. LEE) that English must remain the medium of expression when it comes to legal submissions. The reason is obvious and I do not propose to labour on this point. If I may, I would simply quote one or two examples. It would be virtually impossible to translate the common law into Chinese, or for that matter the Hong Kong Law Reports.

In other countries, where the legal systems are derived from and based on the common law, but a significant portion of the populations do not speak English as their first language, English is still maintained as one of the languages of the law.

I do not see, Sir, how Hong Kong can make itself an exception. Indeed, it is absolutely essential that English be used freely in our courts, if our existing system is to be maintained, as stipulated in the Sino-British Joint Declaration. It will be necessary to resort to precedents from other common law jurisdictions which will continue to form an integral part of our legal system.

The advantages include:

- (1) the participation of English speaking lawyers and judges in our legal process and thus their continued contribution to our legal system;
- (2) the preservation and strengthening of Hong Kong's position as an important international financial centre; and
- (3) the continued confidence of foreign investors in a legal system in which a language more readily comprehensible to them is used.

Sir, one final point. One can anticipate cases of disagreement as to which of the two languages should be used. One possible solution is to give the presiding judge or magistrate the discretion to decide whether Chinese or English should be used in any given case.

Time will not permit me to deal with other points. May I conclude by saying that the task confronting us will draw heavily on the resources of the Legal Department. Careful planning and selective implementation are vital to the success of this important exercise.

Sir, thought is free, but justice can be expensive. Is there any reason why we should not, as a matter of priority, make our legislation comprehensible to the majority? To localise our legislation and to make it less dependent on the English system, can only be beneficial to our continued prosperity and the effective exercise of our high degree of autonomy, which we now enjoy and will continue to enjoy.

In the debate on what is now known as the famous Lobo Motion in this Council on 14 March 1984, I said and I quote:

'Under the Chinese plan, Hong Kong can keep all its present laws except those which are in contradiction with Chinese sovereignty over the region. Hong Kong laws are promulgated in English and the wealth of Common-wealth legal cases, which are frequently cited in court, often facilitate judicial decisions. Legal language is highly complex and technical. It would be unrealistic to expect legal documents and proceedings to achieve the same high-standard and degree of accuracy if the original language is not used. Such limitation applies to the subject matter itself as well as to those practising it. The process of conversion from one language to another takes time and it would be in terms of decades not years. For legal practitioners, the adaptation process may not be easy. In the interest of efficiency and expediency, it may be desirable to accord English language legal status if sovereignty reverts to China. A generous period might perhaps be allowed for conversion and adaptation. A further point to consider is that in Hong Kong's unique position as a cosmopolitan city with a fairly large foreign population, the use of a language which most foreigners understand would greatly facilitate the conduct of business and promote better and closer understanding. Language is only a vehicle for expression and flexibility in this regard would certainly enhance Hong Kong's prosperity.'

Sir, my view remains unchanged.

MR. CHAN KAM-CHUEN: Sir, I support in principle the objectives set out in the Discussion Paper on the Laws in Hong Kong, but have some general comments to make.

Translation of ordinary books and documents from one language into another is already not an easy task. This is the reason why people would like to read literature in the original language to get the full flavour of the masterpiece.

To translate such voluminous and serious works as the Laws of Hong Kong on which justice, confidence and even life and death hinges is indeed a Herculean task. Perhaps, it may be compared with the translation of the Classics of Buddha from Sanskrit into Chinese in Cheung On (now Sian) which was the capital of the Tang Dynasty some 1 200 years ago. The planning, the organisation, the division of responsibilities, the stringent quality control executed by the large team of translators, scholars, proof-readers, printers and

so on made the end product attain the highest standard of (雅、達、信) i.e., refined, permeable and faithful to the original works. Although it took a whole working life, this brought out the truth of Buddhism not only to the people of China but also the neighbouring countries which were influenced by Chinese culture and religion.

As the President has rightly pointed out that 'it is right that laws should be available in the language of the majority of the population', I strongly support the use of traditional Chinese characters (繁體字) which is understood by the absolute majority of the population in Hong Kong.

The use of the 'modern' simplified Chinese characters (簡體字) would pose a problem not only to the local people but also overseas Chinese who come here to do business and must understand the commercial law and documents.

Cantonese is a living dialect and has adopted quite a lot of foreign terms which are easily understood. Hence, refined Cantonese colloquials customarily used in the legal profession should not be barred completely from use in the translation of our laws. It is important to stress that English and Cantonese, our mother tongue, will continue to be used in our courts, so as to retain the services of our lawyers.

The term 'robbery' (行劫) used in Hong Kong and (搶劫) used in China as quoted in page 13 of the discussion paper has a lot of significance. The difference is standing in front of a firing squad or living for a few years in one of Hong Kong's correctional institutions for the same crime.

It is therefore important to keep the law drafting, terminology, translation, legislation, law enforcement and judiciary system totally different from China in concept and spirit in the next 61 years to maintain confidence and prosperity.

Otherwise, what is so 'special' for the Special Administrative Region as we have only one country one system which 'according to the book' (按本子) should be two systems. Is it scientific to interpret it as two systems alike?

With these observations, Sir, I support the spirit of this adjournment debate.

MR. CHEUNG (in Cantonese): Sir, the concept of bilingual legislation is not new. In the past, the people of Hong Kong had proposed on several occasions that a Chinese-English legal system should be designed. Bilingual legislation was part of that proposal. However, as time was not pressing, the proposal was dropped in the face of the countless difficulties that might be encountered in translating the law into Chinese. At present, the Sino-British Joint Declaration stipulates that after 1997, Chinese is to be used in the Government organs and the courts of Hong Kong; but following the principle of 'no change for 50 years', English may be used in addition. It is therefore destined that a bilingual legal system will have to be established in the transitional period up to 1997.

Bilingual legislation is very important to the future of Hong Kong. I think we still remember that during the Sino-British negotiations on the future of Hong Kong, we specifically asked for the preservation of our existing legal system. This has been accepted and it is now time for us to draft new legislation in both languages and to translate the existing laws into Chinese—a step necessary to ensure that the spirit and practices of the common law system which we are used to will be preserved. Hong Kong is ruled by law. The fact that not all of us understand English, and that Chinese is not widely used in our legal system, does not undermine our acceptance of this principle. In general, our citizens are law abiding. I therefore believe that after the setting up of a bilingual legal system and through promulgating it by the mother tongue, our citizens will understand the ambit of the law more and that their observance and respect for the law will be further improved. This will contribute greatly to the stability of our society.

