OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 30 July 1986

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE 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 (*Acting*)
MR. JEREMY FELL MATHEWS, J.P.

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

THE HONOURABLE PETER C. WONG, C.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 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 MARTIN LEE CHU-MING, Q.C., J.P.
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
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 ALLEN LEE PENG-FEI, O.B.E., J.P.
THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.
THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.
THE HONOURABLE SZETO WAH
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.

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:

Ferry Services Ordinance
Ferry Services (Hongkong and Yaumati Ferry Company, Limited) (Determination of Fares)(Amendment) Order 1986 167

Hong Kong Royal Instructions 1917 to 1985 Standing Orders of the Legislative Council of Hong Kong
Ending of 1985/86 Session 168

Registration of Persons Ordinance
Registration of Persons (Application for New Identity Cards) (No. 7) Order 1986 .. 169

Antiquities and Monuments Ordinance
Antiquities and Monuments (Declaration of Monument) Notice 1986 170

Factories and Industrial Undertakings (Asbestos) Special Regulations 1986
Factories and Industrial Undertakings (Asbestos)(Approval of Respiratory Protective Equipment) Notice 1986 171

Antiquities and Monuments (Amendment) Ordinance 1986
Antiquities and Monuments (Amendment) Ordinance 1986 (Commencement) Notice 1986 172

Sessional Papers 1985-86:

No. 70—Sir Robert Black Trust Fund—Annual Report for the year 1 April 1985 to 31 March 1986.

No. 71—J.E. Joseph Trust Fund Report for the period 1 April 1985 to 31 March 1986.

No. 72—Kadoorie Agricultural Aid Loan Fund Report for the period 1 April 1985 to 31 March 1986.

No. 73—Protection of Wages on Insolvency Fund Board—Annual Report for the period 19 April 1985 to 31 March 1986.

No. 74—Sir David Trench Fund for Recreation Trustee's Report 1986-86.

No. 75—Supplementary provisions approved by the Urban Council during the first quarter of the financial year 1986-87.

No. 76—Report of the Select Committee on the problems involved in the prosecution and trial of complex commercial crimes—30 July 1986.

Others

Reports by the Director of Social Welfare and the Director of Medical and Health Services on the case of 'KWOK Ah-nui'.

Oral answers to questions

Construction site safety

1. MR. CHENG asked: *In view of the recent accident in which three workers were fatally overcome by dangerous gas during the carrying out of caisson works at a building site and in the light of the investigation made thereafter will the Government advise this Council what measures will be taken to strengthen necessary control of construction site safety in order to prevent this kind of accident?*

SECRETARY FOR EDUCATION AND MANPOWER: The investigation into the accident on 5 July in which three workers tragically died while carrying out caisson works has not yet been completed and the circumstances of their deaths have not yet definitely been established. The findings of the investigation will, however, be carefully studied when they are available in case there are new lessons to be learned. As this was a fatal accident, an inquest will also be held in due course.

There is already subsidiary legislation under the Factories and Industrial Undertakings Ordinance to lay down safety standards for workers employed in caisson work. The Factories and Industrial Undertakings (Confined Spaces) Regulations require a contractor either to ensure that a caisson is free of dangerous fumes or, where this is not done, not to permit a worker to enter the caisson without adequate breathing apparatus. The worker must also be roped to enable him to be pulled to safety, if necessary, and revival apparatus must be on hand.

The existing safety legislation will be reinforced by the enactment of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations 1986, which have been made recently by the Commissioner for Labour and will be submitted to this Council early in the next Legislative Session for approval. The regulations, which require contractors in the construction industry to employ safety officers and safety supervisors, should result in improved safety planning and a safer system of work on construction sites and, I hope, will reduce the likelihood of future accidents of this kind.

Legislation is of course not adequate by itself to prevent accidents unless its purpose is understood and its provisions are enforced. The Government has therefore placed great emphasis on construction safety in its enforcement activities and in its publicity and education programmes. In March 1986, the Factory Inspectorate of the Labour Department carried out a special inspection programme of 35 construction sites with poor records of safety in addition to its normal inspection programmes. Breaches of various regulations were found and 32 prosecutions have been taken out against the contractors concerned. Following the recent caisson accident, the Labour Department has brought forward scheduled inspections of all caisson sites. This round of inspections has just been completed and prosecutions for breaches of the relevant regulations will be instituted.

In May 1986, the Construction and Industrial Safety Sub-committee of the Committee on Industrial Safety and Accident Prevention of the Labour Advisory Board established a working party on safety and health in caisson work with representatives from employers, employees and the Labour Department, to study in detail the safety hazards associated with caisson work and to consider whether there is scope for further safety measures. This tripartite approach is, I think, a particularly effective way of dealing with safety problems of this kind, which concern Government, employers and employees, and should do much to promote awareness of the problem.

As far as publicity is concerned, increased emphasis has been given since the beginning of July to media publicity on safety in caisson work, including press releases, radio interviews and television announcements.

We intend to continue applying this basic strategy in future. Legislation, where necessary, will be improved, but the main emphasis will be given to enforcement work and to education and publicity to impress upon both employers and employees the hazards associated with construction site work.

MR. CHENG: *Sir, would the Labour Department continue to inspect all caisson sites regularly in the future? If so, how frequently?*

SECRETARY FOR EDUCATION AND MANPOWER: I can't answer off the cuff as to how frequently this will be done but I will convey this message to the Commissioner for Labour, and I am sure that he will arrange for this to be done as frequently as resources allow.

MR. YEUNG: *Sir, under what conditions will the contractors in the construction industry be required to employ safety officers and safety supervisors?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, this is a slightly different question, but speaking from memory, I think, for safety officers, the number employed would have to be 200, and for safety supervisors, 20.

Separate legal representation in conveyancing transactions

2. MR. CHUNG asked: *Will Government inform this Council whether there is any intention to legislate on separate legal representation for the different parties in landed property transactions and, if not, why?*

ATTORNEY GENERAL: Yes, Sir. The Council of the Law Society has recently proposed amendments to the Solicitors' Practice Rules (Cap. 159) under the Legal Practitioners Ordinance to provide for separate legal representation in conveyancing transactions. Draft amending rules have been submitted by the council to the Chief Justice for his approval in accordance with section 73(2) of that Ordinance.

The rules, when made, will provide that a solicitor, or two or more solicitors practising in partnership or association, shall not act for both the vendor and purchaser on a sale or disposition of land for value. The rules contain certain exceptions. These are: transactions between defined associated parties where the price of the land does not exceed $250,000 and no conflict of interest is apparent; first sale and purchase of units in uncompleted or completed developments; mortgages of land; and leases of land. The rules also provide that where parties to a conveyancing transaction are separately represented, each party shall pay his own solicitor's costs and a solicitor acting for one party shall not charge or recover his costs from any other party.

MR. CHUNG: *Sir, I welcome the proposals of the Law Society as a first step, yet I am aware that the Consumer Council has received some complaints relating to first sale and purchase of units from developers. In the light of these complaints, would the Attorney General inform this Council whether a further review will be done on separate legal representation on these transactions after the amended Practice Rules have come into operation for a certain period, say in a year's time?*

ATTORNEY GENERAL: Sir, I understand that the Council of the Law Society intends to review the operation of these rules, with particular reference to the exceptions to the rules, in about 18 months time.

MR. MARTIN LEE: *Sir, would the Administration please explain the rationale behind the exclusion of first sale and purchase of units in uncompleted or completed developments from the new rules?*

ATTORNEY GENERAL: I should perhaps make clear, Sir, that the regulation of solicitors' practice is a matter for the Law Society, and not a matter for the Administration. As I understand the position, the Council of the Law Society took the view that separate legal representation in the sale of units would firstly involve the parties, in particular, the purchaser, in additional legal expenses. There is also little that a purchaser or his solicitor can do to secure amendments to the form of agreement. I believe there was also some concern expressed, Sir,

as to the problem of touting which the council believes could still be prevalent where there are sales of units in large developments, an evil that this Council is aware of, and that the Council of the Law Society is taking active steps to eliminate. As I have said, Sir, the Law Society has proposed to review this rule in 18 months time, and I certainly look forward with interest to the outcome of that review with respect to the exceptions to the rules.

MRS. CHOW: *Is Government aware that between July 1985 and June 1986 92 complaints were received by the Consumer Council regarding the sale and purchase of units in uncompleted or completed developments? Of the 92 complaints, 85 complaints were related to units which were first sale and purchase units in completed or uncompleted developments and in fact only the balance of seven were related to old developments. And is Government then aware that the proposed amendments really do not address the problem that is most seriously affecting home purchasers?*

ATTORNEY GENERAL: I am sure that the statistics that have been given will be taken into account by the Law Society. I think I can really do no more than note the concern underlying that question and to repeat that the Law Society will be reviewing this practice in 18 months time.

Eye sight of students

3. MR. CHEONG-LEEN asked: *Why is it that such a high percentage of Hong Kong students and young people are wearing spectacles, and can a campaign be carried out to prevent this trend from worsening?*

SECRETARY FOR HEALTH AND WELFARE: Sir, a high percentage of students and young people wearing spectacles may be observed not only in Hong Kong but also in other Asian countries such as Japan, China and Singapore. This is due to the fact that myopia (short-sightedness) among Asians is strongly hereditary and genetic in origin.

The main thrust of any preventive efforts must therefore be in early detection and provision of the appropriate corrective treatment. To this end, the Education Department conducts a combined screening programme annually among primary one pupils to detect any visual, hearing or speech impediments. Students who are found to have visual defects are referred to specialist clinics for assessment and remedial action. Out of 86 400 primary one pupils who were screened in 1984-85 to identify possible eyesight problems, 6 300 were so referred.

Health education on general eye care is carried out on a regular basis in schools, with support from the Central Health Education Unit of the Medical and Health Department, professional bodies and voluntary agencies. The health education syllabus for primary schools includes a study of the functions of the

eyes and their care. Pupils are made aware of suitable lighting conditions for work, of the suitable distance of textbooks from the eyes, and of precautions to take when watching television.

The Director of Education issued a circular to heads of schools in October 1985 providing detailed advice on ways of ensuring that pupils are not subjected to any undue eyestrain. This circular stresses the importance of proper lighting both in school and at home and gives advice on the type and size of print to be used in textbooks, on the prevention of eye accidents and on personal hygiene. The provision of adequate lighting in schools and the use of textbooks with print of a suitable type and size are also stipulated in the Education Regulations.

MR. CHEONG-LEEN: *Sir, as the primary education period could be quite critical in the development of visual defects among pupils, could the screening programme especially as regards visual defects be done bi-annually, that is every other year, during the primary education period, and also could consideration be given to additional measures such as setting up special clinics or visual health clinics to promote visual health amongst pupils as has already been done in neighbouring territories?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, but the aim of the present programme is to detect anomalies at the earliest possible stage and the children who are found to have eye defects are then referred to specialist clinics and can receive such follow-up care as they may need throughout their formative years. As to whether it will be beneficial to retest pupils at later stages even though they had been found to have adequate eye-sight at Primary 1, no doubt that would be beneficial but of course the question of resources has to come into it. However, I shall note Mr. CHEONG-LEEN's suggestion.

As for more specialist clinics I do accept, Sir, that the Government eye clinics are already under great strain but attempts are being made to expand these as part of the general development of medical services.

MR. NGAI: *Sir, in his reply to hon. CHEONG-LEEN's question the Secretary for Health and Welfare mentioned lighting conditions in schools. Will the Government inform this Council whether there are any rules and regulations governing the lighting standards in the classrooms in primary and secondary schools, and do these rules and regulations apply to private schools?*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, there are various regulations under the Education Regulations which stipulate adequate lighting and ventilation in school premises, including workshops, science laboratories, machines and work benches; classrooms and blackboards all have to be adequately illuminated and these regulations would apply to all schools. Before a school is accepted for full registration it must comply with all the requirements in the Education Regulations, and failure subsequently to comply with the regulations

after registration has been granted is an offence and is punishable on conviction by a fine not exceeding $5,000 and a term of imprisonment not exceeding two years.

DR. IP: *Sir, do I take it that the answer is that shortsightedness is only due to genetic causes and that environmental causes such as bad posture, bad lighting, excessive close reading, eye stress and strain would not increase or worsen the severity of shortsightedness?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think the point I was making which of course is on the advice of qualified people in the Medical and Health Department is that the fact that a high proportion of Asian people wear spectacles when compared to Caucasian people is attributable to certain genetic factors. In fact it is due I believe to the axis of the eyballs among Asians being longer than among Caucasians, a feature that creates a predisposition towards myopia. However, there are other factors which can produce strain on the eye and therefore the Education Department is careful to ensure that schools have adequate lighting as I have described.

DR. IP: *Sir, is it possible, therefore, for the Secretary for Health and Welfare to specify for this Council and for members of the public, the environmental causes that may increase severity of shortsightedness?*

SECRETARY FOR HEALTH AND WELFARE: Factors which induce eye strain such as reading in bad light, watching too much television may be contributory factors, I did not say that these are primary causes of myopia.

MR. MARTIN LEE: *Sir, looking around this Chamber today, including yourself, it doesn't seem to me there's any difference between Caucasian and Chinese Members of this Council, but that is not the question. Sir, paragraph 2 mentions that screening programme is conducted only among Primary 1 pupils by which time it seems to me to be a little late because close to 10 per cent are then already referred to specialist. Should we not start our health education programmes earlier, that is from kindergartens and so on, in which case isn't it necessary to educate the parents of such young children as well?*

SECRETARY FOR HEALTH AND WELFARE: Sir, it is of course possible for the parents of younger children who feel that their children are developing eye problems to seek specialist advice from an eye clinic. The screening programme is felt to be useful at the Primary 1 stage because that is the first stage of compulsory education, and we can be reasonably satisfied then that we do at least catch all children in our community.

MR. YEUNG: *Sir, does Government have any plan to extend the annual combined screening programme to Form I students, and if not, why?*

SECRETARY FOR HEALTH AND WELFARE: I'm aware of no plans to extend the present screening programme, Sir.

Occupational Safety Council

4. MR. CHAN KAM-CHUEN asked: *Will Government make a statement on the progress made in establishing an Occupational Safety Council?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as a myopic Caucasian, may I peer at the answer. In 1978, a Committee on Industrial Safety and Accident Prevention was set up under the Labour Advisory Board to bring together representatives of employers, employees and Government to work for the common objective of improving safety at work. In November 1984, the committee decided to set up a working party to consider the establishment of an Occupational Safety Council.

The working party submitted its report to the committee on 30 July 1985. The main recommendations of the report include the setting up of a statutory Occupational Safety and Health Council to be composed of representatives of employers, employees, academic institutions and professional bodies and a number of public officers; that the council should provide services at a professional level to both the industrial and non-industrial sectors; that the council should develop a full range of activities in training and education, promotion, information and consultancy in occupational safety and health; that the council should be supported by an executive arm headed by an Executive Director; and that the council should be financed by a levy.

The committee endorsed the working party's recommendations in general terms on 16 October 1985 and made a number of suggestions. Among these suggestions was one for the financing for the council. Members agreed that since occupational safety and health was employment-related, it should be financed by a levy on employers.

The committee then proposed a system of levy and suggested a number of methods for collection which are now being explored. When this and other related issues are resolved, I expect that the committee will present its views to the Commissioner for Labour who will consult the Labour Advisory Board and relevant organisations before making recommendations to the Administration.

Measures to combat rape and indecent assault

5. MRS. FAN asked: *In view of the considerable number of reported cases of rape and indecent assault, 33 and 313 respectively for the first five months of 1986, and the fact that many of the victims were young girls under the age of 16, will the Government inform this Council what measures are being taken to contain and combat this type of crime?*

ATTORNEY GENERAL: Sir, Tables 1 and 2 of the statistics before hon. Members demonstrate that this type of crime is running at a stable level. However one worrying aspect is that the number of rapes of under 16 year olds per hundred thousand females was considerably higher in the first six months of this year (at 3.1 per 100 000) than it was in the first six months of last year (at 1.7 per 100 000). The figure for the current year is nearly as high as for each of the previous three full years. We have no reason to suppose this indicates the start of a significant trend but we will be watching the situation closely.

The statistics in Table 3 illustrate that not only is the crime of rape being contained in Hong Kong but, as far as can be ascertained from inter-city and inter-country comparisons, it is being contained at a relatively low level. Moreover, the detection rate also compares not unfavourably with that in other cities (and for technical reasons, Hong Kong's statistics tend to understate the detection rates).

The police will continue to investigate reported assaults with a view to bringing the perpetrators to justice. But perhaps the most effective measure in combating this type of crime rests with potential victims in avoiding situations where attacks are more likely to occur. Parents must have a role here, in endeavouring to instil in children an appreciation of the dangers. A more enlightened view of human sexual relationships properly expressed by parents and teachers might also help to reduce the incidence of these crimes and this is something the Government will continue to work towards. One option which is not available to us is to increase the penalties. The maximum penalty for rape is life imprisonment and that for indecent assault is already five years' imprisonment. It would not be appropriate to make either of these penalties more severe.

Table 1

NO. OF REPORTED RAPE AND INDECENT ASSAULT CASES BY VICTIM'S AGE, 1982-1986 (JANUARY-JUNE)

Year	*Victim's age*	*Rape*	(I) *Indecent assault*	(II) *Rape and indecent assault*	(III) *percentage of (III) under 16*
1982	under 16	20	363	383	44.3
	16 and over	59	421	480	
	all ages	79	784	863	
1983	under 16	27	314	341	39.8
	16 and over	51	464	515	
	all ages	78	778	856	
1984	under 16	22	277	299	35.0
	16 and over	65	491	556	
	all ages	87	768	855	
1985	under 16	25	307	332	37.7
	16 and over	55	494	549	
	all ages	80	801	881	
Jan-	under 16	20	156	176	39.9
June	16 and over	16	249	265	
1986	all ages	36	405	441	

Table 2

NO. OF REPORTED RAPE AND INDECENT ASSAULTS ON FEMALES PER 100 000 FEMALE POPULATION BY VICTIM'S AGE, 1982-1986 (JANUARY-JUNE)

		Rate per 100 000 Female Population		
Year	*Victim's Age*	*Rape*	*Indecent assaults*	*Rape and indecent assaults*
1982	under 16	3.0	55.3	58.3
	16 and over	3.2	22.8	26.0
	all ages	3.2	31.3	34.5
1983	under 16	4.1	48.0	52.1
	16 and over	2.7	24.5	27.2
	all ages	3.1	30.6	33.7
1984	under 16	3.4	42.7	46.1
	16 and over	3.4	25.5	28.9
	all ages	3.4	29.8	33.2
1985	under 16	3.9	47.7	51.6
	16 and over	2.8	25.1	27.9
	all ages	3.1	30.7	33.8
Jan-	under 16	1.7	24.5	26.2
June	16 and over	1.2	11.5	12.7
1985	all ages	1.3	14.7	16.0
Jan-	under 16	3.1	24.0	27.1
June	16 and over	0.8	12.5	13.3
1986	all ages	1.4	15.3	16.7

Note: Girls aged under 16 are more frequently victimised in sexual assaults than females aged above 16. Comparing the first half of 1986 with the corresponding period last year, the overall rate of sexual assaults on females of all ages per 100 000 population has increased slightly from 16.0 to 16.7. The more worrying phenomenon is that the rate of rapes against girls under 16 years per 100 000 females has increased from 1.7 to 3.1.