Statute law in Chinese is one of the important aspects in introducing a bilingual legal system. The earlier we have a complete set of statute law in Chinese the better. In reading the 'Discussion paper on the Laws in Chinese', I feel that several matters require further consideration.

The first is the drawing up of a time-table. Paragraph 31 of the discussion paper proposed well-considered and appropriate priorities for the various aspects of the work to be completed and that there should be flexibility in applying the priorities so that adjustments could be made to suit changing environment. However, I think, in the matter of bilingual legal system, the general public would also like to know when a complete set of Chinese statute law will become available. The discussion paper has no recommendation in this aspect. I believe this is a basic requirement. Only with a time-table could we appropriately allocate the resources for and effectively supervise the progress of this mammoth work. There are just over 10 years to go before 1997 and we must complete the work on bilingual legislation before then. At the same time, we have to allow time for the system to be tested and to ensure that our citizens will be familiarised with it by 1997. I therefore suggest that the translation work should be completed between 1992 and 1994, allowing three to five years before 1997 for the system to be practised and tested. At first we may be quite slow in the translation work but speed will improve with experience. However, I must add that the quality of translation cannot be lowered at the expense of speed. In particular, we must preserve the spirit of the common law and its flexible application. These, the essence of the system, must not be given up for any reason.

The future Chinese version of the legislation should enjoy equal status and have the same legal effects as the English text. I consider that the enactment of law is the prerogative of the legislature. Being itself a legislative body, the Legislative Council should undertake the responsibility of vetting the Chinese translated versions of the legislation. I therefore consider that the proposal in paragraph

60 of the discussion paper of not setting up a committee under the Legislative Council to check and approve the Chinese versions of the law should be reconsidered.

The third point I wish to make concerns the complete bilingual legal system. Legislation in Chinese is only one aspect and it must be co-ordinated with the functioning of the judicial system and private legal practice in both languages. In other words we also need to introduce trials in Chinese and private legal practitioners will have to produce legal documents such as contracts, agreements and covenants in Chinese. The training of personnel capable of handling both languages involves the legal as well as the education sectors. I think the Government should take positive steps to encourage the introduction of a complete bilingual legal system. Of course training remains a matter of concern. My hon. Friend the Attorney General has reminded us that the remuneration package of the Government is unattractive to the legal profession and that personnel proficient in translation are also difficult to recruit. We should now review the overall manpower requirement to avoid delay in achieving our objectives because of manpower shortages.

The Working Party on the Laws in Chinese has mentioned many problems in developing a bilingual legal system. I hope we have sufficient encouragement to refuse to accept a priori the difficulties as unsurmountable. And to those who will participate in this historic task of developing a Chinese-English bilingual system, I would like to quote a Chinese saying, that 'nothing is too difficult', for their encouragement.

Thank you.

MISS TAM (in Cantonese): Sir, the provisions on the legal system of Hong Kong Special Administrative Region stated in Annex I to the Sino-British Joint Declaration read,

'After the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong (i.e. the common law, rules of equity, ordinances, subordinate legislation and customary law) shall be maintained, save for any that contravene the Basic Law and subject to any amendment by the Hong Kong Special Administrative Region legislature.'

It also reads,

'In addition to Chinese, English may also be used in organs of government and in the courts in the Hong Kong Special Administrative Region.'

It is natural enough that the people of Hong Kong are inclined to use more Chinese in legal matters and in courts. The wording 'in addition to Chinese, English may also be used' as stated in the Joint Declaration, has given rise to different interpretations. The first kind of interpretation is that Chinese is the official language of HKSAR with English as the second language, and not that

equal weight be given to both languages. The other is to give both languages equal status: one can of course use Chinese, but besides Chinese, one may also use English, that is to say it is acceptable to use English.

English is the prevailing language in the law courts and the legal scene of Hong Kong. In the proceedings of a magistrate's court, since most magistrates are expatriates, then rendering into English the court evidence becomes inevitable as most witnesses speak only Chinese. All of us realise that in trial proceedings and in quoting precedent cases in a district court, high court and appeal court, English is absolutely necessary. Such a situation will not change over to using only Chinese in 10 years and 11 months. I therefore consider the interpretation 'one may of course use Chinese, yet to use English is not improper' to be more pragmatic. Such an interpretation would make Chinese more and more important in the legal system of Hong Kong, and there might even be a day when the Chinese language plays a predominant part. But we do not have to rush and commit ourselves by having the evolution completed within the period of 10 years and 11 months.

'Discussion Paper on the Laws in Chinese' is a paper prepared by Attorney General's Chambers for discussion. Messrs. TAI Chin-wah, Martin LEE and I are on a Legal Sub-Group to examine the legal aspects of the paper, and recommendations (xxi)-(xxviii), amendments to legislations for the purposes of legislating in Chinese, in particular:

Recommendation (xxi) mainly deals with amending the Official Language Ordinance, section 4(1), (2) and (3), permitting the Governor, under urgent circumstances, to order that legislation be enacted in Chinese only or English only. The acquisition of the Overseas Trust Bank was an example of emergency cases when no time was left for the drafting of legislation in Chinese. The *ad hoc* group considered this acceptable.

Recommendation (xxii) mainly empowers the Attorney General to amend, by order in the *Gazette*, the wordings of the legislation written in Chinese, so that it can tally better with the meaning in the English authentic version, or vice versa, to amend the wordings in the English version to harmonise with the Chinese authentic version. The sub-group considered that such an approach should be limited to harmonising the wordings of the two versions, in order to express the same meaning or idea.

The Hong Kong Bar Association finds the two recommendations above agreeable, but suggests that the Legislative Council should be empowered to revoke the legislation in question within 14 days of its gazetting if it is then found inappropriate. The group has referred the Bar's opinion to the Legal Department.

Recommendation (xxiii) concerns whether there should be a separate Chinese Laws Interpretation Ordinance. Both the Bar and the Legal Sub-Group agree that an authentic Chinese version of the Interpretation and General Clauses Ordinance should be promulgated at an early date.

Recommendation (xxiv) mainly deals with amending the Interpretation and General Clauses Ordinance to provide for the interpretation of bilingual laws along the lines of Article 23 of the Vienna Convention on the Law of Treaties, and that is to say, if there is a discrepancy between the meaning of the text of authentic versions of the law, and such discrepancy cannot be resolved by referring to provisions in the statute law, then after considering the purpose and functions of the provisions, the interpretation which can best reconcile the meanings of both versions will be adopted. This approach is accepted by both the *ad hoc* group and the Bar Association. However, the latter disagrees with recommendation (xxiv)(c), which allows the Governor in Council to prescribe that an expression in Chinese shall be deemed to have the same meaning as an expression in the corresponding English text and vice versa. As the use of executive power to make laws is to be avoided, such a recommendation needs to be further considered.

Recommendation (xxv) proposes that a form should be prescribed in the language of the text of which it is a part. We have no objection to this recommendation.

The Legal Sub-Group also supports recommendation (xxvi), which proposes to amend Article xxv of the Royal Instructions to provide for the enactment of legislation in Chinese.

Recommendation (xxvii) is similar to recommendation (xxii) and aims at empowering the Attorney General to amend the Chinese (or English) authentic text to bring it into harmony with the other under the Official Languages Ordinance. The Legal Sub-Group felt that the amendments proposed by recommendations (xxii) and (xxvii) should be couched in the same terms. This has been agreed to by the representatives of the Legal Department.

Recommendation (xxviii) proposes that when drafting amendments to the law of evidence, the Judiciary should be consulted on how to deal with problems related to the equal status of both languages in court. The Legal Sub-Group's view is that if problems of textual interpretation arise from evidence produced in court, then expert evidence should be called by the prosecution or the defence, or by the judge.

To conclude, both the group and the Bar Association believe that the interpretation of the laws must first be studied and approved by the Legislative Council before it becomes effective. It has also been proposed by the latter that the Legislative Council should have a final say on issues discussed under recommendations (xxii), (xxiv)(c) and (xxvii). After a careful study of the proposed provisions, we realise that the conditions mentioned in recommendations (xxii) and (xxvii) have to follow the Order in the *Gazette*. In addition, the Legal Department has agreed that recommendation (xxiv)(c) is to be implemented under the Order in the *Gazette*. Therefore, like the other subsidiary legislations, they are within the power of the Legislative Council.

Sir, with the Hong Kong (Legislative Power) Order coming into effect on 6 August, the laws of the United Kingdom which have long been applied to our territory would then be localised and become the laws of Hong Kong. The Government is now actively training the right persons to meet the actual demands. It is in fact a great difficulty that the legal system of Hong Kong remains unchanged despite the changes in its language medium. I hope that those who pursue their career in the legal field could spare some of their precious time to make more comments and lend a hand in the work of the Chinese laws so that such a great task could be fulfilled.

MR. YEUNG (in Cantonese): Sir, Annex I of the Sino-British Joint Declaration provides that 'in addition to Chinese, English may also be used in organs of Government and in the courts in the Hong Kong Special Administrative Region.' To enact legislation in both English and Chinese during the transitional period is a concrete step in the implementation of the Sino-British agreement, and it would also allow more non-English-speaking people to understand the laws of Hong Kong, for which there would be a political need. For this reason, to promote the use of Chinese in the laws of Hong Kong is indeed an urgent task. In fact, the people of Hong Kong are looking forward to a set of translated statute law which would facilitate the realisation of equality before the law and the promotion of education on democracy and legal systems in Hong Kong.

The objective of the bilingual laws project, clearly stated in the discussion paper on Laws on Chinese issued by the Attorney General's Chambers, is to produce an authentic Chinese version of the laws of Hong Kong so that both the English and Chinese versions convey the same message in their own fashion. It is intended that both versions of the statute law will enjoy equal legal status, in order to achieve equal treatment in their usage. If the project is successful, it would become an unprecedented case and Hong Kong would become the first city in the world with bilingual laws in both English and Chinese. To the Hong Kong community with 98 per cent of its citizens being Chinese, this is indeed a very suitable and meaningful project. In order to meet the actual demand of Hong Kong, it is inevitable that both English and Chinese will be used in its legislation and judicial process. To use Chinese in this means as soon and as far as possible is a must, because this is in the interest of both Hong Kong and China. Also, with a view to meeting future needs, more consideration should be given to the customs and habits of the Chinese people when amending or enacting laws hereafter. One of the ways to ensure that the language used in the laws of Hong Kong would, as far as practicable, go in line with that used in other parts of China is to build up connections with relevant Chinese individuals and organisations and consult their views. We must understand that if we can put our legal language in line with that used in China, it would help improve the co-operation between Hong Kong and China in the economic, cultural and legal fields.

At present the statute law of Hong Kong is contained in a total of 26 volumes, including 378 Ordinances, and in addition there is subsidiary legislation. In order to cope with the law reform movement, we should take this opportunity to put the laws of Hong Kong in order when preparing for their translation. The laws of Hong Kong are indeed rather unsystematic. Some of them are already outdated or will not be suitable for future use. These should be repealed where necessary. Those that may be preserved but requiring amendments should be amended into both English and Chinese.

The first step taken by the Attorney General in producing the Chinese version of the laws of Hong Kong is to draft new bills bilingually. The second step is to translate the existing 26 volumes of Ordinances and subsidiary legislation. These tasks are of equal importance, both of them requiring a sufficient number of talents in law drafting and translation. In fact, no specific timetable for the bilingual laws project is stated in the Discussion Paper on the Laws in Chinese. This not only fails to meet the public's pressing demand for early implementation of the bilingual laws system, but also reflects that both the Chinese Language Division and the Legal Department are extremely short of translation talents. Government should therefore provide sufficient manpower, material and financial resources to support the bilingual laws project, so that its progress will not be slow. Government should also be mindful of the fact that under the bilingual laws system, training for Chinese legal talents should be developed in post-secondary institutions in order to lay a better foundation for the future. In the meantime, in order to tackle the problem of manpower shortage and expedite the implementation of the project, Government can consider taking measures in co-operation with professional legal groups with a view to attracting more lawyers to specifically take part in the task. On the other hand, Government should also consider employing from outside Hong Kong experienced Chinese legal experts and scholars to assist in the drafting work by offering them lucrative contracts. Apart from this, there must be sufficient local judicial personnel who are well-versed in Chinese to implement the bilingual laws. As regards the question of judicial personnel, the localisation of magistrates is the most vital aspect, for it could ensure that there would be no language barrier between the defendant and the magistrate. In future the courts should also adopt the bilingual system progressively.