Table 3

COMPARATIVE FIGURES FOR REPORTS OF AND DETECTION RATES IN CASES OF FORCIBLE RAPE IN DIFFERENT CITIES

		1979	1980	1981	1982	1983	1984
Hong Kong	Vol.	2.1	1.5	2.0	1.5	1.5	1.6
	Rate	62.5	52.0	68.0	62.0	46.2	52.9
Japan (Tokyo)	Vol.	3.3	3.2	3.5	3.3	2.4	2.2
	Rate	79.1	79.9	77.1	85.6	82.4	81.1
U.K. (London	Vol.	3.0	4.0	4.0	3.9	4.3	5.1
Metropolis)	Rate	66.0	60.0	49.0	56.5	53.3	54.2
U.S.A. (Washington	Vol.	45.3	44.8	43.1	65.2	65.2	58.7
D.C.) [(a)]	Rate	66.5	61.5	61.1	67.2	58.9	64.5
Indonesia (Jakarta)	Vol.	3.7	3.9	3.1	2.7	2.7	2.7
	Rate	47.0	58.4	58.6	48.0	53.6	57.2
Korea, Republic of	Vol.	5.1	5.6	6.3	8.7	7.6	8.5
(Seoul)	Rate	94.4	93.6	95.4	98.2	100.0	100.0
Malaysia (Kuala	Vol.	3.2	3.2	3.4	3.8	5.0	5.0
Lumpur)	Rate	36.7	48.4	41.2	30.0	31.0	14.0
Philippines (Manila)	Vol.	6.1	5.1	3.8	0.6	0.7	1.3
	Rate	50.8	60.8	62.0	70.4	45.5	47.8
Singapore	Vol.	2.9	2.8	3.8	3.2	3.3	4.2
	Rate	57.1	44.1	41.9	50.0	56.1	50.5

Note: Vol. = Volume/100 000 population
Rate = Detection/clear up rate (percentage)

(*a*) Figures prior to 1982 refer to its standard metropolitan statistical areas (i.e. include countries other than the respective cities) and from 1982 onwards, figures refer to the respective cities.

Remark: Comparison amongst the various economies should be treated with caution owing to differences in counting rules, reporting behaviour of victims and the social, economic and cultural background of the economies.

MRS. FAN: *Sir, may I thank the Attorney General for giving us such comprehensive statistics which will take some time to digest. May I ask what effort has the Government made or intends to make in drawing the public's attention on avoiding situations when attacks are most likely to occur?*

ATTORNEY GENERAL: I believe that this is not just a matter for the Government, but would also involve an element of self-help. As I have said parents must play a role in teaching children the dangers to be avoided. The Government's role will continue to be directed towards spreading what I think is a common sense message that girls should avoid situations where they might be attacked, avoid walking alone in streets at night, avoiding unlit places, and matters of this sort. It is I think largely a matter of exercising common sense.

MR. MARTIN LEE: *Sir, surely the emphasis should not be on the potential victims but on the potential rapist. What steps are being taken for example to rid the streets of Hong Kong of pornographic literature so as not to incite in the minds of these would be rapists the desire to rape?*

ATTORNEY GENERAL: As I have said, Sir, I think that enlightened sex education can play an important role here. Offences can occur throught a combination of ignorance and curiosity. Sex education both in schools and by parents can encourage a healthy attitude towards human relationships and guide young persons in appropriate moral standards.

MR. CHEONG: *Sir, having accepted the Attorney General's answer that the maximum penalty for rape is life imprisonment, could the Attorney General enlighten us as to how many of the criminals have really been sentenced to life imprisonment?*

ATTORNEY GENERAL: I am going to spare Mr. CHEONG from another list of statistics, because I am afraid that separate statistics are not kept for sentences for rape. However, it may help if I give some indication, based on the courts' decisions in recent years on sentences for rape. Where the offender has committed rape in the course of a robbery or burglary and it is accompanied by violence, a sentence in excess of 10 years can be expected. During the current year in cases of this kind, the high court has awarded terms of imprisonment of 10, 12, 13, 15 years and in one case life imprisonment. Where the offence is not marked by such violence and brutality, a sentence of about six years can be expected.

Control of publication and distribution of pornographic materials

6. MR. HUI asked: *Could the Government inform this Council the progress made so far in devising measures to strengthen the control over and enforcement against the publication and distribution of pornographic materials?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, upon the Executive Council's approval in principle of new measures to strengthen the controls over pornographic articles in April of this year, the Administration has completed drafting work on a new Bill. The next step is to further consult the Executive Council in the very near future and, subject to its advice, a draft Bill will be published. The proposals envisage the establishment of a judicial process, involving lay persons, to classify into categories articles submitted. By so doing both the publisher and the Crown would be able to obtain a speedy classification with the community participating in the sifting process. I believe that these measures should meet most of the community's concern that there should be control of the publication of pornographic materials. Details of the draft legislation must, however, await the advice of the Executive Council.

MR. HUI: *Sir, since some of us have been patiently awaiting the passage of this new Bill, including my colleague, Mr. Martin LEE, when exactly will the Executive Council be finally consulted, and what interim measures is the Administration taking in curbing the sale of pornographic publications before the Bill is finally enacted and implemented.*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, although the topic has been discussed for some time, the actual approval in principle of new measures had only been received in April, and since then the Administration has accorded it top priority. Therefore, contrary to a delay, there has actually been a very hard working inter-departmental team which has been working during the last two months including some weekends. The intention is to consult the Executive Council in the very near future which could really be within a matter of weeks.

As for the interim, action can and will continue to be taken under the existing Objectionable Publication Ordinance.

Practice by accountants and lawyers with limited liability

7. MR. LEE YU-TAI asked: *In view of an increasing trend in negligence claims against professionals such as accountants and lawyers, would Government consider a review of policy so as to allow professionals in Hong Kong to practise in the form of incorporations with limited liability?*

ATTORNEY GENERAL: Sir, Mr. LEE may be aware that the Government has recently received a joint submission on this matter from an *ad hoc* committee representing various professions, including accountants and lawyers.

The committee has drawn attention to the fact that negligence actions have, in recent years, increased both in number and value. As a result, some professions are experiencing difficulty in obtaining professional indemnity insurance at reasonable cost.

I expect to meet the committee very shortly to discuss the problem with them.

Until I do so, there is very little I can usefully say in response to Mr. LEE's question, except perhaps to sound a note of warning.

The problem is not one which affects Hong Kong alone. It is very much an international problem.

So far as I am aware, no other major common law jurisdiction—that is, the United Kingdom, the United States, Canada, Australia or New Zealand—has yet found an acceptable solution.

The issues are complex. It may be necessary to examine the position of the various professions separately. I think the Government will need a great deal more information before coming to any firm conclusions.

MR. LEE YU-TAI: *Sir, I am aware of the joint submission mentioned in the first paragraph of the answer; the submission was made on the 26 May of this year. May I ask when the discussion with professional bodies is expected to start?*

ATTORNEY GENERAL: Sir, as I have said, I am meeting the committee next week.

MR. PETER POON: *I appreciate what the acting Attorney General has said but is Government aware of the fact that, unless the problem of limited liability for professionals is properly addressed in time, it is probable that many professionals, in particular accountants, would not be willing to enter into public practice thus depriving the community of the necessary expertise. For example, at present less than 20 per cent of the professional accountants are in active public practice?*

ATTORNEY GENERAL: Yes, Sir, I think we are aware of the problem but, as I say, the issues are extremely complex and we must examine the facts. We need a lot more information and we will almost certainly need separate bands of information from separate professions although there is a joint submission. I suspect that the problems faced by separate professions are not identical but we are aware of the problem. I am not myself unsympathetic, but I have not lost sight of the very considerable difficulties that lie ahead.

MR. CHEONG: *Sir, given the fact that Government seeks more information and given also the fact that it is a very important question for Hong Kong as a whole, what steps are being taken by Government to seek the information and to evaluate it?*

ATTORNEY GENERAL: We are seeing the committee next week, Sir, and we shall be asking them to elaborate the problem. As I have said, we will almost certainly need more information from the professions separately. I think I am right in saying that the committee, in its submission, noted that they would be addressing the Government in further detail with respect to the separate professions and we await that information. We must get the dialogue under way.

MR. CHEONG: *Would the Government please assure us that just seeing the committee next week is not the only step that's going to be taken?*

ATTORNEY GENERAL: Until we see them, we don't know the size of the problem, Sir. We must get more facts. I am sorry to come back to it but must proceed with great caution in this area. It will be approached in a very serious manner.

Control of domestic insecticides

8. DR. IP asked: *Could Government inform this Council whether there is any harmful effect in the use of domestic insecticides and whether existing legislative controls are adequate to prevent environmental contamination and to ensure safety of domestic insecticides?*

SECRETARY FOR HEALTH AND WELFARE: Sir, domestic insecticides comprise diverse groups of compounds of varying degrees of toxicity. Broadly speaking, the toxicity of an insecticides varies with the characteristics of the ingredients, their respective concentration in the product, the mode of application and the actual quantity used. In general, if domestic insecticides are used properly the health risk should be negligible. However, improper or indiscriminate use may lead to harmful effects.

The normal use of domestic insecticides is unlikely to lead to contamination of the general environment. However, indiscriminate disposal of large quantities could lead to environmental contamination.

There is at present no legislation which deals specifically with domestic insecticides. However, the ingredients of some such insecticides are included in the poisons list made under the Pharmacy and Poisons Ordinance and in these cases the pesticides are subject to controls in respect of storage, transport, sale, labelling and bottling.

It is recognised that the Pharmacy and Poisons Ordinance is not entirely appropriate for the control of domestic insecticides. Following consultations between Government departments, it has been accepted that there is need for controls to be introduced in this area and new legislation is being prepared.

Regulations will also be proposed shortly to control the disposal of hazardous waste, including waste insecticides such as damaged or redundant stock.

DR. IP: *Sir, I would like to ask Government to give this Council an approximate date on which such legislation and regulations would come before this Council for the reason that the last two paragraphs of his answer given today are more or less identical to the last two paragraphs of the answer to a similar question asked by Dr. Ho Kam-fai a year ago.*

SECRETARY FOR HEALTH AND WELFARE: Sir, I assure Dr. IP that the relevant parts of the Government have not been inactive in the meantime. In fact they are now engaged on a survey designed to collect relevant information relating to the trade in domestic pesticides. These surveys are at an advanced stage and the aim is to complete the work before the end of this year and to start drafting the new legislation early next year. The Agriculture and Fisheries Department has also established contact with pesticide control authorities overseas and gathered up-to-date information on the subject from them. I am advised that the whole process will take about two years.

DR. IP: *Sir, just a point of clarification as regards the last sentence of the first paragraph of the answer given, which says 'if domestic insecticides are used properly the health risk should be negligible'. Does this include the toxic type of domestic insecticide that has recently come up in the news?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Government does believe that in general insecticides, if properly used, are unlikely to be harmful. However, there could be special problems with certain more toxic kinds. They survey which I mentioned should provide further information with which to answer this question.

Community therapeutic centre

9. MR. LIU asked (in Cantonese): *Will Government inform this Council of the following:*

(a) on what basis does Government identify sites for the construction of community therapeutic centres;
(b) what is the planned distribution by districts of, and how close to residential buildings are, the new therapeutic centres to be built by Government; and
(c) has the Government considered the likely effects of the proximity of the centres to residential buildings on both the patients and residents living near-by?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the primary objective in establishing community therapeutic centres is to help ex-mental patients to re-integrate into the community and to live independently. Given this objective, the identification of sites for the centres has to take into consideration several factors. First, the site has to be in a location adjacent to an established residential area. This is necessary to serve the purposes of re-integration and therapy through contact with the community; second, we need sites which are readily available because of the urgent demands for this service; third, the site should be close to a psychiatric centre or clinic which can provide supporting services; and fourth, the building on the site has to be either purpose-built or an existing independent building which can be converted easily into suitable hostel-type accommodation which allows effective supervision while the client undergoes his own individual rehabilitation programmes.

The Government has two community therapeutic centres under planning, one in Kennedy Town and the other in Kwai Chung, and these should be sufficient to meet the estimated demand for the service.

Both of these centres will be independent blocks separated by a road from other residential accommodation.

Since the centres themselves are residential they need to be close to residential areas; and being close to residential areas is necessary for the objectives of re-integration and therapy as I have said.

I should like to make it clear that the clients of the centres must be stable before they are discharged, on professional medical advice, from mental hospitals into the centres; and they will be under close supervision and care as preparation for independent living and reintegration into the community. So we do not believe that their presence should have an adverse effect on nearby residents.

MR. LIU (in Cantonese): *Sir, some residents in the Western District believe that the community therapeutic centre to be built in Kennedy Town will affect the residents nearby. What plans does the Government have to allay the fears of the residents there?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, such feelings although very understandable stem mainly from a general misunderstanding about mental illness. The Government will continue to intensify its public education programme to bring across a proper understanding of mental health and of the nature and objectives of community therapeutic centres. Public education programme on mental health in the form of seminars, talks and exhibitions were held in the Western District in December 1985 and in May and July of 1986. On a territory-wide level, from May to September, more than 10 voluntary agencies and Government departments will organise 29 activities in various districts as part of this year's mental health promotion campaign.

Measures to admit passengers at MTR entrances after hoisting of typhoon signal No. 8

10. MRS. NG asked (in Cantonese): *Will the Government inform this Council what special measures are being taken by the MTRC to admit passengers at MTR entrances in an orderly manner when typhoon signal No. 8 is hoisted?*

SECRETARY FOR TRANSPORT: Sir, in framing the question I believe Mrs. Pauline NG had in mind the events that took place immediately following the hoisting of typhoon signal No. 8 as Typhoon Peggy approached Hong Kong on 11 July 1986. On that occasion, within the first 30 minutes of the signal being hoisted, some MTR stations were subjected to demand from intending passengers which would normally be handled over a period of two hours or more. In such situations station control measures are instituted by the MTRC and intending passengers are admitted in such numbers at a time as can be safely dealt with at each individual station. This is primarily dependent on the train capacity available to move passengers away. The overriding consideration here is to ensure that no dangerous overcrowding occurs in station concourses or on station platforms.

On a more general front a number of measures have recently been agreed in discussion between the Transport Department and Royal Observatory on the one hand and public transport operators on the other with a view to improving transport arrangements during typhoons.

The Royal Observatory will establish and maintain direct communication links with public transport operators following the hoisting of typhoon signal No. 3 and keep them posted at regular intervals on the possibility of typhoon signal No. 8 being hoisted. With the benefit of such advice the operators will be better placed to provide additional carrying capacity in areas where major demand can be expected, thus in the case of the MTRC increasing station thoughput and reducing the need to regulate admission of intending passengers through periodic closure of station entrances.

The public transport operators have on their part given assurances that they will maintain normal services for as long as possible—at least three hours in the case of buses and at least six hours in the case of trains after No. 8 has been hoisted. This arrangement will, however, not apply to ferry services, nor if No. 9 or a higher signal is hoisted.

MRS. NG (in Cantonese): *Sir, I appreciate the control measures taken by the MTRC to make sure that there is no dangerous overcrowding occurring on station platforms but has the MTRC considered posting more staff in the stations to make sure that people can pass through the entrances safely, so that no danger will occur?*

SECRETARY FOR TRANSPORT: Certainly, Sir, this has been considered. I might add that the Mass Transit Railway District of the police force, which was set up specifically to maintain law and order at MTR stations, are in close contact with the MTRC at all times and assist in maintaining order when needed.

Voluntary withdrawal of children's aspirin from the market

11. MRS. CHOW asked: *In view of recent reports on Government's intention to request the voluntary withdrawal of children's aspirin from the market, can this Council be informed:*

(1) when did Government first come to the conclusion that this drug poses a threat to children;
(2) how many deaths have been linked directly or indirectly to the use of aspirin by children;
(3) when was the decision made to request the voluntary withdrawal of the drug;
(4) why is the drug not banned;
(5) why has the public not been warned of the hazard aspirin products pose to the health of children; and
(6) what action does Government intend to take regarding this hazard?

SECRETARY FOR HEALTH AND WELFARE: Sir, my answers to the various questions, in the order they are asked, are as follows:

(1) Information about a possible link between Reye's Syndrome and the use of aspirin by children was given in a World Health Organisation notification in late 1985. The WHO report indicated that medical authorities in different countries held conflicting opinions on this matter. Since then reports from various countries have been monitored by the Medical and Health Department. After receiving a report from the United Kingdom's Department of Health and Social Security at the end of June this year on the results of a four-year study into the possible existence of this link, which led the pharmaceutical companies in the United Kingdom voluntarily to withdraw junior aspirin products from the market, the Pharmaceutical Registration Committee of the Pharmacy and Poisons Board at its meeting on 16 July concluded that while the causes of Reye's Syndrome are not clearly defined, aspirin may be a contributory cause of the disease in some children. This conclusion was accepted by the Director of Medical and Health Services on the same day.
(2) There are no children's deaths directly attributable to the use of aspirin. As regards the number of deaths indirectly linked to the use of aspirin by children, the Medical and Health Department is collecting information from the hospitals on the number of deaths that might be classified under Reye's Syndrome and the number of such cases where aspirin had been administered. I shall write to Mrs. CHOW once this information is available.