All in all, to make laws in Chinese is a complicated task which takes a very long time to complete. As Hong Kong is mainly a Chinese society, it is necessary to incorporate Chinese concepts into the existing laws. The laws of Hong Kong should therefore be reformed along this line. There must be a Chinese version in order to highlight Chinese concepts. I am confident that the bilingual laws project will certainly have the support of the Hong Kong people.

MR. CHEONG-LEEN: Sir, the Joint Declaration in Annex I, Section I, states that Chinese would be the main language to be used in the courts and that English may be used as well.

With only 11 years to go between now and 1997, it is a matter of urgency that Government embarks upon a sound plan:

- (a) to have all new legislation in both Chinese and English as soon as possible;
- (b) to have an authentic Chinese version of existing legislation; and
- (c) to have the text in each language accurately reflect the meaning of the other in accordance with the intention of the legislative body.

It is highly desirable that there should be harmonisation of styles between the Chinese and English versions, especially as regards terminology and formulation.

I am in favour of the recommendation that the Chinese text should be in 'good, modern, educated Chinese', assuming that the style will be non-classical, and comprehensible to the average educated Chinese.

As far as the English text is concerned, I think it is reasonable to require that something similar should apply, that is, good, modern educated English, assuming that the style will be non-archaic, and comprehensible to the average, educated person who is familiar with the English language.

It is very desirable too that all the important statutes existing in 'archaic English' should be re-drafted in good, modern, educated English with an authentic Chinese version as soon as possible.

On the question of consultation with persons or bodies in China, I would imagine that informal rather than formal consultation at this stage would be a more practical approach.

China is currently seeking to modernise and up-date her legal system and statutes. What input Hong Kong gains from China must depend entirely upon Hong Kong's needs and circumstances, and Hong Kong's own legal system. A Hong Kong glossary of legal terms would be an invaluable aid in promoting closer exchange on the legal systems of China and Hong Kong.

As to the actual drafting of new bills, I am in favour of the parallel approach whereby both an 'anglophone' law draftsman and a 'sinophone' law draftsman would work together on the drafting of each bill. This approach would ensure that both versions would be reasonably compatible and authentic, and conform as close as possible to the intention of the legislature.

I also accept the recommendation that there should be appointed by the Governor a committee of experts, primarily with legal and language back-ground, and with *ad hoc* sub-committees with special expertise in different fields where advice could be called upon as and when needed.

This committee of experts would be required to advise a special commissioner working in the Attorney General's Chambers, and be responsible for coordinating the entire translation programme.

In addition, the Legislative Council may see fit to appoint a committee to generally monitor and keep an oversight of the progress made.

When all is said and done, if the rule of law is to be preserved and strengthened in Hong Kong and Hong Kong's common law link with the rest of the English-speaking world be maintained, it is a matter of steadfast commitment that we uphold the independence and integrity of the Hong Kong Judiciary, as reflected in the Joint Declaration.

An independent Judiciary and the rule of law will give Hong Kong people protection against their individual rights being eroded, and against the Executive from making unwarranted encroachments on such rights.

A bilingual system of laws for Hong Kong will give us a unique status in the history of Chinese civilisation whereby Hong Kong will become even more of a cultural bridge between China and the English-speaking world in particular.

Providing China keeps her open policy to the rest of the world after 1997—which I am optimistic that she will—China has much to gain from a stable, prosperous and progressive Hong Kong SAR after 1997, making her contribution to China's modernisation programme and development of what we in Hong Kong have taken for granted and which is known as the rule of law.

Sir, I support the motion.

DR. CHIU (in Cantonese): Sir, the ultimate aim of the bilingual laws project is to accord equal legal status to both the English and Chinese texts of Hong Kong Laws, so that members of the public engaging in litigation will not suffer inconvenience or loss due to the use of a foreign language.

The laws in Chinese project in fact arises from a social and political need. In Annex I, Section I, of the Sino-British Joint Declaration, it is provided that 'in addition to Chinese, English may also be used in organs of Government and in the courts in the Hong Kong Special Administration Region'. Its unequivocal message is that all legislation will have to be enacted in Chinese after 1997, while English is to become a language which may 'in addition' be used. There is thus a pressing need for the speedy implementation of the bilingual laws project to produce a complete set of laws for Hong Kong to ensure that social justice will be upheld and stability and prosperity maintained.

The laws of Hong Kong have their origins in and are based on the common law of England. In local court trials, reference has therefore to be made to precedent cases in English courts. It is an arduous task indeed to translate English legal concepts into Chinese words in producing authentic Chinese texts of statutes. Henceforth, the determined efforts by the Government to undertake the project in meeting the future needs of Hong Kong truly deserve our commendation.

In the 'Summary of the Recommendations of the Working Party' of the 'Discussion Paper on the Laws in Chinese', it is proposed that the bilingual laws project should be implemented according to six priorities. In principle I agree to the priorities set, especially putting 'the bilingual drafting of principal' on top of the list. However, I am of the opinion that the third priority 'translating existing Ordinances on a selective basis' should be upgraded as the second priority. All existing laws which attract public attention and are closely related to the daily lives of the general public should be given priority in translation. At the same time, in order to make people understand and get accustomed to the use of the authentic Chinese version, I suggest that the courts when passing verdict should refer to the authentic Chinese version as and when necessary in order to absorb more experience. Such reference is beneficial to future efforts of enacting laws in Chinese and producing Chinese translation.

Every country and every place has their own commonly used terms. I opine that the Chinese text, apart from being written 'in good, modern, educated Chinese' as stated in the discussion paper, should also adopt those commonly used terms which Hong Kong people are accustomed to use, because such terms can accurately express the legal concepts with which Hong Kong people are familiar.

In view of the fact that the Bilingual Laws Advisory Committee is a committee composing of experts of various relevant fields who have professional knowledge in the bilingual drafting and translating of laws, I think that setting up the Bilingual Laws Advisory Committee is more effective than appointing a commissioner or setting up a standing committee within the Legislative Council to take charge of the job. The advisory committee, apart from drafting laws and checking legal translation work, may also offer advice on setting priority in regard to 'translating existing Ordinances on a selective basis'. As regards the translation of laws concerning special professions, the committee may consult the professional organisations concerned, requesting their assistance.

In regard to the publication of the Chinese and English text, I think the most ideal way is to adopt the facing-page method so that the readers may see both English and Chinese versions at one glance. I also suggest that corresponding paragraph numbers should be added in the margin of both the Chinese and English text. By doing so, not only equal status given to the authentic Chinese and English versions can firmly be established, the bilingual laws project can also be affirmed because no greater emphasis is given to either language. The above publication method is worthy of our careful consideration.

Sir, the above are my remarks.

MR. LEE YU-TAI: Sir, I welcome the efforts which the authors of the discussion paper have made towards producing recommendations to implement an authentic Chinese text of legislation enacted in Hong Kong. I would like to speak on four topics as follows:

- (i) Harmonisation of the language used in Hong Kong statutes with those of China,
- (ii) Bilingual Laws Advisory Committee,
- (iii) Education and training in law,
- (iv) Simultaneous interpretation service.

The discussion paper recommends that steps should be taken to consult with persons and bodies in China to ensure harmonisation of the language used in Hong Kong statutes with those of China (para. 22). I disagree with this recommendation and do not consider such harmonisation desirable or necessary. Hong Kong has always been open to the rest of the world and the external contacts have brought it ahead of China in many respects; China, on the other hand, has remained relatively closed to the outside world until the last decade. The Chinese language spoken and written by the people of Hong Kong is much richer in content and more diversified in usage. It is therefore unwise to forego a richer and more diversified medium of expression in order to achieve harmonisation. Underlying the Joint Declaration is the concept of 'one country, two systems' which will be realised only if the special characteristics of Hong Kong are maintained. The laws of Hong Kong represent one of the most distinctive characteristics which I think must be preserved. It is written in the Joint Declaration that the Court of Final Appeal will be established in Hong Kong. As the judicial system of Hong Kong will remain separate from that of China, differences must be allowed to exist between the laws of the two places, both in spirit and in substance.

While simplified characters are extensively used in China and Southeast Asia, they have no place in Hong Kong. I would therefore support the recommendation of the discussion paper that traditional characters should be used in the Chinese text of Hong Kong laws. Many simplified characters are incompatible with the six basic principles for the formation of Chinese characters. Some of these characters are so simple as to cause confusion.

The discussion paper recommends that the Governor, in publishing an authentic Chinese text of an enactment, should act on the statutory advice of a committee of experts. This committee should be called the Bilingual Laws Advisory Committee and consist mainly of legal and language experts. As laws must be understood by the general public and not only by experts, I would propose that a few lay members be included. These lay members should ensure that the Chinese text will be understood by the public at large.

Both the legal profession and the Judiciary are short of people and some expatriates may choose to leave Hong Kong as 1997 draws near. I would suggest that the Chinese University of Hong Kong establish a Faculty of Law to train people to fill the gap. As the University of Hong Kong still uses English as the medium of instruction and expansion of the Law Faculty has fallen short of the planned target, the responsibility for training additional lawyers, especially bilingual ones, must fall upon the Chinese University. Before local institutions

can produce lawyers in sufficient numbers, localisation should not be allowed to proceed too quickly. It is of paramount importance that the high calibre of the Judiciary must be upheld, even if it means localisation has to be slowed down.

Finally, I would like to express concern about the provision of simultaneous interpretation service. Since the introduction of this service in 1971, the salaries for full-time simultaneous interpreters and chief simultaneous interpreters have remained unchanged relative to other grades, but the demand on their work has increased substantially, both in quantity and in complexity. It is inconceivable that the chief simultaneous interpreter, who worked in the Sino-British negotiations on the future of Hong Kong, could have been paid the same salary as secondary school principals. Bilingual legislation would further increase the importance of and the demand for simultaneous interpretation at various levels of committees/boards/councils. I doubt if the present remuneration package and career structure will attract and retain people of the right calibre in sufficient numbers. The Administration should consider a review of the conditions of service of the various grades of simultaneous interpreters.

Sir, with the above observations, I support the motion for adjournment.

MR. TAI: Sir, the faith and trust of our citizens and the business world at large in our judicial system's being able to operate independently and to dispense justice expediently as time may allow is one of the governing factors that makes Hong Kong prosper.

The publication of the 'Discussion Paper on Laws in Chinese' demonstrates the Government's determination to speed up the process of producing bilingual laws. This policy deserves support for the following reasons.

Firstly, the majority of our citizens speak and read Chinese. To make laws governing Hong Kong in Chinese will not only lower the instances in injustice resulted from ignorance of our existing laws because of language problem, but will also facilitate the dissemination of legal knowledge amongst the public more practically. Secondly, it demonstrates that the Government is resolute for smooth transition between now and 1997. Because it is enshrined in the Sino-British Joint Declaration that 'in addition to Chinese, English may also be used in organs of government and in the courts in the Hong Kong Special Administrative Region.'

Due to historical and practical reasons, the official language used in most courts in Hong Kong is English. Although it is desirable for political and social reasons that all our existing laws and legislation to be enacted in future should have an authentic Chinese text, the implementation of such task is extremely difficult and complex, in view of the shortage of bilingual expertise in law drafting and the amount of work involved.

The judicial system in Hong Kong adopts the common law system. Many of our existing legislation are guided by common law principles which are based on

established customs and legal precedents of other common law practising countries. Many of our common law rules (including rules of equity) are unwritten yet they are well understood by our legal practitioners. To make laws in Hong Kong in Chinese is not merely to have an authentic version of the legislation in Chinese; it is important to have the concepts of law in Chinese as well. Furthermore, the law reports, precedents court rules and practice all form an integral part of such legal system, they are problems to which, due to the limited scope of study, the discussion paper fails to address.

The other point which the paper fails to consider is the administration of our judicial system. Our legal practitioners and judges have all been trained to practise law in English. Though many of them do speak Chinese, this does not render them effective legal practitioners in the Chinese language. Although it may create nightmare to our Judiciary and practitioners for practising law in Chinese, for political and social reasons, this has to be achieved in time be that after 1997 or years beyond that. Hence we must also direct our attention to whether we should have bilingual legal education and a bilingual judiciary, and the time for their implementation. The availability of suitable teaching materials, lectures for our law students thus becomes crucial if Hong Kong is to one day not only have her laws in Chinese but can also practise them in Chinese. I suggest therefore that while Chinese will ultimately become the official judicial language in Hong Kong, preparation for its realisation should also be included in the terms of reference of the proposed Bilingual Laws Advisory Committee.