(3) The decision to request the voluntary withdrawal of the drug was made on 16 July on the recommendation of the Pharmaceutical Registration Committee. A circular to this effect was issued by the Medical and Health Department on 28 July. It also recommended that the containers of all aspirin products should be labelled in both English and Chinese with a warning to the effect that these products should be kept out of the reach of children and should not be given to children under 12 years of age except on medical advice, and on other precautions that should be taken.

(4) Having regard to the evidence and reports from the World Health Organisation and other countries, the Pharmaceutical Registration Committee considers that up to the present a definite link between Reye's Syndrome and the use of aspirin by children has not been established, and that a ban would be unwarranted. I am not aware of any country which has banned the sale of junior aspirin products and, moreover, aspirin remains a suitable drug for adults.

(5) The public were alerted by the Medical and Health Department to the possibility of a link between Reye's Syndrome and the use of aspirin by children through various statements given to the mass media and in communications with the medical profession since June of this year, and the conclusion drawn at the meeting on 16 July, to which I have referred, was also announced.

(6) As I have noted, precautionary measures have already been taken. The Medical and Health Department is now monitoring the situation and will review the need for further measures in six months' time.

MRS. CHOW: *Sir, as time is the essence and given that Government seems to be conscious of the need for expedient action, is Government satisfied that the news of the possible health risk of children's aspirin has been given as much exposure as is necessary to ensure wide public knowledge right from the start? And why did the request for voluntary withdrawal require two weeks to issue?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think that the recent publicity given to this issue has ensured that there is a widespread public awareness of the risks. And to why it took from between 16 July to 28 July to issue a circular, I think I would like to emphasise that the Government did not envisage that it was responding to an emergency situation. It was merely taking sensible precautions not emergency action.

DR. CHIU: *Sir, in view of the fact that the Food and Drug Administration of USA warned American people about the hazards of aspirin on children way back in 1982, will the Government inform this Council (1) why we had to take four years to warn our people and (2) whether our Pharmacy and Poison Board is keeping in close contact with other monitoring bodies, for instance, the FDA in the United States and the Committee on the Safety of Medicine in the United Kingdom, for the exchange of information?*

SECRETARY FOR HEALTH AND WELFARE: Sir, to deal with the first question, which really relates to the first US notification, which took place in 1982, the Medical and Health Department was not aware of this special warning until it was notified to them by the World Health Organisation along with the other research which I mentioned, in late 1985. However the US findings did not provide sufficient ground for urgent action to be taken at the time. I think to demonstrate this point, I'd like to mention that, when asked why earlier action had not been taken in the United Kingdom, following the US findings, a spokesman for the Department of Health and Social Security in the United Kingdom remarked, 'There has been some concern about aspirin and Reye's Syndrome in the United States for some time but no causal link has been firmly established. The US research raised as many questions as it answered. There was no point in unduly alarming people or causing panic, until a significant study was completed in the United Kingdom'. I also understand that the US authorities, although they did warn their public about the possible risks in the use of aspirin by children, have not felt it necessary to request that the product should be withdrawn from the market.

Dr. CHIU's second question concerned the links that the Government has with overseas bodies. The Medical and Health Department's principal source of information about overseas research on drug safety and other medical matters is the World Health Organisation, which sends the department a regular monthly communication and can provide more frequent information as necessary, on particular matters of concern. The notification which WHO sent to MHD in late 1985 on the possible link between aspirin and Reye's Syndrome summarised the findings of various overseas research studies, including research undertaken in France and Japan where no such link has been found to exist. Departmental staff also keep in touch with overseas developments, through the various medical journals from the United States, the United Kingdom and other countries to which the Medical and Health Department subscribe. The Pharmaceutical Registration Committee which comprises experts from within and outside the department, analyses this information and makes recommendations on measures appropriate for Hong Kong.

DR. CHIU: *Sir, I thank the Secretary for Health and Welfare for the information but will the Government inform this Council of the action on the use of children's aspirin in other countries?*

SECRETARY FOR HEALTH AND WELFARE: Sir, in the United States of America, the United Kingdom, Germany and Italy, the authorities have requested the manufacturers to affix labels to the effect that aspirin should not be given to children under 12, except on medical advice. That is similar action to what we have taken here in Hong Kong. However, Japan and France have reported that no action would be taken against aspirin at present as their own studies failed to establish any relationship between the use of aspirin and Reye's Syndrome, and I believe the Netherlands have adopted a similar conclusion.

DR. IP: *Sir, although the indiscriminate use of aspirin, like any other drug, is not advisable, yet it has its distinct role in the treatment of certain specific diseases. Would Government therefore consider putting aspirin onto the Part I Poisons Schedule III List so that it can only be prescribed by a doctor?*

SECRETARY FOR HEALTH AND WELFARE: Sir, aspirin is of course a widely used medication. It has, I believe, been available in the world since 1853 and only recently has there been some concern about the side-effects. The decisions to put particular drugs on the various parts of the poisons list are taken by the Pharmacy and Poisons Board but I shall certainly put Dr. Ip's point to the board for consideration.

MR. CHEONG: *Sir, may be as a less well-informed Member of this Council, could I be enlightened what Reye's Syndrome is all about?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Director of Medical and Health Services informs me that Reye's Syndrome is a condition affecting children, mainly under the age of 12 years. It is associated with bio-chemical evidence of liver damage, involvement of the central nervous system, fever and virus infections. It usually manifests itself during the recovery period of a viral infection.

Written answers to questions

Facilities at Prince of Wales Hospital for teaching purpose

12. MR. CHEUNG asked: *Will Government inform this Council whether the facilities available at the Prince of Wales Hospital are adequate to meet the needs of the Faculty of Medicine of the Chinese University of Hong Kong for teaching purposes?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the facilities available at the Prince of Wales Hospital are adequate to meet the teaching needs of the Faculty of Medicine of the Chinese University of Hong Kong. The faculty was actively involved in identifying the requirements for equipment, staffing and other facilities for teaching purposes at the planning stage of the hospital.

A Joint Liaison Committee comprising senior representatives from the Medical and Health Department and the faculty, which was established last year, will ensure that adequate facilities for teaching purposes are maintained.

Urban management role of district boards

13. MR. LIU asked: *Will Government inform this Council of the present position regarding its consideration of developing the urban management role of district boards, as stated by the Chief Secretary in this Council on 15 February 1984?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, in his statement in the Legislative Council on 15 February 1984, the Chief Secretary pointed out that 'as district boards have already made an impact on the management of our densely populated urban areas, it is for consideration whether this urban management role should be developed. In addition, district boards might be able to assist in the management, and in the promotion of the use of, certain facilities located in their districts, other than specialist facilities, which have been provided for the benefit of residents in their districts'.

The urban management role of district boards is being exercised through the advice they give to various Government departments and their general involvement in the process of decision-making in the management of district affairs. Important Government programmes and proposed projects affecting the districts are normally submitted to the district boards for advice or comment. These include, *inter alia*, development programmes for new towns, social service and education facilities, traffic management schemes, clearances for environmental improvements and the bus development programmes and so on. One more recent development has been the active role played by the district boards in identifying target buildings for the provision of professional assistance by the new building management teams which are now in place in four districts.

I am delighted to see that the district boards in the New Territories have been invited to select members to sit on the district committees set up under the Regional Council in April 1986, and are thus able to play a greater part in decisions regarding the provision and management of municipal services and facilities in the New Territories. It is, however, too early to assess how successful these arrangements will be, but the fact that the district committees are chaired by the district boards' representatives on the Regional Council is an encouraging start.

The role I have described above, though essentially indirect and confined to tendering advice, is a most valuable contribution to district administration and the work of the central government. It is considered appropriate at present, having regard to the advisory function of district boards. But this matter will be kept under constant review so as to identify further scope for involving the district boards in urban management.

Provision of clinical psychologists in support of counselling services

14. MR. HUI asked: *Could the Government inform this Council whether the demand for clinical psychologists has been established for family, rehabilitation, elderly, and day and residential child care services; and if so, what plans Government has to provide clinical psychological services for the Hong Kong public?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the role and demand for clinical psychologists to support counselling services was identified in 1984, on the

recommendation of a working group with membership from both the Government and the voluntary welfare sector. The working group recommended a planning ratio of one clinical psychologist to 1 356 counselling cases, and this was endorsed by the 1985 Five Year Plan Review as an interim target.

Clinical psychologists are attached to some family service centres and they also provide support for the rehabilitation, elderly and child care counselling services. In order to achieve the interim target it will be necessary, on the basis of current caseload, to increase their number from 10 to 21. In recognition of the shortage of qualified persons and the limited output of new graduates, the 1985 review accepted that achievement of the interim target would have to be phased.

Funds are available to create five additional posts in the subvented sector during the current financial year. The Social Welfare Department will be seeking to increase its own establishment in this area in the next financial year.

Use of hospital services by non-Hong Kong residents

15. DR. CHIU asked: *In view of the fact that hospital services are heavily subsidised by public funds, will the Government inform this Council:*

(a) to what extent have hospital services been used by non-Hong Kong residents in the past 12 months;
(b) will any separate fee-charging system be introduced for non-Hong Kong residents using such services; and
(c) what criteria are used to distinguish between residents and non-residents?

SECRETARY FOR HEALTH AND WELFARE: Sir, statistics are not routinely collected on the extent to which hospital services are used by non-residents. However, a special survey was conducted between 16 August 1985 and 30 November 1985 showed that 1 151 non-residents used the Government hospital services during that period. 957 of these cases were admitted through the Accident and Emergency Department (A & E).

Visitors and non-residents are accommodated as far as possible in private wards, where they are required to pay the full cost of treatment and accommodation. Those admitted to public wards pay only the standard fee of $18 ($20 with effect from 1 August 1986). A separate fee-charging system in respect of public wards is being considered for non-residents who either come to Hong Kong for medical treatment (perhaps referred here by doctors in their own country of residence) or who are referred by Hong Kong doctors for treatment in a public hospital. Genuine emergency cases and persons from the United Kingdom, which has a reciprocal agreement with Hong Kong, would continue to be treated on the same basis as local residents.

The criteria used for distinguishing residents from non-residents is possession of a Hong Kong identity card.

Expansion of outreaching social work services

16. MRS. TAM asked: *Could the Government inform this Council whether it has plans to expand the existing outreaching social work services?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the outreaching social work service was started in 1979 with 18 ten-man teams. In 1981, in the course of a review of personal social work among young people, it was noted that, because of the difficulty in recruiting trained social workers, these teams were operating consistently at well below their established manning levels. The review recommended that no further expansion of the service should be contemplated until 80 per cent of the existing posts had been filled by staff of an appropriate rank.

Since then the average strength of these teams has improved considerably and in March of this year 89 per cent of the posts had been filled. In September 1985, the Centre for Hong Kong Studies at the Chinese University of Hong Kong completed a study that evaluated the programme and recommended improvements in its methods and administration. The Social Welfare Department has discussed the report with the Hong Kong Council of Social Services on several occasions and is now preparing a series of proposals for improving and developing the service. The advice of the Social Welfare Advisory Committee will be sought on these proposals in due course.

Standard of English in secondary schools

17. PROF. POON asked: *In view of the Education Commission's recommendation that secondary schools be encouraged to adopt Chinese as the medium of instruction, will Government inform this Council what measures have been or will be taken to help students maintain and improve upon their standards of achievement in English?*

SECRETARY FOR EDUCATION AND MANPOWER: As Members are aware, the Education Commission, in its first report, published in October 1984, endorsed the implementation of the 1980 package of measures for the improvement of Chinese and English in schools. Those measures relating to English included revising the primary and secondary school English syllabuses; providing additional teachers to all public-sector secondary schools for remedial English teaching; equipping public-sector primary and secondary schools with wire-free loop induction systems to provide students with opportunities to listen to well-spoken English and to improve their listening skills, and strengthening in-service language teacher education through the establishment of an Institute of Language in Education. These measures have already been implemented, though the version of English syllabuses is being conducted in phases and is not yet complete. Primary school syllabuses have already been revised, while revision of secondary school syllabuses is being carried out, starting this September, in three stages, and will be completed by September 1988.

The commission proposed a number of additional measures designed to improve language learning, and all were accepted by the Government. Those which are expected to help students to maintain and improve upon their standards of achievement in English in schools which adopt Chinese fully as the medium of instruction are the provision of additional teachers of English, with facilities for small-group teaching; a second wire-free loop induction system; a one-off library grant for additional reading materials in English and other teaching aids and the recruitment of expatriate lecturers in English for the Colleges of Education and the Institute of Language in Education. Schools will be provided with attainment tests in English and Chinese to help them to group their Secondary 1 pupils. Such grouping should facilitate more effective teaching and learning. These measures are expected to be implemented in 1988.

A scheme to encourage public-sector secondary schools to employ expatriate teachers of English is now under consideration and schools are currently being consulted on this scheme.

The Advisory Inspectorate of the Education Department will conduct school inspections on a regular basis to monitor the effective and efficient use of the above-mentioned additional resources. It will also issue guidelines on small-group teaching, organise refresher courses, seminars and workshops for teachers of English, and review the English language syllabuses which will be, if necessary, revised in the light of developments relating to the medium of instruction in secondary schools. The Institute of Language in Education organises full-time refresher courses for secondary school teachers of English and these are to be expanded from September 1986.

Statements

The case of 'Kwok Ah-nui'

SECRETARY FOR HEALTH AND WELFARE: Sir, on 14 May the substantive Secretary for Health and Welfare answered a question in this Council on the case of Kwok Ah-nui, a young girl who, it was said, had been kept locked up by her mother since birth. In view of Members' concern about the Government's handling of this case, he agreed, in a further statement in this Council on 2 July, to make available to the UMELCO Panel on Welfare Services the reports on the internal reviews conducted by the Director of Social Welfare and the Director of Medical and Health Services. This was done and both directors and I appeared before the panel on 16 July to answer Members' questions.

The panel have now made known their views on the case. I am grateful to Members for their work, and I assure them that careful consideration will be given to the recommendations they have made.

The further undertaking was given on 2 July that a full statement on the case would be made in this Council following the examination of the reports by the

UMELCO panel. I am now in a position to make this statement. I have also tabled the two reports except for the confidential annexes which contain personal information about Madam WONG Yuen-siu and her family that should not be made public for reasons of professional ethics. However the full reports, including the confidential annexes, were provided to the UMELCO panel, so that the panel would have a complete picture of the case.

The series of events between November 1985, when the case first came to the department's notice as a result of a telephone call on the hot-line, and 8 May 1986, when the decision was taken to break in to Madam WONG's flat in Kwai Chung, were described by the Secretary for Health and Welfare in his answer on 14 May and are set out in detail in the reports which have now been tabled. I do not propose to repeat them today. I should like, however, to highlight certain salient features which may help to explain the department's actions.

The social worker in charge of the case made five unsuccessful attempts to gain entry to the flat in order to satisfy herself as to the child's condition, and she also sought the help of neighbours and of the Housing Department staff in the estate. The UMELCO panel consider that more intensive work should have been undertaken prior to the break-in, but that a shortage of staff and resources prevented the necessary time from being devoted to the case. This conclusion generally accords with the view taken by the Director of Social Welfare in her own report. She has accepted that it was not satisfactory for departmental staff to rely on second-hand information to reach the initial view that this was not a serious case of child abuse or neglect. On 15 May all staff concerned were reminded of the need to have early access to any child alleged to be at risk, and suitable guidelines are being drafted for inclusion in the department's operational manual. Following the indication which I gave in this Council on 23 July, the director has now submitted a request for the necessary resources to make further improvements in the manning scale at the family services centres.

In considering this aspect of the case, we should bear in mind also that the Director of Social Welfare's powers under the Protection of Women and Juveniles Ordinance to intervene in the relationship between parent and child, including the power to require the parent to produce the child, generally arise only when there is reason to believe that the child is in physical or moral danger. The information available at an early stage of the case did not point to such dangers. Madam WONG had made fully clear by her words and actions that she did not accept the caseworker's offers of assistance and that she did not wish her privacy to be intruded upon. It was only at a later stage that there was clear evidence that she was mentally ill. I welcome the panel's support for a review of the Protection of Women and Juveniles Ordinance, and will give further thought on how this should be undertaken. The Social Welfare Advisory Committee will be consulted on our proposals in due course. While I accept the panel's observation on the need for checks and balances, it would appear also from this case that the grounds which permit a social worker to intervene in the interests of the child may be too narrowly defined. The panel have expressed

concern about young children being left alone at home. All aspects of this problem will be examined, including the possibility that it should become a ground for the director to exercise her powers under the Ordinance.

Turning to the break-in itself: the additional information which led the departmental staff to conclude that they did have grounds for taking action under the Ordinance was not received until 6 May, when Madam WONG's former husband provided the department with information about Madam WONG's behaviour which indicated that she might be mentally ill. Subsequent enquiries tended to support this impression. An order was then issued by the District Social Welfare Officer on 8 May providing for Ah-nui to be removed to a place of refuge pending further investigations, in accordance with section 35(1)(*a*) of the Ordinance. As efforts to gain access to the child had been unsuccessful and as Madam WONG remained unwilling to open the door, the departmental staff decided, in view of what was known about the unpredictability of Madam WONG's behaviour, that it was necessary to enter the flat forcibly in order to ensure the safety of the child. The power to use force to enter premises in such circumstances is contained in section 44(1) of the Ordinance.

The Director of Social Welfare has concluded in her report that the use of force to enter premises must be regarded as a last resort, but that it was justified in the circumstances at the time. The UMELCO panel have also considered that the break-in might be necessary in these circumstances. The Attorney General's Chambers have advised that the steps taken by the Director of Social Welfare and her staff were taken lawfully in accordance with the provisions of the Protection of Women and Juveniles Ordinance.

As for the effect which the break-in had, the panel believe that it was not a factor contributing to Madam WONG's illness. This point has been confirmed by the psychiatrists who have examined her and found that she had been ill for some time. None the less the panel have observed that the forcible entry had contributed to the stress on Madam WONG. I accept this observation as fair, but would simply add that the pressures arose also from the publicity which the case was attracting and from the crowd of reporters and neighbours outside her door. Having concluded that the child might be in physical danger, it would have been irresponsible for the social workers to have walked away from the scene, without taking the decisive action that would enable both the mother and the child to receive the treatment and the care that they needed.

For the future, the director has proposed that an amendment should be made to the Ordinance requiring the director or a duly authorised officer to apply for a search warrant from a magistrate before the power in section 44(1) to enter premises could be exercised. A provision of this kind would help to allay one of the principal concerns expressed about the present case, and I am pleased to note that the UMELCO panel has agreed that it merits serious consideration, together with other measures.