MR. TAM (in Cantonese): Sir, although many Councillors have quoted the same passage, I feel that this passage is the basis of the discussion paper on Laws in Chinese. Therefore I will still be quoting the same passage as the introduction to my speech. According to section 1 of Annex I to the Sino-British Joint Declaration, it has been stated that, 'In addition to Chinese, English may also be used in organs of government and in the courts in the Hong Kong Special Administrative Region.' This makes it quite clear that the Laws of Hong Kong after 1997 will be enacted in Chinese, and that English is the language that 'may be used' besides Chinese. A large gap exists between this situation and the present one in Hong Kong when all laws are enacted in English. To start legislating in Chinese from now on is a significant step for the legal system to transit smoothly and gradually, and in line with the spirit of 'the rule of Hong Kong by the people of Hong Kong' and that of 'one country, two systems'.

In the past, all the Laws in Hong Kong have been enacted in English, and the general public have found it difficult to understand and grasp. Hence, to legislate in Chinese and to translate into Chinese the existing statute law would help the public to comprehend the law, and know one's rights and obligations, and would be an important step for Hong Kong to become a democratic and legal society.

As to the recommendations proposed in the Discussion Paper on Laws in Chinese, I have the following three observations.

Firstly, the series of measures as proposed in the discussion paper could no doubt confer equal legal status on both the English and Chinese versions of the statute law. But whether or not the object of equality in the use of both official languages can be achieved is, in my opinion, a question of social concept, apart from the question of legal status. If the social concept does not change from 'putting more weight on English than Chinese' to 'paying equal attention to both language', it will be extremely difficult for both versions of the statute law to be accepted equally. The laws written in Chinese in the future after using much of our resources may well be shelved in the lofty attic. Government is therefore obliged to set an example to promote, and enhance the social status of the Chinese language, for instance, to review the criteria for Civil Service recruitment, and actively promote mother tongue education, and so on. Only then can both versions of the statute law be accepted as of equal status by the community.

Secondly, the discussion paper raised the point that the text in each language of the statute law should accurately reflect the meaning of the other, that both texts should be presentationally similar, and that the Chinese text should be in good and modern Chinese. Moreover, those provisions drafted in an old style would be replaced by a modern one. Such measures are welcomed as the public can thus understand the legislation more easily. The discussion paper also suggested that steps should be taken to consult the individuals and bodies concerned in PRC, to ensure the language used in the Laws of Hong Kong is consistent with that used in PRC. This suggestion is beneficial to the establishment of 'one country, two systems', but attention should be paid to the aspect of terminology so that the legal terms can be easily made out and conform to the general practice and understanding in Hong Kong.

Finally, it is mentioned in the discussion paper that the bilingual laws project should follow six priorities as a means of saving resources since the Law Drafting Division is short of manpower. The priorities mentioned therein are largely acceptable. But the discussion paper has not expressly stated: what are the criteria for selecting the 'more popular' legislation? Which institution will make the decision? How can the public or the professional bodies take part in selecting? and the like. Besides, the document has not stipulated a precise time-table for the bilingual laws project, nor the resources to be put in by the Government, so that the public cannot monitor the speed in carrying out the project, neither can they consider throwing in more resources in order to expedite implementation of the project. Government should therefore publicise the above information, so that the public can analyse and discuss the matter in further details.

Other than the three points mentioned above, I support the overall object and spirit of the discussion paper.

MR. ANDREW WONG (in Cantonese): Sir, in the policy debate in November 1985 I referred to the making of laws in Chinese as a Herculean task. However, I still hold the view that this should be carried out immediately, not only because the laws of Hong Kong should change from the present situation of the 'based on the English version without an authentic Chinese version' to 'based on the Chinese version with an authentic English version' after 1997, but also for the sake of tackling a problem which has existed for a long time, i.e., those who do not know English are, to a certain degree, legal illiterates. Government is to blame for not solving the problems properly during the past 20 years when they first occurred and before they have become too difficult to deal with. For example, in 1965, the Federation of Students requested that public meetings of Government should be bilingual and proved this to be practicable by producing simultaneous interpretation devices and equipment and acting as simultaneous interpreters themselves. It was only after a mammoth mass movement on using Chinese as an official language that Government set up the Sir Kenneth FUNG Ping-fan Committee in 1970 and introduced simultaneous interpretation in 1972. In the meantime, the Chinese Language Division was set up. To quote another example, the Chinese Language Division only deals with the translation of laws without seeking to make the translations authentic and legally binding texts. If this had been undertaken at that time, I believe that much experience should have been gathered so far and there is no need to pray for the appearance of Hercules.

I recall a story from Aesop's Fables about a lion which makes friends with a man. One day, the two have an argument over which one of them is stronger. The lion boasts of its enormous physical strength and the man points to his wisdom. Whereupon, the man also lays claim to having great muscular strength and the lion retorts that it has more wisdom. The man then brings the lion to see a stone statue of Hercules from Greek mythology holding down a lion with his body and elbow and forcing the lion's mouth wide open with his two hands. The man says to the lion, 'Now you see.' The lion replies, 'Oh yes, I can see a statue made by 'man'.' Obviously, the story is not about a lion having more wisdom than man. The message is that despite his wisdom, a man may not always succeed in deceiving others. A man must not think that his wisdom would enable him to solve all difficult problems without contemplation and second thoughts.

Another story about lion and man from Aesop's Fables also comes from ancient Greece. One day, a slave named Androcles escapes from the home of his master to the wilderness, where he meets a lion. As the lion does not attack him, he becomes curious and on a closer look, finds that a front paw of the lion is pierced by a thorn and has become red and swollen. The lion appears to be in great agony. Thereupon, Androcles extracts the thorn from the lion and dress its wound and leaves. Later, Androcles is finally caught and is sentenced to be killed by a lion. When the day of execution comes, a frightened Androcles is put

into the arena. A hungry lion is released from its cage and just before pouncing on Androcles, it stops abruptly in front of him to the surprise of all, including the King and his retinue. It so happens that that is the lion which has been treated by Androcles. The King then orders the release of both Androcles and the lion. The moral is clearly not about a lion returning a favour but about what one's attitude to people and things should be. No matter what one does, one must feel at ease with his conscience and this should be one's best policy. It is also evidence that wisdom is superior to brute force and minimum action is even superior to wisdom. In other words, one should act without pretence and without excess.