I should now like to turn to the procedures by which Ah-nui came to be placed in the Chuk Yuen Children's Reception Centre and Madam WONG came to be admitted to Kwai Chung Hospital. After the break-in had been effected, the departmental staff felt that there were sufficient grounds for proceeding with the removal order and taking the child away from the flat for a medical examination and then to the Chuk Yuen Centre. Following her admission to the centre, Ah-nui was examined by a visiting Medical Officer, a child psychiatrist, a child psychologist and a paediatrician. She was found to be in good general health, but her intellectual and social development had been held back by the reclusive conditions in which she had lived. It was recommended that she should continue in a setting where residential, educational and close supervisory facilities were available. Accordingly, on 14 May the Director of Social Welfare applied to the Tsuen Wan Juvenile Court for a Care and Protection Order under section 34(1) of the Protection of Women and Juveniles Ordinance. The hearing was adjourned to 28 May pending a social enquiry report and medical assessments of the mother and child, and on that date the magistrate ordered that the child should be committed to the Chuk Yuen Centre until 31 July, when the court would reconvene to consider what further arrangements should be made for her care.

The departmental staff were concerned also about Madam WONG's welfare if she were left alone in the flat, and they persuaded her to be escorted to hospital for examination. The doctor on duty in the Accident and Emergency Department of the Princess Margaret Hospital considered that she required admission to a mental hospital for observation. In accordance with section 31 of the Mental Health Ordinance, he applied to a Justice of the Peace for an order authorising her removal to a mental hospital for the purpose of detention and observation for up to seven days. Madam WONG was then admitted to Kwai Chung Hospital, where she was examined and confirmed to be mentally ill. On the day following her admission, she agreed to continue her treatment on a voluntary basis, which remains her present status. Since the time of her admission, Madam WONG has been receiving treatment from a team of qualified psychiatrists headed by a consultant. Thus the actions to admit Madam WONG to a mental hospital and to retain her as an in-patient were taken by qualified doctors in the interests of her mental health. Neither the Director of Social Welfare nor any of her staff played any part in these proceedings. The Director of Medical and Health Services has reviewed the circumstances surrounding the admission of Madam WONG to hospital and is satisfied that action was properly taken in accordance with the Mental Health Ordinance. The Attorney General's Chambers have also advised that the correct procedures have been followed and that Madam WONG's admission to and treatment in Kwai Chung Hospital are strictly in accordance with the law.

The UMELCO panel have recommended that the Mental Health Ordinance should be reviewed. A comprehensive review of this Ordinance, including the appeal and release procedures, has been under way for some time now, and

consultations with relevant organisations on a set of detailed proposals are now in progress. An amendment Bill to give effect to these proposals has already been drafted and, subject to the necessary approval, I expect that this Bill will be introduced in this Council early in the next session.

Madam WONG was made aware of her rights and of the avenues of appeal in respect of her admission to Kwai Chung Hospital and over the taking of her child into care. Following the decision to proceed with the removal order on her daughter, SWD staff explained her right under section 35(4) of the Protection of Women and Juveniles Ordinance to apply to the Director of Social Welfare or to a magistrate for the order to be discharged. She was repeatedly offered assistance in obtaining legal representation, from the Legal Aid Department or elsewhere, but declined. Madam WONG was present at the court hearing on 28 May, its purpose was explained to her both before and during the hearing, and she agreed to the arrangements proposed for the care of her child. Madam WONG will have legal representation at the resumed hearing on 31 July.

As a safeguard for future cases, the Director of Social Welfare has proposed that a provision should be inserted to require a child's parent or guardian to be given advance notice of a court hearing and to be permitted to address the court. In practice this is invariably done if the whereabouts of the parent or guardian is known, but a statutory provision of this kind would be seen to protect the rights of parents and guardians. The UMELCO panel also feel that this proposal should be seriously considered.

The Government has carefully considered the reviews conducted by the Director of Social Welfare and the Director of Medical and Health Services and accepts the conclusions which they have reached. Our social workers provide the community with competent and dedicated service, despite having a heavy case-load. They often have to take difficult decisions, as in the present case. Nor are they always in a position to defend their actions publicly, because of the need to maintain confidentiality. I believe that the director and her staff deserve our trust in their integrity and our respect for their professional judgement.

Finally, Sir, I should like to say a few words about the present condition of Ah-nui and Madam WONG, and about their future prospects. A case conference between the various professionals concerned with their treatment and care was held on 18 July. The case conference found that Madam WONG's mental condition had improved since commencing treatment and that she might soon be well enough to be given a trial discharge. However, Madam WONG was not yet considered to be well enough to look after the child on her own. The child is making good progress at the Chuk Yuen Reception Centre and is catching up in her intellectual and social development. Her mother is visiting her regularly. I am pleased to note that a delegation from the UMELCO panel who observed Madam WONG and Ah-nui were satisfied that they are being taken care of well. I can assure this Council that mother and child will continue to receive the best possible standard of care for as long as this is necessary.

The case conference recommended that mother and child should be placed together in a sheltered and supervised environment that will facilitate Madam WONG's rehabilitation and develop her self-care outside hospital before she returns to independent living. She also requires help in child caring. The child would participate in children's programmes and receive remedial education with a view to having her ready to attend an integrated kindergarten in September. The long-term objective is to reunite the mother and child and to help them to reintegrate into the community. The recommendations of the case conference have been placed before the Juvenile Court.

I fully endorse the recommendation by the UMELCO panel that the chances of mother and child re-integrating into the community and leading a normal life would be greatly enhanced if they were not subjected to further pressure of continuous publicity about their personal life. While Government officials know how to take what they get from the news media, publicity can be an arduous experience for those who have not chosen to be in public life. Madam WONG and Ah-nui both have a difficult road ahead, particularly when they will no longer have the protection which their residential institutions presently provide. If, as the news media profess, they have the interests of the mother and child genuinely at heart, then I hope that they will allow them to have some peace.

Report of the Select Committee on the problems involved in the prosecution and trial of complex commercial crime—30 July 1986

MR. PETER C. WONG: Sir, laid on this table this afternoon is the report of the Select Committee appointed by this Council on 20 November 1985 to 'consider further and report on the appropriate measures to be taken to resolve the problems involved in the prosecution and trial of complex commercial crimes, including changes in the procedures before and during trial and mode of trial'. The report, Sir, is the result of some 18 months of intensive work and consultation.

As hon. Members are aware, the problem posed by complex commercial crimes has been a matter of public concern since the '70s. It was felt that the existing procedures, which were designed to deal with ordinary criminal cases, were inadequate for complex commercial crime cases, which involve thousands of documentary exhibits, many of them of a technical nature. A series of proposals was initiated by the legal fraternity, culminating in the publication of a discussion paper, proposed by the Attorney General in July 1984. Public discussion of this proposal led to the publication of the Trial of Commercial Crimes Bill on 15 February 1985. On 13 March 1985, the Bill was introduced into this Council. The Bill provided that the prosecution or defence in a complex commercial crime trial could apply to the Chief Justice to have the case tried before a tribunal consisting of a judge and three commercial adjudicators. The main aim was to shorten the length and cost of the trial.

An *ad hoc* group was set up by the Unofficial Members of this Council to examine the Bill. The group received representations from concerned parties. Two major objections were raised. *First*, the representations emphasised that trial by jury was a safeguard of individual rights and should not be replaced without clear evidence that it was resulting in injustice or delay. *Second*, it was argued that it would be difficult to find sufficient impartial commercial adjudicators in the close-knit business community of Hong Kong.

Given the strength of public feeling against the courageous proposal, the group felt that it would be wise not to rush the Bill through the Legislative Council. Additional public consultation and a more thorough examination of the issues were considered essential. On 1 May 1985, the Second Reading of the Bill was accordingly deferred and a Select Committee appointed to examine all aspects of the problem of complex commercial crime. The first Select Committee had only a very short period to consider a difficult and complicated task, but none the less managed to identify certain basic problems.

The present Committee was appointed in November last year. A series of eight public sessions was held and evidence received from the Attorney General's Chambers, the Hong Kong Bar Association, the Law Society of Hong Kong and the Commercial Crime Bureau of the Royal Hong Kong Police Force. An invitation to submit written evidence was sent to organisations and individuals in Hong Kong, and that invitation was also published in two English and two Chinese newspapers. In addition to the public sessions, the Committee met privately on 14 occasions and also visited the Supreme Court to attend a session of a complex commercial crime trial and to hear the views of the Chief Justice. A number of informal discussions were also held.

Sir, our report covers the main aspects of the investigation, prosecution and trial of complex commercial crime. It is correct to say that the mode of trial (chapter 7), which attracted the greatest controversy, has been one of the most important areas of our deliberations. In coming to our conclusion on this issue, the Committee was mindful of the poignant statement made by the Attorney General in response to the motion to appoint the first Select Committee on 1 May 1985. He said and I quote—

> 'Even if this Council were minded to pass the Bill, it would in my judgement be fraught with danger to introduce a mode of trial that did not command broad support. It is no longer a question of whether the Bill's proposals are good ones or the best of the alternatives. It is a question of whether they would be generally regarded as a basis for a fair trial if they were passed into law. Public confidence in the justice of our trial procedure is far more important than the choice between one mode of trial and another. The strength of feelings that presently run against the passage of this Bill at this time in this form create a real risk of damaging public confidence in a just verdict, whatever the merits of the proposal may be.'

Sir, it is painfully obvious that the tribunal idea does not command the necessary broad support or public confidence. In my view, the tribunal concept has its merits and would probably go a long way towards solving may of the problems posed by complex commercial crime, had circumstances in Hong Kong and public sentiment remained what they were a decade or so ago. As fate would have it, both have undergone drastic changes and the prevailing mood is one of maintaining the status quo. In these critical times, it would be unwise to tamper with a time-honoured system which forms the cornerstone of our criminal justice. We believe that the common jury system should be retained. We are convinced that the high educational standards and qualifications of Hong Kong jurors enable them to assimilate and understand the difficult and technical issues in a complex commercial crime trial.

Sir, we have concluded that the most practical and publicly acceptable way of reducing the problems of delay and cost in the prosecution and trial of complex commercial crime cases is to lay down detailed statutory procedures to replace the present committal and pre-trial proceedings. With your permission, Sir, I would now outline our major recommendations in this regard.

The Committee recommends, in chapter 3 of our report, that committal proceedings should be abolished for complex commercial crime cases. We have concluded that the length and cost of a full committal is not justified in such cases. I wish to emphasise that the Committee is conscious of the need to provide a safeguard for the exceptional case where there may not be sufficient evidence to put an accused person on trial. We have recommended that an accused be allowed to apply for a discharge to a High Court judge in such a case. The abolition of full committal proceedings in complex commercial crime cases, in combination with the safeguard of application for discharge, will reduce the time and public cost required to bring commercial fraudsters to justice.

During our deliberations, the Committee was constantly impressed by the inherent difficulties in investigating and prosecuting complex commercial crime. A unique feature of this type of crime is the volume of documentation involved in transactions dealing with many companies and bank accounts, both in and outside Hong Kong. Investigators require many months to unravel transactions which have been deliberately concealed by the fraudster. These transactions involve large sums of money and take place over many months or years. Taken together, these features make it necessary to produce thousands of documents at trial. We believe that it is essential to reduce the volume of documents required at trial and to simplify the issues for the jury.

Accordingly, in chapter 4 of our report, we have recommended changes to existing pre-trial procedures. As a first step, the prosecution would be obliged to provide the defence with a detailed statement of its case, and concise summaries of all documentary evidence. The prosecution would not be allowed to depart from this case statement, except under exceptional circumstances. The defence would then be obliged to outline the nature of its case to the prosecution. This

outline would indicate only the main lines of defence and its disclosure would be confined to the prosecution and judge. We also recommend that the prosecution and defence be obliged to serve and respond to notices to admit facts and documents, in order to reduce the issues in dispute to a minimum.

Sir, we envisage that the new pre-trial procedures would be supervised by the trial judge who would be assigned at an early stage to conduct the case. Preparatory hearings, at which the judge would monitor the progress of the procedures, would take place well in advance of the trial. We recommend that all pre-trial procedures in complex commercial crime cases should be laid down in legislation. The sanction of costs should be available to the trial judge where the prosecution or the defence fail to comply with the proposed statutory requirements.

In chapter 6 of our report, we have recommended that additional documentation be provided to the jury to clarify and simplify the presentation of evidence and thereby shorten the trial. We believe that the prosecution case statement and the defence case statement, if any, should be made available to the jury along with summaries of evidence and the opening and closing speeches of counsel. The length and complexity of the trial dictates that this additional written material is necessary. The Committee has also recommended that increased use be made of modern visual aids and that a glossary of technical terms be prepared to help the jury understand the evidence.

Sir, that is a summary of our major proposals. All our recommendations are set out in chapter 9 of our report. The minutes of the private sessions of the Committee, and the transcripts of the public sessions and written submissions received, are contained in Volumes 2 and 3. We anticipate that, barring unforeseen circumstances, all three volumes will be published and be available to the public within two weeks. In due course, a Chinese version will be available as well.

Sir, we wish to express our appreciation of the co-operation given by the organisations and individuals who made written and oral submissions to the Committee. We also wish to thank the Clerk and his supporting staff for their assistance.

Finally, Sir, I would like to take this opportunity to express my personal appreciation of the time and effort that my colleagues on the Committee have given to a difficult and complex task.

1985-86 Annual Report of the Protection of Wages on Insolvency Fund Board

MR. CHAN KAM-CHUEN: Sir, in accordance with section 13(2) of the Protection of Wages on Insolvency Ordinance, the report of the fund for the period from 19 April 1985 to 31 March 1986 is tabled today. The statement of accounts prepared under section 11 of the Ordinance is attached to the report as

Appendix II covering the period from 1 October 1984 when the Protection of Wages on Insolvency Fund was established to 31 March 1986.

At the opening of the 1983-84 session of the Legislative Council, Sir, you announced that the Executive Council had accepted in principle the main recommendations of the report of the Working Group on Problems Experienced by Workers of Companies in Receivership. The subsequent enactment of the Protection of Wages on Insolvency Ordinance which came into effect on 19 April 1985 has provided for the establishment of a fund with an annual levy of $100 on business registration certificates. Payment of wages to employees in the event of insolvency of their employers is guaranteed up to the preferential limit of $8,000 under the Companies and Bankruptcy Ordinances.

During the year 1985-86, there were 8 159 applications with wage claims of $23.6 million from employees of 321 apparent insolvency cases. By 31 March 1986, 5 890 applications were approved with ex-gratia payment amounting to $13.5 million. Upon receipt of payment from the fund, the applicants transferred their rights to preferential payment to the extent of that amount to the fund board which initiated action to recover payment by filing proof of debt with the Official Receiver or private receivers as appropriate.

In most cases, payment from the fund was made on condition of the presentation of winding up or bankruptcy petitions. About 41 per cent of the 5 890 applicants received payment within two months and another 40 per cent within two to three months from the date of petition. More prompt payments should have been possible if detailed and up-to-date wages and employment records had been kept by insolvent employers and made readily available for verification by officers of the Labour Department.

As at 31 March 1986, the fund maintained an accumulated surplus of $39.5 million comprising $16.5 million as income prior to 19 April 1985 which may be regarded as reserve and $23 million as surplus from 1985-86. The substantial surplus in the fund's first year of operation may be attributed to the increase of levy income due to an increase of business registration certificates and the relatively low level of wage claims. The sound position of the fund has provided the basis for giving employees wider protection without an increase in the rate of levy in the coming year.

Sir, I take this opportunity to acknowledge the valuable support received by the board from various sources throughout the year. Our gratitude is due in particular to the Inland Revenue Department for the collection of levy, the Labour Department for verification of applications, and the Education and Manpower Branch of the Government Secretariat, the Legal Aid Department as well as the Official Receiver's Office of the Registrar General's Department for their guidance and advice. The board is also grateful for the support of the UMELCO and its Manpower Panel and the Labour Advisory Board on matters relating to the supervision fee which is still under consideration by Government.

Government Business

Motion

Mass Transit Railway Corporation Ordinance

THE SECRETARY FOR TRANSPORT moved the following motion: That the Mass Transit Railway By-laws 1986, made by the Mass Transit Railway Corporation on 15 July 1986, be approved.

He said: Sir, I move that the Mass Transit Railway By-laws 1986 made by the Mass Transit Railway Corporation on 15 July 1986, be approved by this Council. These by-laws revise and replace the former Mass Transit Railway By-laws.

The revision of the by-laws is considered necessary by the corporation as a result of the experience gained in the operation of the railway since its opening in October 1979. Apart from general updating and refinement, the revision of part III of the by-laws is intended particularly to tackle the problem of fare evasion.

Part I of the new by-laws provides definitions. The maximum surcharge as defined here means the amount payable by a person found guilty of fare evasion, the amount being fifty times the maximum adult single fare at the time the surcharge is to be paid. In practice, the MTRC intends to set the surcharge at $100. This level is not excessive considering the maximum penalty of $500 under existing by-law 12 governing the same offence.

Part II deals with admission of persons to the railway premises and damage to property on the premises.

Part III relates to fares and tickets for travel on the railway and the conditions upon which tickets are issued. By-law 15 provides that a person above the age of three years is liable to the payment of a surcharge if he is found, within the paid area of the railway, without a ticket, with a ticket improperly damaged, altered or interfered with, with a ticket that has expired, or with a child/student ticket when he is not entitled to one.

Part IV sets out rules of conduct for persons on railway premises. By-law 27(*b*) prohibits the consumption of food or beverages within a train or the paid area of the railway. Part V prohibits hawking, loitering, bill posting and similar activities on railway premises. Part VI provides for the removal and detention of vehicles left without permission on railway premises, and for the control of traffic on the premises.

Part VII prohibits the unauthorised possession of dangerous goods on railway premises. Part VIII provides for the return or disposal of lost property. Part IX empowers railway officials to require proof of identity from a person suspected of contravening the by-laws, and further provides for offences and penalties.

Sir, I beg to move.

Question put and agreed to.

First Reading of Bill

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) 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 Bills

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) BILL 1986

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: 'A Bill to amend the Motor Vehicles Insurance (Third Party Risks) Ordinance'.