The authors of the Discussion Paper on the Laws in Chinese are successful in taking such a balanced approach, and here I would like to congratulate MESSRS. J. R. CRAWFORD, D. LITTLE, A. PIERCE, F. CHEUNG and E. AU. This at the same time means that I am fully in support of the working group's proposals except for a few minor issues. Now I would like to discuss briefly the two proposals which are widely disputed among the public and Members.

The first question concerns the priority of drafting laws in Chinese. The Hong Kong Bar Association and some of our Members believe that another task, that is, identifying those current laws which are important and directly related to the general public, should be made prior to all the other tasks mentioned in the proposals. This suggestion is superficially reasonable. It should be understood that language itself, including the legal language, is something alive. If the meanings between the Chinese and English languages have to be similar on both the syntactic and lexical levels, that means a set equivalence of meanings is needed. During the course of bilingualism, the choice of appropriate words and sentence-structures is also very important. Therefore, it is absolutely necessary to introduce a 'try and amend' process, the first and the most suitable experiment being of course to make new laws in both languages. This is certainly the best way for the staff and Members of the Legislative Council to realise and grasp the subtleties behind the laws and avoid the danger of wrongly making the Chinese translated laws to be the authentic versions before they are able to do so. I support the priority proposed by the working group.

The Hong Kong Bar Association, those in the legal profession as well as fellow hon. Members, also propose to, first of all, compile a bilingual legal glossary. To this, I give my consent and support. However, this is but a 'try and amend' process. I believe it is not only impossible but also inappropriate to 'fix' the meaning and implication of any terms. Therefore Government should give up such an idea. It should, on the other hand, encourage or even give support to more interchange of ideas between the public and the academic circle so as to distinguish but not to secure arbitrarily the corresponding equivalence of English and Chinese terms. To be specific, I propose that Government should publish or subsidise the issue of a Chinese periodical to discuss the situation in Hong Kong where legal concept is perceived in English.

The second proposal is about the setting up of a Bilingual Laws Advisory Committee. Some Members feel that the bilingual drafting of legislation should be the responsibility of a special commissioner who should consult members of the Bilingual Laws Advisory Committee. Proposals will then be submitted to the Governor before passing to the Legislative Council for consideration. The Legislative Council also has to set up a standing panel on bilingual laws drafting which will study all the proposals first before submitting them to the whole Council. Such proposals seem very reasonable. However, I believe all procedures should be streamlined. The working party's proposal has neither infringed the Legislative Council's power of final decision nor its power of final amendment. Therefore it is not necessary to set up a standing panel for this purpose. In fact, the terms of reference of the commissioner and the advisory committee will be mixed up and the power of the commissioner and the Legal Department will all the more be confused. Thus the post of a special commissioner should not be created. The proper procedure should be submission of the draft version by the Legal Department to the Bilingual Laws Advisory Committee which after consideration, should recommend the draft version to the Governor for implementation. In short, I support the working party's proposal on the setting up of an advisory committee. I further suggest that the committee should include two more members who have legal knowledge as well as proficiency in Chinese.

Sir, we have the following choices: to be eaten by the lion, to overpower it or to make friends with it. I will prefer the last option.

The above are my remarks.

ATTORNEY GENERAL: On behalf of the Administration, I would like to thank Mr. F. K. HU and Members of the Legislative Council *ad hoc* group for the time they have spent in studying the discussion paper and for the many constructive comments that they have made this afternoon. I have been greatly heartened by the firm support given to the proposals by hon. Members who've spoken in the debate and by the most careful and conscientious manner in which they have considered them. The proposals contained in the discussion paper were discussed in detail by Members of the *ad hoc* group and Miss TAM's legal sub-group with members of my chambers at four meetings that have been arranged recently and there have been other meetings with other interested parties.

Sir, many of the questions raised in the paper allow of no simple answers; and it is not surprising that individual Members have put forward different views on how some of the proposals should proceed. But from all that has been said in this Council and informally, it is clear that Members are in full support of the principles and objectives of this historic project to produce bilingual legislation for Hong Kong which, Sir, the Governor in Council approved just one year ago. The comments made by Members this afternoon will be of great value in

assisting the Administration to determine the best way forward. Where the proposals need to be implemented by legislation in due course, Members will have further opportunities to give their views as the bills come forward to this Council. Some of the issues raised today, for example, about the role of Chinese in our courts go outside the scope of the discussion paper. And, they will receive careful consideration in a different context.

Members will recall that the objective of the bilingual laws programme is to ensure that all of Hong Kong's statutory law is published in English and Chinese and that both texts are equally authentic. Authenticity has two aspects. Firstly it means that, as a matter of law, both texts can be considered by the Courts to ascertain the law. Secondly it means that the two texts must be equally good. Experience in Canada, where all federal laws are in bilingual form, shows that the courts are reluctant to accept a text as authentic, whatever the law may say, if it reads like a mere translation of another text. It is for this reason that members of the Drafting Division of my chambers have given considerable thought to the operational problems: how laws, particularly new laws are to be drafted. Our aim is to have a system of parallel drafting where counsel drafting the English text works alongside counsel drafting the Chinese text with full discussion between them at every stage.

Sir, the discussion paper which is the subject of this debate was prepared by a five-man working party appointed by the Law Draftsman soon after the Governor in Council's decision in July 1985. As the proposals would have far-reaching implications for our legal system and because it was recognised that many legal practitioners would have advice to contribute, the Governor in Council directed that that part of the report of the working party which raised issues of public importance should be published as a discussion paper. This was issued in May. I am very grateful to all those who have taken the trouble to read it and respond to it.