He said: Sir, I move that the Motor Vehicles Insurance (Third Party Risks) (Amendment) Bill 1986 be read the Second time.

The Bill would repeal section 8 of the principal Ordinance, which requires insurance companies whenever they make any payment under a motor vehicle insurance policy to pay also the expenses reasonably incurred by non-profit-making hospitals in treating people injured by the insured vehicle.

Although the Ordinance was enacted in 1951, arrangements to recover hospital expenses from insurance companies were not instituted until 1978. However, a review in 1981 established that the recovery rate had been very low and that the revenue raised from the scheme had not met the cost of administration. The scheme was therefore suspended in September 1981.

It is considered that the scheme would continue to face administrative difficulties if it were revived. There are, moreover, doubts about whether it is appropriate to levy a charge of this kind. There does not appear to be any clear justification for requiring the insurance company of the motorist who is at fault to pay the expenses involved in treating traffic accident victims. General wards in public hospitals are open to all who require treatment, irrespective of the cause of their injury and no attempt has ever been made to recover hospital expenses incurred in treating other types of victim. The Employees' Compensation Ordinance, for example, does not require the insurer to meet the costs incurred by public hospitals in treating injured employees. Neither are such expenses recovered in assault and battery cases. There is no justification for singling out the motor insurance companies by requiring them to meet the hospital costs incurred in treating traffic accident victims. It is therefore proposed that section 8 of the principal Ordinance should be repealed.

Sir, I beg to move that the debate on this motion be adjourned.

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

Question put and agreed to.

SUPPLEMENTARY APPROPRIATION (1985-86) BILL 1986

Resumption of debate on Second Reading (16 July 1986)

Question put and agreed to.

Bill read the Second time.

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (9 July 1986)

ATTORNEY GENERAL: Sir, at the Committee stage I shall propose the addition to the Bill of a new clause 5A. The purpose of this new clause is to make it possible for future changes in fees to be made by resolution of the Legislative Council. Given that none of the fees in the principal Ordinance is above $70 I do not believe that the full legislative process is needed for their variation.

I shall also be proposing similar amendments to the Foreign Marriages (Amendment) Bill and the Legitimacy (Amendment) Bill.

Question put and agreed to.

Bill read the Second time.

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

FOREIGN MARRIAGE (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (9 July 1986)

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).

LEGITIMACY (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (9 July 1986)

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).

FIRE SERVICES (AMENDMENT) (NO. 3) BILL 1986

Resumption of debate on Second Reading (16 July 1986)

MR. CHEN: Sir, clauses 3(*e*) and 3(*g*) of the Bill enable the Director of the Fire Services to make an oral complaint against a person, and for the court to issue a Fire Hazard Order (FHO) in respect of that person, immediately following conviction for an offence against section 9(3) of the principal Ordinance. The Bill further proposes that an oral complaint should be possible if the fire hazard in respect of which a Fire Hazard Abatement Notice (FHAN) was served recurs, or is in the opinion of the director likely to recur.

I understand very well that the intention of this amendment is to make it possible for the Director of Fire Services to seek a FHO against a person who has been convicted for not complying with a FHAN by making an oral complaint in court at the time of the conviction so as to ensure that little time is lost in rectifying the situation. On the other hand, I believe that the Administration will agree with me that the discretion provided to the Director of Fire Services as a result of this amendment is considerable. I hope that the officers entrusted with this power could use it wisely and that efforts will be made by the concerned authorities to ensure that there will not be any abuse of power in any event.

With the above observation, Sir, I support the Bill.

MR. WONG PO-YAN: Sir, I have listened to the views of owners of small sized factories on the Fire Services (Amendment) (No. 3) Bill 1986; they consider that the proposed penalties contained therein are rather severe. I have also listened to the views of other industrialists who, however, consider that the Bill is not unacceptable. My own views are as follows.

It is noted that in 1985 there were 14 722 fire calls leading to 29 deaths and 630 injured; the corresponding figures for 1984 were 14 693 fire calls, 52 deaths and 727 injured. Since the outbreak of fire poses a threat to human lives and property, the Government has been doing its best over the years to prevent fire

hazards through publicity and surveillance. However, despite a substantial increase of the penalties in May 1982, it is not achieving the desired result and so I consider that a more effective deterrent is now called for.

This Bill aims to deter people from obstructing escape routes or locking up fire exits. I consider that it is a highly irresponsible act for anyone to commit such offences and expose those living or working in the multi-storeyed residential or industrial buildings to fire hazards. With further development of our industries, I hope that industrialists will, indeed they should, be more conscious of the consequences of a fire on their industrial operations. I also hope that they will realise the risks to themselves and others and exercise self-discipline by refraining from committing such offences.

I believe that it is Government's intention to strengthen fire hazard prevention. The provisions in this Bill, if enacted, will be useful to deter the irresponsible but at the same time, will not hamper the normal operations of industrialists.

With these comments, Sir, I support the motion.

MR. CHEONG: Sir, throughout our community's development in the past 30 years, we have had many painful experiences of devastation created by fire, and it is to the credit and hard work of the Administration that by and large the magnitude of the manaces caused by fire has been tamed somewhat. Yet, it is only right that we should never allow ourselves to be complacent, hence the spirit of the proposed amendments under debate this afternoon definitely deserves an 'Aye' in this Chamber. Industry is no exception. We recognise only too well the importance of more effective preventive enforcement against fire hazards and we are therefore supportive of the proposed amendments. Nevertheless, having studied the proposed amendments closely we have identified some practical implementation problems which would need further refined consideration by the Fire Services Department.

First, temporary obstruction of corridors and lift lobbies by goods during their course of movement should be distinguished from obstruction to escape routes by goods in storage. Enforcement should aim at the latter but not the former.

Secondly, where multi-storey buildings under multiple ownership are concerned, common areas are collectively owned and hence it may be difficult to identify the party responsible for causing a certain obstruction. The unit in closest proximity to the obstruction may not necesarily be the culprit. We are therefore concerned about the possible victimisation of parties who are not the owner(s) of the goods which cause the obstruction. Thus, enforcement staff must take care to establish the correct culprit and should avoid the temptation of making arbitrary enforcement decisions.

Finally, Sir, with the introduction of direct prosecution against obstruction to and the locking of escape routes, the number of cases to be taken to court may

increase significantly. As it is in the public interest to minimise expenses incurred as a result of court proceedings, it might perhaps be helpful if procedures within the Fire Services Department can be established whereby aggrieved parties can make an appeal before the department issues a summons.

With these remarks, Sir, I have pleasure in supporting the motion.

MR. JACKIE CHAN (in Cantonese): Sir, as the old saying goes, it is never too late to mend, and I consider the proposed amendments to the law on the obstruction of means of escape a remedial measure to plug the loophole of the law and a preventive one so that fire fighting operations could be facilitated in future to minimise possible losses. As you, Sir, pointed out in your policy address last year that because of the way in which fire-fighting is frequently hampered by goods and other obstacles stacked in common areas of buildings, substantial human and financial losses are suffered as a result of fire. In fact, one of the reasons why the fire in 1984 at the Blue Box Factory Building in Aberdeen took three days to extinguish is that the access to the scene was blocked and fire-fighting work was thus hampered. In view of past experiences, the proposed amendments are introduced to avoid repeating the same mistakes. For this reason, I support them.

There are many loopholes in the law on the obstruction of fire escape routes. Those who are connected with the offence are firstly warned by the issue of a Fire Hazard Abatement Notice requiring them to comply with it within a certain period. They are only deemed to have contravened the provisions of the law when they fail to comply with the Fire Hazard Abatement Notice and they would not be prosecuted immediately. Under such circumstances, those who are selfish and lack public spirit would take advantage of the loopholes and store goods and various objects along fire escape routes. When they receive the Fire Hazard Abatement Notice, they would clear the way for inspection. Once inspection is carried out, they put things back again. They do not mind receiving the notice and being warned time and again because they know that only if they could manage to pass the inspection, they would never be prosecuted. This is why the Ordinance is not too effective after being in force for about 20 years. Last year the Fire Services Department received 4 000 odd complaints involving obstruction of means of escape. Each time routine inspection was carried out and a notice was served. Usually the offenders could be able to get by in re-examinations under false pretences, thus wasting considerable human resources while the situation remained unchanged. It seems that 'removing obstructions only just before the inspection and bringing them back afterwards' has already become the usual practice. If this is permitted to go on, how can people's lives and property be safeguarded? How can fire fighting operations get twice the result with half the effort? It is therefore in the interest of the public to amend the Ordinance.

The provision in the Bill makes it an offence for any person upon whom a Fire Hazard Abatement Notice has been served to allow the fire hazard to recur

within a period of one year after the date of service. This is the right remedy for preventing the trick of removing obstructions just before the inspection and bringing them back afterwards. In addition, there will be heavier penalties which can provide a much stronger deterrent and increase people's awareness so that they would not try to defy the law. I believe that once the amended legislation comes into effect, people will certainly have a greater sense of security and fire-fighting work will be more effective. I suggest that Government should immediately carry out comprehensive publicity and education programmes on the amended legislation so that it will be made known to all, including women and children. It is also necessary that fire services personnel should strictly enforce the legislation too.

Sir, with these remarks, I support the Bill.

MR. CHEONG-LEEN: Sir, Hong Kong as a city with a forest of multi-storey buildings, numbering in the tens of thousands, with hundreds of owners or tenants in each large multi-storey building, can on the face of it be regarded by visitors as one of the most fire-hazardous cities in the world.

Yet because of the high standards which we maintain, Hong Kong is a relatively safe city that is known internationally for having up-to-date fire-fighting equipment, well-trained and disciplined personnel and an excellent fire prevention service.

Therefore, to keep our standards up to par, the proposed changes to reduce even more the risks and dangers of fire occurring in multi-storey buildings should generally be welcome. Of the 8 960 complaints made to the Fire Services Department during May 1985-April 1986, nearly half had to do with obstruction of means of escape. It is especially dangerous, for example, for the owners of one floor in a huge multi-storey building to block the fire escapes on their floor, or for illegal storage of goods in common areas to extensively take place.

The proposed tightening of the fire prevention measures by legislation and imposing heavier penalties on those convicted of endangering the lives and property of others in a multi-storey building should be supported by all responsible members of the community. Of course, any abuse by the Fire Services Department of any of the legislative changes adopted should be reported by members of the public and such complaints must be carefully investigated and corrective action taken when required.

I would suggest that an up-to-date fire prevention pamphlet be prepared after this Bill has been passed explaining in simple language the do's and don'ts of fire prevention, and the penalties involved in case offences are committed.

Especially the locking of fire exits and obstructing route of escape from fires within a building are practices which should be strongly discouraged, and I support the proposal that these two practices be made illegal.

Here is a further instance where the support of the many thousands of multi-storey management committees and mutual aid committees can be solicited in the public interest.

Sir, I support the motion.

MR. NGAI: Sir, fire hazards in multi-storey buildings are evils which endanger lives and property. They must be eradicated. If education will not achieve the aim, legislation and penalty will surely help.

It is common sense that escape routes should not be obstructed, staircases and corridors should be cleared from stored goods, dangerous goods should not be stored without a licence, and so on. However, firemen fighting fires in multi-storey building, in particular factory buildings, often find esacpe routes obstructed, common areas blocked, and dangerous goods stored. There irresponsible acts of occupiers make it unnecessarily more difficult to extinguish fires which may burn for hours and even days, resulting in serious damages. The storage of a huge quantity of dangerous sodium hydrosulphite in a Yau Tong factory where a fifth-alarm fire broke out recently is a typical example of such acts. They endanger not only other occupiers and workers in the same factory building, but also residents living in the proximity, and simply should not be allowed to persist any more.

Sir, I support the Fire Services (Amendment) (No. 3) Bill 1986 in letter and in spirit. I am particularly agreeable to the move to increase the penalties to a fine of $25,000 on first conviction, and to a fine of $50,000 and one-year imprisonment on second and subsequent convictions of offences under the new laws. These tougher penalties, I am sure, will serve to deter reckless people from allowing dangerous fire hazards to exist in buildings, in other works, playing with fire.

I would like to mention in passing a few points which the Fire Services Department may wish to refer to when putting the proposed amendments into execution.

The Bill extends the definition of the person responsible for fire hazards to include the owner, tenant, occupier or person in charge of the premises. We understand that in Hong Kong the ownership and tenancy of premises in multi-storey buildings is a complex thing. It is quite common that the owner of a flat does not reside or operate a business there and hence hardly knows about any fire hazards created by the occupiers or tenants. It will be unfair to hold him solely responsible for any offences he is not even aware of. As far as the serving of fire hazard abatement notices is concerned, I think that the Fire Services Department staff should exercise due discretion when requiring any person to produce identity proof in order to ensure that they hit the right target.

Regarding the amendment which makes it an offence to leave obstructions in or lock the means of escape, I would suggest that a certain degree of flexibility

be allowed in minor cases where remedial actions can be taken immediately in the presence of the Fire Protection Bureau officers, such as the removal of one or two easily movable objects from the corrider.

It should also be mentioned that in the cases where no fire hazard abatement notices are served under the existing Ordinance and practice, prosecution action should not be taken after this amendment is passed into law.

Finally, I would like to emphasise that it will be too presumptive to suggest that tougher legislation alone is enough to deal with fire hazards which have become a chronic problem. It is also important to cultivate a sense of responsibility and self-discipline among the public through education and promotion. I think that the Fire Services Department should launch a comprehensive promotional campaign on fire safety, especially in factories and industrial undertakings, as a follow-up to the passing of this amendment Bill.

With these remarks, Sir, I support the motion.

ATTORNEY GENERAL: Sir, I thank the hon. Members for their support for the Bill and would like to respond to some of the points they have raised.

Turning first to the question of the difficulties that might be created by the proposed oral complaint system I would like to stress three points. The first is that although it will be possible for the Director of Fire Services to make an oral complaint to a court following the conviction of a person or failure to comply with a Fire Hazard Abatement Notice, it will nevertheless be up to the *court* to decide whether or not a Fire Hazard Order is appropriate. No doubt when making that decision the court will have regard to all circumstances of the case and in particular whether a Fire Hazard Order is necessary to ensure that the public are properly protected from the risk of fire. The second point I wish to make is that the Fire Hazard Order is just another warning. More often than not, it it simply the means by which the court orders a person to do what the Director of Fire Services has already told him to do (in a Fire Hazard Abatement Notice) but which he has not done. No offence is committed unless the person in question fails to comply with the order. Finally I must stress that under the proposed amendments a Fire Hazard Order will no longer include an order for closure. Hence it will not be possible for the court to issue an order for closure on an oral complaint by the Director of Fire Services immediately following a conviction for failure to comply with a Fire Hazard Abatement Notice. The procedure for issuing a closing order is governed by a separate provision in the Bill (clause 3*k*) which requires, *inter alia*, 24 hours' notice in writing of the intention of the Director to apply for such an order.

On the matter of ensuring adequate publicity for the amendments, this will be considered by the Fire Prevention Campaign Publicity Working Group. This group, which is chaired by a representative of the Director of Information Services, meets regularly to review existing arrangements for giving adequate publicity to fire prevention measures and legislation, and to plan new publicity

campaigns. The group will be giving consideration to the possibility of producing pamphlets outlining the new law.

There has been concern expressed that the Fire Services Department may make arbitrary enforcement decisions or there may be abuse of power. I can assure Members that once a summons is issued, whether or not a person is found guilty, and what, if any, penalty should be imposed, would be matters to be decided by the court, not the Fire Services Department.

If there is concern that the new legislation might give rise to more opportunities for corruption then I would like to reassure hon. Members that this is a matter to which the greatest importance is attached. There is constant liaison between the Fire Services Department and the Corruption Prevention Division of the ICAC and there is an on-going review of all aspects of fire protection work that might give rise to corruption opportunities. Furthermore the Fire Services Department and the ICAC have agreed that as and when this legislation is passed the procedures adopted by Fire Services Department staff will be examined with a view to reducing opportunities for corruption.

Sir, I hope these remarks will help to reassure hon. Members that the new provisions will be exercised reasonably and with a view to securing the cooperation of members of the public.

Question put and agreed to.

Bill read the Second time.

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

REHABILITATION OF OFFENDERS BILL 1986

Resumption of debate on Second Reading (2 July 1986)

MISS TAM (in Cantonese): Sir, first of all, I would like to pay tribute to the Attorney General. On 28 May 1986, he undertook to introduce legislation on the rehabilitation of offenders within this Legislative Council session. And now his mission is fulfilled at the last sitting of the session.

The purpose of the Rehabilitation of Offenders Bill 1986 is to assist persons convicted of minor offences to rehabilitate themselves. Under the proposed scheme, a person convicted of a single offence and sentenced to a fine not exceeding $5,000 would have his conviction 'spent' after a period of three years so long as he is not convicted of further offences. In other words, he is not required to disclose his conviction when he applies for a job. His employer is not allowed to dismiss him simply on the ground that he has once committeed an offence. Under normal circumstances, neither the court nor the police should make reference to his conviction.

Offenders of minor offences such as assault, theft, shoplifting, burglary, possession of drugs, misbehaviour, criminal damage and gambling for the first time may be sentenced to a fine not exceeding $5,000. Some young people may be tempted or threatened to commit such offences. If they can learn from their mistakes and are prepared to lead a new life, we all hope that the proposed legislation can give them a chance to start anew. However, in view of the varied opinions expressed by members of the public, the proposals contained in the Bill are far more stringent than similar legislation enacted in Britain, Canada and Australia. I support the view of the other Members of the *ad hoc* group that this legislation should be reviewed and modified in one or two years' time after its implementation.

Some areas of the provisions of the Bill need clarification and I would like to go through them briefly:

(1) This Bill is not applicable to professionals such as barristers, solicitors and accountants, and civil servants in the disciplinary forces or whose salary points are at point 31 or above in the Master Pay Scale because by nature of their profession or jobs, the incumbents should be persons of great integrity.

(2) This Bill is also not applicable to proceedings relating to the security of Hong Kong as it is necessary to ensure that the court has access to all conviction records to establish the creditability of the witness.

(3) It is becomes necessary to reveal the past convictions of the accused or the witness in the course of a hearing, the party who wishes to use the record would have to apply to the court for permission and the judge would decide whether or not approval should be granted to disclose 'spent' convictions for the sake of a fair judgement.

The *ad hoc* group to study this Bill has discussed this point in detail with representatives of the Legal Department in order to find out whether or not a victim of a traffic accident could, as what has been done in the past, put in the Statement of Claim that the defendant was previously convicted of road traffic offence in the same incident when he claimed damages through civil proceedings. Some members of the group requested that the disclosure of such conviction in the Statement of Claim should be allowed as a case of exception. However, after discussion at two separate meetings, most of the group members are of the view that the principle of prohibiting the disclosure of 'spent' convictions and restricting the use of such records unless with the approval of the court is right, otherwise, we would have to review every case in order to find out all possible exceptions. By doing so, the efficacy of the Bill would be hampered and its spirit would be lost. On the other hand, if the victim concerned initiates prosecution within three years of the injury, naturally he can refer to the defendant's conviction record involving traffic offence. Even though the victim or his dependent initiates civil proceedings three years later after the defendant had been convicted of the

traffic offence, yet under the procedure by which the Registrar of the Supreme Court deals with Summons for Direction, the court can still rule that the plaintiff be allowed to make use of the defendant's conviction record. All police documents can still be submitted to court. Therefore, the case itself will not be substantially affected. The court may permit the use of a 'spent' conviction and there is no time limit to such a power.

Nevertheless, I would like to draw the attention of those in the legal sector to initiate proceedings as soon as possible if it is necessary to use conviction records in civil cases in order to avoid having to make application to the court for the use of 'spent' convictions afterwards.

(4) In applying for emigration to other countries, if the legislation of a certain country requires the applicant to report any past conviction records, then he has to report his 'spent' conviction as well. The reason is that this Ordinance cannot be used as an instrument to cheat overseas immigration offices. Nevertheless, I think the applicant could also explain in writing that the conviction is a 'spent' record which cannot normally be used even in local courts to prove that the conviction is not that serious and thus reduce its effect on his application.

(5) This Ordinance replaces the 'no conviction recorded' provisions in section 36(1) of the existing Magistrates Ordinance which empowers a magistrate to order not to record a conviction. At present, when a defendant is found guilty by a magistrate, the latter can decide not to record his conviction if the former has always been decent in behaviour, if it is a first offence or because the defendant is too young and the offence has only been technically committed. Yet, all records including the Certificate of No Criminal Conviction, will state that the defendant has been found guilty although the conviction is not recorded. Such contradictions must now be rectified. From now on, all conviction records of first offences awarded fines not exceeding $5,000 would not be disclosed after three years under normal circumstances. This would be a more lenient measure.

Sir, the provisions in clause 3(2)(*a*) of the Bill and those of clauses 3(1)(*c*) and (2)(*c*) are very similar. The objective is to enable the court to disclose a defendant's conviction record in order to uphold justice. The *ad hoc* group has proposed to delete paragraph 3(2)(*a*) so as to avoid repetition. The Legal Department has agreed to this proposal.

Finally, I would like to remind young people not to count on this 'spent' conviction scheme and try to break the law. In future, when they are looking for a good job in the Government or entering some other professions, or when they apply for emigration, they still have to report their past conviction records. This Bill only aims to help those offenders who want to turn over a new leaf and rehabilitate themselves in time. It is never too late to mend.

MR. CHEONG-LEEN: Sir It is the intention of this Bill to rehabilitate offenders convicted of minor crimes who have not been re-convicted for three years by prohibiting unauthorised disclosure of their previous convictions and for related purposes.

By and large, I support the main features of the scheme which are incorporated in the Bill. It brings Hong Kong as a modern international city, in line with other progressive territories such as the United Kingdom, the United States, Canada, France, West Germany, Austria and Japan which encourage those of their citizens who have committed minor offences and have been convicted to reform themselves on a permanent basis.

However, I would like to record my objection to clause 7 of the Bill.

Section 36(1) of the Magistrates Ordinance provides that a magistrate, on finding a charge proved, may 'with or without recording a conviction' discharge the offender absolutely or conditionally. Clause 7 of the Bill proposes to amend this to require the magistrate to proceed to conviction in every case.

I belong to the group which would agree that cases have occurred in the past in which the Magistrate might be satisfied that an offence had technically been committed but that the prosecution should not have been brought. In such circumstances, the 'no conviction recorded' provisions provided a useful procedure.

It would be more reasonable and humane to keep section 36 intact, and amend the law if necessary to provide that the fact of such a discharge in the past could be brought to the notice of a court on a subsequent conviction in the case of persistent petty offenders.

The argument that the amendment of section 36(1) is necessary because it was thought that it would be a contradiction in terms to record a 'no conviction recorded' finding is as I see it a subjective point of view. Section 36(1) has been there for such a long time already, so why suddenly has it become a contradiction in terms?

I find it highly surprising that the Judiciary after having been consulted have agreed to this proposed amendment and even calling it—I am told—a sensible reform. I would have thought that by retaining section 36(1), the magistrate would have been even better armed to shield any member of the public—be he rich, prominent, or poor or unknown—from being hauled into court either by the police or by a Government department for what would seem to the magistrate an abuse of power, or if, even though the charge is proved, there would be extenuating circumstances relating to the offence or the offender such as to render it inexpedient to brand the offender, in relation to the particular offence, as having a criminal conviction, even for one day, much less for three years.

I find it a great pity that if this Bill is passed, Certificates of No Criminal Conviction issued by the police along the lines indicated in the form attached to my speech—and which form I would like to have recorded in Hansard (See Appendix)—will no longer be available. Therefore, while I support the spirit and intent of the Bill, I shall abstain from voting on it since I consider that clause 7 reduces the capacity of the independent Judiciary from better or more fully protecting the public against possible petty or bureaucratic or over-zealous harrassment by the Executive.

APPENDIX

本署檔號 *OUR REF.:*

來函檔號 *YOUR REF.:*

電話 *TELEPHONE:*

內線 *EXTENSION:*

TELEX NO.: 65367 HX

ROYAL HONG KONG POLICE HEADQUARTERS

ARSENAL STREET
HONG KONG

Dear Sir/Madam,

CERTIFICATE OF NO CRIMINAL CONVICTION

I refer to your request for a certificate to the effect that you have no criminal convictions in Hong Kong.

No criminal convictions recorded against you have been traced in Hong Kong.

However, on the_____day of_____19_____ you appeared at_____Court charged with_____ _____ and after you pleaded/were found guilty the Court made the following order in respect of this charge _____ _____ _____ under Section 36, Magistrates Ordinance, (CAP. 227). or Section 3, Probation of Offenders Ordinance, (CAP. 298), or Section 4, Drug Addiction Treatment Centre Ordinance, (CAP. 244).

An order that a conviction shall not be recorded is made where, although the charge is proved, there are extenuating circumstances relating to the offence or the offender such as to render it inexpedient to brand the offender, in relation to the particular offence, as having a criminal conviction.

Yours faithfully.

(B. FERGUSON)
for Commissioner of Police

MR. HUI: Sir, the introduction of the Rehabilitation of Offenders Bill has been welcomed by social workers as a significant step undertaken by Government in rehabilitation work. The Bill, designed to protect persons who were once convicted and have not been re-convicted within three years, prohibits the revealing of the criminal record which would prejudice a person from employment or in other ways. It is believed that the consequences of a minor offence should not cripple a person for life and that a person's efforts to become straight should not be ruined by unwarranted disclosure of previous conviction. After all, the offender has already paid his price in the punitive sense. The Bill therefore captures the true spirit of rehabilitation of offenders.

Members of the *ad hoc* working group set up to study this Bill have carefully looked into various issues including the scope of coverage and other technical aspects. On the whole, Members are in agreement with the provisions of the Bill.

While we find the provisions in this Bill generally acceptable, we believe that the scope of the scheme is too limited as to cover only convictions resulting in fines. The rehabilitation scheme should, after a trial period, be extended to include persons awarded light prison sentences which form a major portion of sentences in local courts. For example persons convicted of minor offences such as loitering are sentenced to imprisonment. Legal protection given to offenders sentenced to short-term imprisonment upon the recommendation of social workers, which falls in line with the United Kingdom Rehabilitation of Offenders Act 1974, would enable more first offenders to live down their convictions. Furthermore, the specification of certain professions which are exceptions to the scheme is also subject to argument and requires re-consideration by the Administration.

Another issue arising out of this new legislation is the issuing of a Certificate of No Conviction. It is felt that Hong Kong should follow the example of the United Kingdom where it is a general offence for any person to disclose a conviction of a 'rehabilitated person' to another person. From the social worker's point of view, the 'no-conviction record' should be made available to rehabilitated individuals under the scheme who may require a Certificate of No Conviction issued by the police for employment or other purposes. While the police could retain the official record, the practice of withholding information on spent conviction would ensure uniformity and consistency among all Government departments in the enforcement of a new legislation. I hope the Administration will take this point into serious consideration when it reviews the Bill in future.

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

MR. TAI: Sir, the abolition of the 'no conviction recorded' provision under clause 7 of the Rehabilitation of Offenders Bill 1986 removes the discretionary power of the magistrates to discharge an offender without recording a conviction, having regard to the nature of the offence, the circumstances under

which the offence was committed, and the personal circumstances of the offender. The drawbacks of the clause have been well taken up by the hon. Hilton CHEONG-LEEN. I will take this opportunity to speak on some technical aspects arising out of the Bill on matters relating to personal injury or death in running down cases.

With respect to section 2 of the Bill on non-admissibility of evidence in civil proceedings against the driver who has been convicted of a traffic offence resulting in personal injury or death, it would seriously affect the plaintiff in proving his case. It is not uncommon that a hearing for a normal running down case takes place three years or more after the defendant has been convicted of a driving offence in a magistrates' court. The non-admissability of a criminal record would cause procedural difficulties for legal practitioners despite the fact that section 3(2)(*d*) provides admission of evidence relating to legal proceedings where the tribunal is satisfied that justice cannot be done without the disclosure of the spent conviction.

None the less, this would put the plaintiff in a disadvantageous position because the legal practitioner has to bear the costs for the application of the disclosure of criminal record. It also bars the possibility of an early settlement in respect of liability, thus incurring additional costs which would amount to tens or thousands of dollars.

Difficulties may arise in cases of personal injury causing death when probate may be granted to the administrator after a substantial period of time has lapsed sometimes one to two years. In that connection, the legal practitioner will be faced with the difficulty to obtain the relevant criminal record in time from the magistrate. In some circumstances, because of the change in the Bill, the conviction will be spent and in the absence of any evidence of the conviction record and the supporting evidence, it may be difficult for the plaintiff to prove his case and injustice may therefore arise.

Apart from the above observation which I have made, this Bill commands the support of the general public as it serves to remove the moral stigma on the person who has committed a misdemeanour.

Sir, with these remarks, I support this Bill.

MRS. TAM: Sir, when somebody has violated the law, he should be duly punished. But at the same time, he should also be given a chance by the society to turn over a new leaf, so that he could become a law-abiding citizen again. According to the present situation, however, once someone has been convicted, then no matter how minor his offence is, his conviction record will stay with him for a long time. And even if the offender determines to turn over a new leaf, his efforts might be wasted because he is often required to disclose his past convictions, leading to failure and defeat in his course of work and its relationship with other people.

The Rehabilitation of Offenders Bill 1986 being discussed by this Council today is precisely intended to provide a chance of reforming oneself to those who have committed minor offences for the first time, so that single offenders charged with such minor offences as shoplifting, loitering and so on, do not have to carry their conviction records with them for life. This Bill will help to encourage these offenders to rehabilitate themselves, re-integrate themselves into society and to take part in various social developments. Undoubtedly, this Bill will do good to both the offenders and the community, and is thus worthy of support. Nevertheless, this Bill is a bit too conservative in that it proposes to limit offenders covered by the Bill to those who have been convicted for the first time and who have not been given a prison sentence or a fine exceeding $5,000. I hereby suggest that the Government should consider, if this Bill is passed, to conduct a review after it has been enacted for a certain period, and examine whether it is appropriate to allow further relaxations.

As to whether the proposed Rehabilitation of Offenders Scheme should include those who have been convicted of triad-related offences, I feel that the minor nature of some triad-related offences is in line with the stipulated requirements of the Bill. At the same time, some triad members are really keen to reform themselves. Therefore, in principle, if it could be proved that certain triad members truly want to renounce their triad affiliation and if the minor nature of their first offence could be covered by the stipulations of the Bill, then they should also be eligible for inclusion under the rehabilitation scheme. Based on this reason, I fully support the renunciation scheme proposed by the discussion document on options for changes to counter the triad problem, because such renunciation would serve as public evidence of the determination of triads members to turn over a new leaf. But since the discussion document is still under consideration and the proposed renunciation scheme has not yet been passed, I agree that at the present stage, the proposed rehabilitation of offenders scheme need not include those who have been convicted of triad-related offences, until the renunciation scheme is implemented. By then, the Government can make corresponding amendments. Therefore, I propose to amend section 2(4)(*e*) of the Bill, so that the first half of the clause will be preserved to exclude those who have been convicted of triad-related offences.

Sir, I support the motion.

ATTORNEY GENERAL: Sir, I am pleased to welcome the amendments moved by Miss Maria TAM and Mrs. Rosanna TAM which have the full support of the Administration.

Both amendments are the result of the careful consideration which has been given to this Bill by a Legislative Council *ad hoc* group under the chairmanship of Mr. HUI Yin-fat. I would like to take this opportunity to thank the members

of that group for the thoughtful and constructive comments they have made. I believe that the Bill as amended represents a measure which will be broadly acceptable to the community.

The Attorney General pointed out in his speech to this Council when moving the Second Reading of this Bill on 2 July that the Bill provided two options for dealing with triad related offences under the Societies Ordinance. The first option was to exclude all such offences from the rehabilitation scheme altogether. The second option was to allow a triad related offence to become spent only if the offender had renounced his connection with triad societies.

The amendment moved by Mrs. Rosanna TAM addresses this aspect of the Bill. It proposes that the first option should be adopted and that a person convicted of a triad related offence should not subsequently benefit from the rehabilitation provisions of this Bill. I think it fair to say that while Members have thought it right to exclude a procedure for renunciation at this stage, it may be that this aspect of the Bill will need to be re-examined in the light of any measures which may follow discussion on the paper on 'Options for changes in the Administration of the Law to Counter the Triad Problem'.

The amendment proposed by Miss Maria TAM to clause 3(2) that the Bill removes a paragraph which the Legislative Council *ad hoc* group had rightly observed was unnecessary. At the time when the offender is sentenced on the second offence, the second conviction will have revived the original spent conviction and this original conviction can safely be referred to.

Sir, I propose to move a number of minor amendments to the Bill. In clause 2(1)(*a*), the amendment to which the Attorney General referred in his earlier speech to this Council will exclude death sentences from the scheme.

With your leave, Sir, I intend to move a further minor amendment to clause 2(1) to correct a grammatical error of drafting.

In clause 4(1), an amendment is proposed to take account of proceedings under the Insurance Companies Ordinance by inserting a new paragraph (*e*). Clause 4(1)(*c*) of the Bill excludes from the spent conviction scheme proceedings relating to a person's suitability to be granted, or to continue to hold, any licence, permit or dispensation, or to be registered, or continue to be registered under any law. This would have the effect of, for instance, excluding proceedings relating to the licensing of a bank or the registration of a securities dealer. The Insurance Companies Ordinance refers to the 'authorisation' of insurers rather than licensing or registration and the amendment is necessary to place these proceedings outside the spent conviction scheme.

A similar amendment is proposed to clause 4(2).

A second amendment incorporated in the new clause 4(1)(*e*) is intended to take account of the powers of intervention conferred on the Insurance Authority under the Insurance Companies Ordinance. These enable the authority to impose restrictions on the operations of the insurer in certain

circumstances. One such circumstance is where it appears to the authority that a director or controller of the company is not a fit and proper person to hold the position held by him. Without the incorporation of the amendment now proposed, the authority would be unable to take account of a spent conviction in assessing whether a director or controller was a fit and proper person.

Turning to the remaining amendments to clause 4(2), the reference to 'another person' rather than to 'an individual' brings this provision into line with clause 4(1) which refers to 'a person' throughout. This ensures that these provisions cover 'persons' in the widest sense, not just natural persons but also corporate and unincorporate bodies.

Two amendments to the schedule are proposed. The first is made as a result of suggestions put forward by the Legislative Council *ad hoc* group. After further reflection, I am satisfied that point 31 on the Master Pay Scale provides a more appropriate cut-off point than point 30 for exclusion from the scheme. Point 31 is the first point at which Administrative Officers are recruited and it is the top point on the salary scale of Executive Officers II.

I know that Members of the Legislative Council group studying this Bill expressed concern that the schedule refers to the Master Pay Scale, which has no statutory basis. Members pointed out that it would be possible for the Administration arbitrarily to change the numbering of the scale without reference to this Council. That is theoretically possible but I should point out that the numbering of the scale has remained unchanged for many years, save for the addition of three additional points to the top of the scale in 1979. I can assure Members that if in future any re-numbering of the scale is envisaged which would affect the operation of the spent conviction scheme, UMELCO's views will first be sought.

The second amendment to the schedule is to include a reference to members of the Fire Services Department. It has been pointed out that officers of the department in the course of their firefighting duties frequently have access to private property and it is therefore desirable that the highest standards of honesty should obtain. This amendment means that members of all the disciplined services are now excluded from the scheme.

Mr. TAI Chin-wah has been expressed at the difficulties which may be caused by the Bill for those who seek to make reference to a spent conviction in subsequent civil proceedings. Clause 6(1) of the Bill prohibits the disclosure of a spent conviction, subject to certain exceptions. It has been suggested that this would effectively prevent the plaintiff in a civil action from referring in his statement of claim to an associated spent conviction. In response, it has been further suggested that the appropriate procedure would be for the plaintiff to omit reference to the spent conviction in the initial pleadings but to ask leave of the court to amend the statement of claim at a later stage on the grounds that justice could not be done except by the admission of evidence of the conviction. This would bring the matter within the exception in clause 3(2)(*d*) of the Bill.

I believe that this is the right response to the problem. Were it otherwise, there would be a danger that spent convictions might be disclosed in circumstances where it was not necessary for proof of the case. The spirit of this legislation will be preserved if it is left to the court's discretion to decide whether or not evidence of a particular conviction should be admitted.

I am conscious that the procedure I have outlined may well lead to increased costs for some civil litigants who may have to amend their pleadings. The costs involved in such cases should be slight, however. I think that it is desirable that the integrity of the spent conviction scheme should be maintained notwithstanding a possible marginal increase in legal costs in a minority of cases.