Comments have now been received from all the main interest groups in Hong Kong including the Bar Association, the Law Society, law teachers at the Hong Kong University and elsewhere, the Hong Kong Observers and many others. District boards have shown a particular interest. And the comments have been extremely favourable, as we would say in all modesty. It was Samuel BUTLER who wrote that the advantage of praising ourselves was that we can lay it on thick and in the right places. Sir, it is not often that the Drafting Division have a chance to do that. And I hope Members will forgive me if I summon unbriefly, three well known witnesses to speak on this rare occasion for the quality of the work done in my Drafting Division by those members of the working party who's names were mentioned by Mr. Andrew WONG and by the Chairman of the working party Mr. James CRAWFORD in particular.

Mr. Justice T. L. YANG whose pioneer work in 1972 pointed the way to the present project wrote in: 'I was extremely happy, and greatly encouraged, to have read the paper...May I take the opportunity of congratulating the Law

Drafting Division on a very sensible report?'. The Chairman of the Bar Association, Mr. Denis CHANG, Q.C., who also congratulated the members of the working party said: 'We regard the document as very important for the future development of the Hong Kong legal system.'. Mr. Brian TISDALL, the President of the Law Society, has written: 'the discussion paper is a most excellent document; indeed I consider it is one of the most thought-provoking papers to have appeared for a long time'. And Members' kind comments are no less appreciated.

Sir, the particular issues raised by those who commented on the paper are many and we are still analysing them. A major issue emerging is the best way of dealing with translations of existing laws—by involving a commissioner or a Bilingual Laws Advisory Committee or some other body. Time has now elapsed since the working party originally considered this matter; there is scope for second, may be third thoughts. The Chinese Language Unit is now operating. We have recruited staff—and it was not easy to find qualified lawyers. We are starting to learn how to do our job. Whatever the merits of a commissioner, I very much doubt whether staff could be found for him without damaging our ability to draft current laws in Chinese. We certainly cannot find him staff trained as draftsmen, for only now we are training our own. Also we now realise the lessons learned in drafting current legislation must be applied to translations and vice versa. Sir, it will be undesirable to separate the two aspects of the work of the Chinese language team, that is translation and drafting, and to separate the Chinese language team from the English language team. And it is difficult to see how this can be avoided if a commissioner is appointed.

A number of people, Mr. LEE Yu-tai perhaps most forcefully today, have raised the question of the desirability and, indeed, practicability of liaison with experts in China on the terminology of our laws. They point to the different basis of our two legal systems and the fact that Hong Kong's technical terms differ from those in use on the mainland. Sir, I do not think anyone need be worried about the proposals of the working party here. We need to know about the legal terminology in China so that we may make the right decision in choosing terms for use in Hong Kong, terms that must be understood by Hong Kong people.

Sir, there are many different preferences for the order of priorities for producing bilingual texts. Some Members, such as Dr. CHIU Hin-kwong, have today offered their personal preferences. Sir, in my view the first priority must be current law. This was the Governor in Council's decision and I think it was the right one. It reflects the fact, if nothing else, that the business of this Council is conducted in both languages. As for later priorities, the important thing now is to decide who is to decide these, not to reach the decision. We are giving this more thought.

Some Members have mentioned the role of a glossary. Drafting Chinese texts of the laws will, as it proceeds, create its own glossary as a by-product. And here again, to undertake the production of a glossary for publication which goes further than the drafting needs of my chambers will divert resources away from the work of drafting the laws. There would I think be much to be said for involving the universities in this field, particularly where terms of the common law are concerned, many of which do not appear in any of our Ordinances. Members including Mr. TAI Chin-wah, have referred to their role in training professional lawyers. Mr. Andrew WONG's suggestion of a regular academic publication to discuss linguistic problems may also be more appropriately undertaken by the universities rather than by Government. Sir, there may well be a case for a grant by Government of funds to the universities to sponsor research by legal scholars and philologists in these important areas, a matter that I shall naturally have to take up with my friend, the Financial Secretary, if it should find favour.

Sir, after my chambers have considered the comments made by hon. Members today and all others received from members of the public, I intend to refer the revised proposals of the working party to the Governor in Council as soon as practicable. I hope I will be able to present the necessary legislation to give effect to the Chinese laws programme to this Council early in the next session. I still hope to see the first authentic Chinese text in this Council by the end of the year.

Sir, I sympathise with those Members today, Mr. CHEUNG Yan-lung and Mr. YEUNG Po-kwan in particular, who pressed for a firm time-table for the completion of the project before we have even started it. I do not think I can go any further this afternoon, except to say we shall do our utmost to complete the translation of existing laws well before 1997.

Sir, the key to the success of the programme lies with the bilingual draftsmen—although in defence to three of our recent recruits I ought perhaps to get used to speaking of draftspersons. Drafting is a skill which is acquired more by practice than by instruction—for the ability to create from drafting instructions a coherent and practical legal framework cannot be readily taught in the law schools. Our aim is to ensure that both the English and Chinese texts are drafted by experts and that means that we are seeking to train, not English or Chinese draftsmen, but draftsmen. It follows that the four Crown Counsel inexperienced in this work who have been brought into the Drafting Division for the purposes of the bilingual laws project are being given ordinary drafting work as well as work relating to the project. In the case of bilingual bills, they act as juniors to more senior draftsmen and they will participate in every stage of the drafting of bills. Senior Chinese Language Officers will aid counsel in drafting and will themselves translate existing laws under the supervision of counsel. It will be necessary to expand this small unit, but we must be certain that the machine we have created is running properly before we move into top gear.

Sir, the Chinese language scheme may appear daunting because of the sheer number of ordinances in English. But we are not disheartened with so much support for what we are trying to accomplish. A Herculean task it may be. Mr. Andrew WONG has reminded us that friendly lions would become very useful.

Sir, one of the persons who wrote to us about the discussion paper, Mr. Henry LEE, reminded us of Master Xuan Zang who, during the Tang Dynasty, went on a pilgrimage to India to collect the necessary scriptures and he managed with difficulty to find Chinese equivalent for the strange Buddhist concepts at that time. Mr. LEE tells us that the Master translated 72 scriptures which contained 1335 volumes and over 13 million characters. Sir, the difficulties of translating Indian scriptures into Chinese must have been no less daunting than translating Hong Kong Ordinances. And what has been done once can be done again. And we do not stand alone, as Master Xuan Zang did, for we have the resources of the Government of Hong Kong behind us.

Question put and agreed to.

Next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 30 July 1986.

Adjourned accordingly at six minutes past Six o'clock.

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