It may be of interest to Members to note that the United Kingdom Rehabilitation of Offenders Act 1974 does not provide an exception from its scheme for the situation to which Mr. TAI has referred. Criminal proceedings are excluded from the United Kingdom provisions and certain specified civil proceedings but there is no special exception for civil pleadings, other than a provision similar to clause 3(2)(*d*) of the Bill now before this Council which allows evidence of a spent conviction where justice could not otherwise be done.

It has been suggested that all road traffic offences should be removed from the ambit of the scheme to avoid the difficulties to which I have referred but this would run counter to the thinking behind this legislation. The intention is that all minor offences, other than those which are triad related, should fall within the scheme. If road traffic offences are excluded because it is suggested that there is no moral stigma attaching to them, it could equally be argued that hawker offences, contraventions of employment legislation and a variety of other offences should not benefit from the spent conviction scheme. I think that it is right to offer the chance of rehabilitation to all minor offenders. With the exception of triad offences, I believe that the scheme should apply to all offences where the sentence imposed falls within the limits prescribed by clause 2(1).

In practice, I do not believe that the provisions of the Bill will present a problem. I think it proper however that we should keep careful watch on the workings of the new legislation. I would welcome the views of both legal practitioners and the public at large on the efficacy of the scheme once it has had time to settle into place.

I turn now to the concern expressed by Mr. Hilton CHEONG-LEEN at the amendment to section 36(1) of the Magistrates Ordinance proposed in clause 7 of the Bill. It might be helpful if I were to clarify two points. Firstly, clause 7 will do nothing to remove a magistrates' right to discharge an offender conditionally or absolutely. The only change effected will be that the Magistrate must proceed to, and record, a conviction before sentencing. Secondly while a conviction may previously have been 'non-recorded' for the purposes of section 36(1) of the Magistrates' Ordinance, it would nevertheless have been disclosed by the police to a would-be emigrant seeking a certificate of no criminal conviction.

Clause 7 will remove the legal curiosity of a magistrate finding a charge proved but nevertheless not recording a conviction. The fact that the offence is minor or technical can adequately be reflected by the Magistrate in imposing a lesser sentence. I have no doubt that the present wording of section 36(1) has caused much confusion in the public mind. I confess that I find it irrational and its amendment will achieve greater clarity.

The Attorney General said in his speech to this Council on 2 July that this Bill 'will not, and indeed cannot affect the requirements of disclosure imposed by foreign laws on Hong Kong citizens wishing to emigrate'. The prospective emigrant would have to reveal *all* convictions, whether they were considered spent under this legislation or not. In an attempt to assist those with a spent conviction who are required to reveal their record to an overseas authority, I am at present exploring with the Commissioner of Police the possibility of incorporating in the police letter which indicates an emigrant's record a statement to the effect that 'this conviction is regarded as spent in Hong Kong by virtue of section 2(1) of the Rehabilitation of Offenders Ordinance'. This would make clear to overseas authorities that the conviction in question should be regarded as a minor one.

The scheme proposed in this Bill is a modest one but I believe it is a worthwhile measure which provides a basis for an expanded scheme at a later date if this is thought desirable. I am grateful to the Members of the Legislative Council group for their work on the Bill. I know that the Bill is the better for their attention and I am confident that its provisions will be welcomed by those with a genuine concern for the rehabilitation of minor offenders in Hong Kong.

Question put and agreed to.

Bill read the Second time.

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

KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (16 July 1986)

MR. HU: Sir, although the Kowloon-Canton Railway Corporation (Amendment) Bill 1986 was only gazetted on 4 July 1986 and First Reading and moving of Second Reading took place on 16 July 1986, the UMELCO Panel on Transport already started in early June 1986 to look into the issue of Light Rail Transit System and the proposed Transit Service Area in the North-western

New Territories. A meeting was held with Transport Branch and Transport Department to receive views of the Administration on LRT and TSA.

The panel also received public representation from a number of Tuen Mun District Board Members airing their concern over the monopoly of KCRC's LRT and feeder bus operation in possibly excessive fare structure and depriving local residents of the right to choose the mode of transport.

The *ad hoc* group formed after the gazetting of the Bill visited Tuen Mun and Yuen Long to inspect the site and had a joint meeting with Tuen Mun and Yuen Long District Boards. The main concerns of their Members on LRT and TSA are as follows:

(*a*) lack of competition and lack of free choice of transport service in the area.
(*b*) concern over TSA, its future expansion and time limit.
(*c*) fare level of LRT and feeder buses.
(*d*) inconvenience to local residents in frequent change from bus to LRT and vice versa.
(*e*) setting up an independent, balanced and statutory monitoring body to supervise the operation of LRT and feeder buses.
(*f*) future extension of LRT to urban areas.

The *ad hoc* group also met with Kowloon Motor Bus Co. Ltd. which objected strongly to the setting up of TSA and had declined to work with KCRC as its sub-contractor in the provision of feeder bus services within the area. At the meeting, KMB proposed to drop the idea of TSA and KMB would provide the feeder bus services within the scheme of control for franchised bus operator.

The *ad hoc* group then had a series of meetings with the KCRC and the Administration to have further clarification of the LRT and feeder bus service as an integral system and details of the time based zonal integrated fare system. After further in-house deliberation, the group reached consensus on the following points:

(*a*) The LRT should not be regarded as monopoly as other modes of transport such as taxis, maxicabs, public light buses, residential coaches as well as external bus services would still be allowed to operate within the TSA.
(*b*) KMB's proposal would result in double fares for local trips made within the TSA which would be more expensive and time consuming for the passenger than the KCRC's zonal integrated fare system which might cover only the cost of feeder bus service. The group supported the integrated system concept and would encourage KMB to have negotiation with KCRC on the provision of feeder bus service as a subcontractor as KMB's operation experience and back-up resources could provide a valuable contribution to the integrated system.

(*c*) The group was satisfied with KCRC's explanation and assurance that short trip fares would be more or less the same as buses while median trip fares would be ¢20 or ¢30 more than buses.

(*d*) The existence of three-tier system of monitoring LRT fares and services as mentioned in the Secretary for Transport's speech on 16 July 1986 would ensure adequate protection for the local residents. The group suggested that the Administration should consider the appointment of at least one member each from the Tuen Mun and Yuen Long District Boards to the Board of Directors of KCRC to ensure adequate feed back information of local views at the policy decision level.

(*e*) The group accepted the TSA concept but considered that there should be a time limit so that the feasibility of the TSA concept could be kept under regular review for either termination or further extension taking into consideration the prevailing transport policy and changing circumstances on passenger demand and population movement. In view of the heavy initial investment of LRT, the group agreed that there should be a balance between flexibility and business consideration with due regard to funding arrangement for LRT between KCRC and financial institutions. It was therefore considered that a time limit of 15 or even 20 years should be imposed on the grant of exclusive rights to KCRC for operating feeder bus services in the TSA.

(*f*) The group noted the public concern on possible open-ended expansion of TSA and would wish to put beyond doubt that notice of variations to the boundaries of TSA published in the *Gazette* would be subject to the supervision of this Council as subsidiary legislation under section 34 of Cap. 1.

(*g*) The group noted that within the TSA the franchised external bus services could not put down any passenger who had boarded the bus within the TSA. The group was of the view that there could be many justified reasons for the passenger to get off the bus within the TSA before reaching the original destination outside TSA. If the Bill does not make allowance for such reasonable causes, there could be many unnecessary implications and confusion for the passenger franchised bus operator and bus driver.

Further discussions were held with the Administration on the abovementioned points. I am pleased that the Administration basically accepted our views. Therefore, my hon. colleagues Mr. LAU Wong-fat, Mr. TAI Chin-wah, and I will move the following three amendments in the Committee stage, namely:

(*a*) 20 years time limit of TSA.

(*b*) variation of boundaries of TSA subject to the supervision of the Legislative Council.

(*c*) allowing passengers boarding the external bus in TSA to be put down within TSA in case of emergency.

On the question of the third amendment concerning passengers to be put down within the TSA, the group was in favour of the wording 'with reasonable cause'. However, the Administration was worried that such wording might create too many loopholes for abuse. Therefore, the Administration proposed the wording 'in an emergency' which was accepted by the group with the understanding that should experience show such provision unable to meet the needs of the travelling public in special circumstances, then the Administration would consider a suitable amendment to regulation 24A of the Public Bus Services Regulation.

Sir, with these remarks, I have the pleasure to support the Bill.

MR. CHAN KAM-CHUEN: Sir, I rise to support the Kowloon-Canton Railway Corporation (Amendment) Bill 1986 as it stands, i.e., without amendments to the amendment Bill.

Before going any further, I have to declare my interest as a member of the KCRC board and if the public pleases, what I say may be taken with a grain of salt. I say a grain of salt because I hold no shares of the KCRC and LRL which are wholly owned by the Government and any dividends if paid will go into the public coffers for the good of the public. But if one says that one is a shareholder of a bus company, then the public is recommended to take one's views with a large pinch of salt as benefits go into one's own pocket. But how many are true and bold enough to declare that they are placing private interest above public interest. This is the issue in debate today.

The orphan

It is a fact that Government did not monopolise or compete with the private sector for the LRT project. It was on the 'open market' for some years when the future of Hong Kong was uncertain but there were no takers. To maintain public confidence and to meet the future transport requirements of Hong Kong, expecially the northern part of the New Territories, this orphan was offered to the KCRC. As this public corporation was set up to run a railway business on a commercial basis, it is just and responsible for KCRC to point out that the number of passengers would be marginal for such a capital intensive long-term investment.

Monopoly

To support Government transport policy, a TSA along its route may make the project viable. The Government therefore had to replace a private 'franchise' with a public 'franchise'. The so-called 'franchise' involves no payment of royalties and I fail to see where the word 'monopoly' fits in.

Higher fares

The protest against 'higher fares' would certainly gain public support. A figure of about 30 per cent, which may mean 30¢, more than a bus ride was used as a weapon by pressure groups to attack the LRT. This was a guesstimate before

the prices of the tenders were known. By now the estimate is that fares may be better for short trips, competitive for medium range and slightly more than bus fares for the long journey.

If fares, on the average, are competitive with bus fares, then the passengers would enjoy the additonal comfort of air-conditioned rides in the summer. One must bear in mind that fares of air-conditioned buses are much higher than non-air-conditioned buses for the same distance.

The KCRC Board

Like peeling an onion, the pressure group found that they have been barking up the wrong tree about 'monopoly' and 'higher fares' and had to reveal their true intentions.

(1) They consider that the Governor in Council is not good enough and they should monitor the LRT instead. This is tantamount to seizing power from the central Government by the district.

(2) They want half of the membership of the KCRC board because they consider themselves the true representatives of the people of Tuen Mun and Yuen Long. Would this be an insult to the representativeness of those three board members who are also in the Urban Council, Regional Council and Heung Yee Kuk? What they forget is that the KCRC also run from the border to Hung Hom. If the status of all districts are equal, then all districts along the route would also ask for half of the board membership. I congratulate this pressure group for inventing the theory of one unit having more than two halves and they should get a world-renowned award for mathematics.

Running a business, especially a railway corporation, is not a political or power seizing game. It is a fact that there is a long list of railways which have gone bankrupt and many others are losing money in other countries. KCRC is one of those fortunate ones which have a loyal staff, under able management, and a well-balanced board. A decision made in a board may not be felt or seen until several years afterwards and by then it would be beyond the point of no return. The present board consists of some of the best business leaders with two Government members looking after transport and financial policies and the public interest. If we cannot trust these public spirited citizens without financial interest contributing their business experience to a better service, then pressure group members outside the board will not trust pressure group members inside the board. This means one half of the pressure group does not trust the other half.

If one wishes the corporation not to make a loss and have to resort to increasing fares or dipping into the public coffers, then leave politics like cigarettes butts in the ash trays before entering a business boardroom even if you are appointed some day.

If the voice of objection, in the name of the public, is used in bargaining for benefits, individually or collectively, then conversely what is there to stop someone from asking for half of the board membership of a new private business in exchange for silence? This is a dangerous trend which may lead to corruption in future and should not be encouraged.

Please do not change democracy（民主）into a new word 'demo-cash-y' (i.e. evil and uses a lot of cash) （邪惡，花費）.

True benefits for the public
For many years, the KCRC has had a good track-record for providing reasonable fares and efficient service to the public, especially to the New Territories.

The trains are *reliable* not only in keeping schedule but also because the staff are loyal. This may be seen in the 1967 commotions when bus services were disrupted but the railway kept running.

The light rail like the heavy rail will charge *reasonable fares* and from past experience fares within Hong Kong were not raised unreasonably.

They are a *high volume* passenger carrier unmatched by other modes of transport.

They are *fast* and have the *lowest accident casualty figures.*

They have *no air pollution* and are *relatively quiet* when compared to other types of transport.

They are *cool and comfortable*. In fact, some passengers feel sick and vomit under the heat, and smell of fuel and vibrations during bus rides.

But above all, a convenient transport system with the above advantages would help to open up the whole of the northern part of the New Territories and will bring public and private housing estates, factories and business with prosperity and jobs for all. If one compares the satellite towns of Tuen Mun and Sha Tin, one would find that people prefer Sha Tin because there is a railway there. It will take some years before inhabitants of a new satellite town could find satisfactory employment there. A good mass transport system is essential to bring workers back to Kowloon and Hong Kong Island to their existing jobs, as no one would like to lose their retirement benefits, promotion prospects, seniority, accustomed working environment, and established working connections. As a result of changing jobs, the LRT and future expansion projects, if implemented will make all these hopes realities, but the limitation of 20 years on the TSA would make it harder for later extensions, more difficult to finance with less and less years to recover its capital.

With these observations, Sir, I support the motion.

6.00 p.m.

ATTORNEY GENERAL: Sir, with your consent, the Standing Order 8(2) should be suspended so as to allow the Council's business this afternoon to be concluded this evening.

Question put and agreed to.

MR. CHEONG-LEEN: Sir, I have no interest to declare, so I hope hon. Members will not take my views with a grain of salt as the hon. CHAN Kam-chuen, the member of the KCRC has so modestly requested.

About 10 years ago, when I went to Tuen Mun for the official opening of the Tuen Mun Town Hall by the then Governor, Sir Murray MACLEHOSE, little did I imagine that I would be standing in this Council today giving my support to the building of the Tuen Mun LRT.

A fortnight ago, together with other Legislative Councillors, I flew by helicopter to have a good birds-eye-view of the LRT system for Tuen Mun and Yuen Long along the proposed route to see some of the works which had already started. I am sure that when completed this integrated LRT system, which is air-conditioned, fast and reasonably pollution free, will provide a commuting service for the residents at reasonable fare levels—and will be a system of which they will all be proud to have. And the projected commissioning date I am told is 8-8-88, that is 8 August 1988.

There has been concern on the part of the members of the Tuen Mun and Yuen Long District Boards over the possibility of the KCRC charging unrealistic fares. The Secretary for Transport in his speech to this Council on 16 July stated that 'The KCRC has stated publicly that it will adopt a realistic fare policy and that fare levels will be kept reasonable'. As KCRC is a Government-owned corporation, I am prepared to accept that such will have to be the case.

Apart from the three-tier system monitoring LRT fares and service:

—the traffic and transport committees of the two district boards
—the KCRC Board itself with its public representatives
—the Governor in Council that is empowered to give directives to the KCRC in the public interest

there will also be the Legislative Council through its appropriate committee which will be monitoring progress on the LRT system in the general public interest.

As regards the practical arrangements within the Transit Service Area over which there has been so much controversy, I suggest that the KCRC be allowed to put such arrangements into effect. And in the light of experience once the LRT system is in operation, the feeder bus system can be adapted, changed or improved by KCRC to give the best possible service to the residents. No doubt both district boards concerned will monitor the situation carefully and make their views known to the KCRC and to Government.

I support the amendment that the power of the Governor in Council to restrict the franchise in relation to the Transit Service Area be limited to 20 years, after which the Government will review the situation in the light of the public interest at that time. I would also emphasise that any future variations in the Transit Service Area boundaries which would be made under clause 3 of the Bill should be strictly for operational purposes only and not depart from the intent and purpose of the Bill. In other words, there should be no 'open-ended' expansion of the TSA.

I also accept the view that there should be the maximum acceptable competition of various forms of public transport, but conforming to the zonal, integrated fare system of the LRT, within the Transit Service Area.

As I said, Sir, this is an imaginative project. The feasibility study for phase 3, that is for the extension into Tin Shui Wai, will be ready at a later date, but of course implementation can only take place if Phases 1 and 2 are supported by the Tuen Mun and Yuen Long residents.

As to whether there will be a future LRT link-up between Tuen Mun and Tsuen Wan, this will be a matter for future assessment by Government, in the light of need and of financial viability and equally of the wishes of the residents of both Tuen Mun and Tsuen Wan. The LRT may well become the first stage in a territory-wide link-up with the MTR and the KCR.

Sir, I support the Bill with the amendments as proposed by my hon. colleagues.

MR. LAI: Sir, let me state at the outset that I support the idea of a light rail transit (LRT) system in the Tuen Mun/Yuen Long area. Although at the very beginning I had certain reservations on the idea of the 'monopoly zone', I now believe it is necessary to establish an exclusive Transit Service Area (TSA) in order to protect the well-being and nurture the growth of the light rail transit system during its infancy.

The policy of setting up an integrated and more efficient transport facility in the new towns of Tuen Mun and Yuen Long is consistent with the current Government transport policy and will, I believe, make a great contribution to the growth of the area.

It is unfortunate that the population and internal ridership forecast in the Scott, Wilson, Kirkpatrick & Partners study done in 1978, on which the Government based its decision to proceed with the building of the LRT, could not correctly predict the current situation in the area. To make the LRT system economically viable, the exclusive zone in which LRT can operate without competition is necessary. This, however, does not take anything away from my belief that by providing an integrated system within which passengers can transfer freely without additonal payment, from feeder buses to LRT, or from one LRT route to another, it is a more superior mode of transport.

It is heartening that we have been able to succeed in our endeavour to obtain a 20-year time limit to the TSA. I think this provision did much to allay the public's fear of a 'monopoly' granted indefinitely to the Kowloon-Canton Railway Corporation (KCRC).

On the question of fares and quality of service, I accept the Kowloon-Canton Railway Corporation's submission that since it is a non-profit-making public corporation with the public interest at heart, fares and services will be set at a reasonable level satisfactory to the community. It has been revealed that in terms of cost of travel, short distance travellers will pay about the same fares as using buses; medium distance travellers may have to pay about 20 to 30 cents more; and long distance passengers may have to put up with a higher premium. In the light of the improved comfort, frequency and reliability offered by the LRT, this level of pricing does not seem unreasonable. However, I would like to make one observation: since there will not be a cheaper mode of internal transport, at least for a number of years, lower-income travellers will no doubt be affected. And it is this group of people, who can ill afford any additional charges and who are willing to sacrifice comfort for saving that will be hard hit.

In this respect, I urge the Government or the KCRC to look into the possibility of devising some kind of subsidy scheme to compensate the extra financial burden imposed on this group of people.

As regards the matter of supervision of the operation of the LRT, I believe that sufficient monitoring apparatus will be set up. Tuen Mun and Yuen Long District Board members will closely monitor the running of the LRT, through their Traffic and Transport Committees and their own arrangements with the KCRC. The KCRC Board, comprising officials from the Government and individuals from various sectors of society will also keep the LRT under scrutiny. And it is my understanding that the Commissioner for Transport will also keep the LRT under supervision as well. Of course, the Governor in Council will be the ultimate monitoring authority. With all these provisions, I believe the interests of the public will be faithfully adhered to. Nevertheless, I hope that extensive consultation with the district boards and residents in the area will be carried out prior to any subsequent adjustments of fare levels.

The only arrangement in connection with the LRT that I cannot condone is the way in which the exclusive zone will come about. Under the stipulation of section 5(4) of the Public Bus Services Ordinance, the franchise granted to the Kowloon Motor Bus Co. (KMB) may be amended with the consent of the grantee (i.e. KMB). By virtue of clause 22 of the Kowloon-Canton Railway (Amendment) Bill 1986, a franchise may, with or without the consent of the grantee, be amended by the Governor in Council. There are certain merits in KMB's contention that the Public Bus Services Ordinance is in fact a binding contract. There is no doubt in my mind that KMB made its annual five-year plan with that assurance in mind. Even though the Government is prepared to

make financial compensation to the grantee for any pecuniary loss suffered by the grantee because of the restrictions for picking up and setting down passengers in the exclusive Transit Service Area, I think by unilaterally amending the terms of an agreement by way of legislation, the Government sets a dangerous precedent. The revocation of KMB's privileges to run internal routes in the TSA may damage the credibility of the Government and undermine confidence of the business community. However, it is interesting that the same argument has been put forward by the Government to justify not withdrawing its support from China Light & Power to participate in the Daya Bay Nuclear Project. Clause 22 of the Bill is an extraordinary provision, and I hope the Government will make it absolutely, unequivocally clear that such a measure will not be regularly employed for the sake of expedience.

In closing, I would like to pay tribute to my hard working colleagues for their part in bringing to term the amendments to those provisions in this Bill which have given cause for public outcry. More significantly, this is an affirmation of the efficacy of our representative system of Government.

Sir, with these observations, I support the motion.

MR. LEE YU-TAI (in Cantonese): Sir, the Bill proposes the setting up of the North-west Transit Service Area which will eventually become a franchised zone under the light rail transit system (LRT) project run by the Kowloon-Canton Railway Corporation. The associated feeder bus service within the zone will likewise be provided by the KCRC.

Residents in the area fear that to trust the provision of all public transport services in the hands of the KCRC would end up in monopoly. A delegation from 14 civic bodies and district board member ward offices of Tuen Mun area called at the UMELCO Office on 26 July 1986 to make their representation. They were interviewed by Duty Roster Members hon. Mrs. Pauline NG and myself. They suggested that in addition to the three-tier monitoring system through the district boards, the board of directors and the Governor in Council as proposed by the Secretary for Transport at the Legislative Council meeting on 16 July 1986, an independent statutory body with monitoring functions should be set up to complement the supervision. Its membership should comprise elected district board members and representatives from civic bodies. Members of the delegation were of the view that even though the Joint Committee of the Tuen Mun and Yuen Long District Boards on the LRT Project was formed after strong insistence on the part of the local associations, district board members and residents concerned, it plays only an advisory role, like that of the traffic and transport committee under the district board.

The schedules of bus services of the two bus companies (i.e. CMB & KMB) are subject to the approval of the Commissioner for Transport. Yet the Mass Transit Railway and the Kowloon-Canton Railway services are not governed by such provisions. As the LRT and its feeder bus services will come under the operation of the Kowloon-Canton Railway Corporation, the approval of the

Commissioner for Transport is likewise not required in the fixing of service schedules. Representatives of the civic bodies in Tuen Mun area considered such exemption acceptable only for MTR and KCR routes since there is competition from other modes of public transport along the vicinity of these routes. On the other hand, there is practically no competitive means of public transport in the LRT area; thus its service schedules should be subjected to the approval of the commissioner, or else there would be a total absence of a regulating mechanism. It would be even more desirable if the district boards concerned would be consulted before the approval.

The Bill also provides that the construction of the LRT project would be exempted from the requirements of the relevant Ordinance concerning noise abatement. In view of this, the authorities concerned should release the assessment report on the construction work and its effect on the environment so that residents in the vicinity would have a clear picture of the actual extent of noise pollution and that undue worries would not be roused.

The LRT system is an efficient and fast means of public transport. Its routes pass through residential areas and villages. The authorities concerned should give consideration to road safety and build more foot-bridges and subways to minimise the occurrence of traffic accidents.

Some of the above suggestions involve administrative measures such as the construction of foot-bridges and subways and the release of the assessment report on noise pollution. It is hoped that the Government departments concerned would give due consideration to the suggestions and put them into practice. The suggestion to place the LRT service schedules under the control and approval of the Commissioner for Transport is reasonable and therefore should be accepted. Though it would not be possible to provide for the setting up of a statutory monitoring body immediately as the Bill is going to be enacted after its Third Reading today, the Government and the UMELCO Panel on Transport should keep the appropriate legislation and the condition of the LRT area under constant review to see if the existing monitoring system is effective. Furthermore, the KCRC has been granted 20 years of franchised service in the area and its operation will be under the supervision of the Government. Residents recognise the efficiency of the present Administration and have confidence in it. However, the Administration after 1997 is yet to be formed and residents may have worries over its efficiency. Take the analogy of the business cycle, an established company can easily win the confidence of its customers because it has built up its reputation over the years; for a new company, it will need time to win over confidence. It is therefore no surprise that residents in Tuen Mun are asking for the setting up of an effective monitoring mechanism by the Government now so that their worries over the efficiency of the future Administration may be removed.

Sir, I sincerely hope that the above suggestions would be given careful consideration. With these remarks, I agree to the three amendments to be moved and support the Bill.

MR. TAI: Sir, the Kowloon-Canton Railway Corporation (Amendment) Bill 1986 aims, amongst other things, to provide power and rights for the KCRC to construct and operate the light rail transit and feeder bus services within the north-west Transit Service Area (TSA). Essentially, the Bill serves to phase out internal franchised bus routes now operating by the KMB within the TSA. Save and except public light buses, taxis, private motor cars and residential coaches, public bus services run by KMB and the TSA will be excluded.

I shall spend a little more time to speak on this Bill, not only because of the controversy arising therefrom, but also on some constitutional implications arising out of this Bill to which I hope fellow Councillors would direct their attention on similar cases in the future.

North-west New Territories, being remotely situated, is not served by any mass transport system. The district boards and the public of the region welcome the commitment of the KCRC, whose equity is 100 per cent owned by the Government of Hong Kong, to build a railroad to serve that section of the territory internally. Moreover, it is their hope that with the development of the LRT, it will not only improve the internal transport of that area, but also the LRT will in the not too distant future be linked up with other mass transport system serving other parts of the territory.

Worries have also been expressed by some members of the district boards about the LRT project. They queried the viability of the system in view of its intense capital commitment and the fact that its maximum capacity of taking 70 000 passengers per hour will far exceed the estimated demand of 300 000 passengers per day by the end of 1988. On the other hand, the proposed amendment to section 4(2)(*e*) and (*f*) of the Kowloon-Canton Railway Corporation Ordinance confer on the KCRC the power to determine the fares and routes of both the LRT and the feeder buses within the TSA. The exclusion from application of section 16(1)(*a*) of the Public Bus Services Ordinance to the feeder bus services in the TSA means that the KCRC, unlike other franchised bus companies, will have the power to determine the frequencies of its feeder bus services. These powers, coupled with the exclusive right to provide public transport in the TSA, have given rise to worries amongst the public that the extent of the power of the KCRC is given to enjoy may result in lower quality of service provided and higher fares charged. For philosophical reasons, some members of the district boards have advocated for the setting up of an independent statutory body composed of district board members from the two districts, representatives from KCRC, and the Government and other local bodies and concerned group to make decisions in respect of management, corporation policy as well as determination of the fares, routes and frequencies of LRT services. After considering its practicality and the fact that the suggestion represents a radical change to our present system of control on the operation of public utilities, it was rejected by the two boards. The two district boards have, however, agreed to set up a joint monitoring body to monitor the

services provided by the LRT and its feeder buses. It is hoped that the KCRC will give primary consideration to the well-being of the community in its operation and that fares will be set at a level affordable by the general public.

Although construction work by the KCRC has not yet commenced, the Government and the utilities companies have been carrying out roadworks to form the LRT reserve and to divert utilities to make way for the LRT. This has caused traffic congestion and inconvenience to the area and adversely affects businesses along the roadworks sites. I am given to understand that the Government will consider giving compensation for losses resulting from such roadworks as governed by the Roads (Works, Use and Compensation) Ordinance, and that the KCRC will also look into the same when railway construction work is being carried out. In my opinion, Sir, it would allay the worries of the people whose businesses are affected by the construction work if the Secretary for Transport would clarify the matter and make a statement to that effect.

The environmental impact, especially the noise level that may be generated by the movement of trains has also caused a lot of concern amongst residents living close to the proposed LRT routes. In the absence of any environmental impact feasibility report, I hope the KCRC would direct their attention to this and, if possible, supply the district boards with reports on statistics and noise level generated by the movement of LRT trains, and steps to be undertaken by the corporation to minimise disturbances caused to local residents.

Sir, on behalf of the Tuen Mun and Yuen Long District Boards and the public of the north-west New Territories, I would like to take this opportunity to thank Members of the *ad hoc* group who have spent much of their time conscientiously and objectively scrutinising this Bill. Their efforts have led to several amendments to the Bill which justly reflect the views of the public. These include limitation of KCRC franchise within the Transit Service Area and restriction on embarkation of passengers in the Transit Service Area. I shall table a motion for amendment relating thereto. In essence, my amendment aims at strengthening the supervisory role of this Council on any variations or alterations to the boundaries of the TSA by requiring the notice of such variations to be tabled before this Council for approval under section 34 of the Interpretation and General Clauses Ordinance.

During our *ad hoc* group meeting with the KCRC management and the Administration, Members were informed by the KCRC that the proposed amendments would not be made without consequences and that a letter from the KCRC had been sent to the Transport Department informing the Administration that the KCRC, as a result of the proposed limitation to its franchise, was re-considering:

(i) the viability of future plans to extend the LRT to link up with other mass transport systems;

(ii) the viability of future expansion of the LRT within the TSA; and
(iii) claiming compensation from the Government of Hong Kong.

Despite repeated assurances by the Transport Department and the KCRC to members of the district boards and the Legislative Council *ad hoc* group that the KCRC, being a public corporation, will, in exercising its powers, have regard to the reasonable requirements of the public transport system of Hong Kong and the efficiency, economy and safety of operation expected of its services and facilities, I personally believe that the statement made by the KCRC to reconsider all future expansion programmes in view of the proposed amendments amounts to intimidation of Councillors who are performing their proper functions, and holding the local community to ransom, knowing that the basis of acceptance of the TSA concept is the residents' wish to have an improved transport service to and from the North-west New Territories.

Another important constitutional aspect arising out of such a statement is whether the amendments are made within the powers of the Legislative Council. If the Bill requires the approval of this Council, the KCRC should be aware that any prior agreement made by the corporation with the Government would be a conditional agreement subject to approval by this Council through the normal legislative procedure. If that is the case, I can see no reason why the Government should be subject to a threat of compensation by the KCRC as a result of amendments made to the Bill. If in the event that the KCRC does have a right to claim compensation, it would in effect mean that a binding agreement has been reached between the Government and the KCRC before being approved by this Council. In that respect, the question of ultra vires may arise.

Lastly, Sir, I want to reiterate the need for better monitoring of the KCRC management to ensure that the interests and well-being of the public are well-protected. Because a lot of feeder routes are still undecided, the frequency of the feeder routes are undecided. In this connection, a better representation on the board of directors of the KCRC should be made.

Sir, despite a few drawbacks, the Bill on the whole deserves the support of the community. Experience tells us that we cannot have the best of both worlds. In closing, may I stress that the faith and trust of the residents of the North-west New Territories in the Government and KCRC in undertaking the LRT project to provide an efficient and affordable transport service cannot be measured in terms of dollars and cents.

Subject to the amendment to be moved in Committee stage, Sir, I support the motion.

MR. LAU (in Cantonese): Sir, as a member of the Tuen Mun district, I welcome the introduction of the LRT the northwestern New Territories. I am sure that this feeling is shared by most of the residents in Tuen Mun and Yuen Long districts. The LRT is a long-term investment in the future of the territory. It is a

visible sign of Government's commitment to the development of the northwest and I am sure it will promote growth and prosperity in the area that it serves.

In supporting the LRT, however, I share the concern expressed by many people in Tuen Mun about the future operation of its services, particularly in respect of the power of the Kowloon-Canton Railway Corporation to determine LRT fares. I think there must be an effective machinery to monitor the service and fares of the LRT so as to safeguard the interests of the Tuen Mun and Yuen Long residents, because they will not be able to turn to buses if they find LRT fares beyond their reach.

I accept that for good economic reasons, it would be wasteful to have another major mode of public transport duplicating LRT services. On the other hand, I do not doubt that the Board of the Kowloon-Canton Railway Corporation would act in the best public interest, for its board comprises of prominent and responsible members of our community, including Members of this Council. However, I do feel that there is a genuine need for a body to be set up to monitor the services of the LRT from the consumer point of view. In this respect, I should stress that the effectiveness of the monitoring system is definitely more important than the format of the proposed monitoring organisation. I therefore propose that the Tuen Mun and Yuen Long District Boards, being statutory bodies with members directly elected by the people living in the districts, should take on this monitoring role, for it is their responsibility stated in the law that they should advise on matters affecting the well-being of people in the district. I should perhaps report that agreement has already been reached by the Tuen Mun and Yuen Long District Boards in a joint meeting towards setting up this organisation which would operate under the auspices of the district boards jointly with a view to effectively monitoring the LRT services and fares. I would like to be assured that this body, when set up, will be positively supported by the KCRC and Government departments concerned.

As regards the future transport arrangements within the TSA, I am confident that the LRT will provide a superior level of service to the local residents. However, I am concerned that there are some remote areas which will not be covered by the LRT. It is important that the KCRC, being the operator of LRT and feeder bus services, will provide adequate feeder service to these areas. This particular concern highlights the point I made on the need for local input into the operation of the LRT and feeder services. It is vitally important that the KCRC will consult this joint body fully before making any decisions on their feeder routes.

The operation of transport services in the TSA has also been the subject of public concern and discussion. I have now accepted the concept of the TSA which carries with it many advantages the best of which provides a zonal, integrated fare system through which passengers can transfer, without additional payment, from buses to LRT, or from one LRT route to another thus enabling a traveller to choose the quickest and easiest route between two points

without being penalised for changing routes or transport modes. However, being a form of public transport I consider it unfair if KCRC were allowed to operate the TSA without being given a specified period of time which, for the sake of fairness, should not be too short bearing in mind that the LRT is a long-term investment. I will, therefore, move an amendment to the Bill, at Committee stage, that KCRC be given a period of 20 years to operate the TSA.

I would like to draw Members' attention to the fact that the LRT system as it is being built is hardly complete. It leaves out large areas of the Tuen Mun New Town. For instance, major developments and housing estates east of the nullah and Sam Shing Hui will not be served by the LRT when it comes into operation in 1988. I would therefore strongly urge the KCRC to extend the LRT to these very important centres of population as soon as possible rather than leaving them to be permanently served by feeder bus services.

Lastly, can I remind the Government of the fact that most of the residents of Tuen Mun work in the metropolitan area. With the rapid growth of population in Tuen Mun, pressure is building up on the transport services between Tuen Mun and the metropolitan area. Every day thousands of Tuen Mun residents spend an average of a few hours travelling to and from the urban areas. The need for a modern, fast and comfortable form of transport to take people to and from the metropolitan area is becoming increasingly imminent. I would therefore strongly urge that on LRT link to Tsuen Wan be constructed as soon as possible.

Sir, with these remarks, I support the Bill.

SECRETARY FOR TRANSPORT: Sir, I thank my Unofficial colleagues for their support and considered comments on this Bill. I am particularly grateful to Mr. F. K. HU for steering consideration of this Bill through the *ad hoc* group to a satisfactory conclusion.

Mr. TAI's proposed amendment to clause 3 of the Bill will have the effect of bringing notices of variations to the North-west Transit Service Area before this Council. This is a sensible procedural change but I should perhaps reiterate here that the Government currently has no intention of extending the North-west Transit Service Area to cover other parts of the territory.

The amendment to be moved by Mr. LAU to limit the protective measures for the LRT to 20 years with provision for further extension by resolution of this Council is clearly a most important amendment. I agree with the *ad hoc* group that, as a long term investment, the LRT system must be given a reasonable period to establish its viability before the protective measures are subjected to review. As the system with its feeder routes is designed to replace franchised bus services with a comprehensive, integrated public transport network in the Transit Service Area, its ability to meet public transport demand there should be a major factor in determining whether it should continue upon the expiry of

the 20-year period. It would perhaps be opportune for me to stress here that while phase I of the LRT system is scheduled to start operating in 1988, other phases of the LRT network within the TSA are still at various stages of planning with some proposed extensions tied in with Government's own development plans so that they are unlikely to be implemented before the early 1990s. As the 20-year period will take effect from the date of commencement of this Ordinance, the full LRT system may in fact enjoy rather less than 20 years' protection unless the period is extended proportionately to cover later phases of the system by resolution of this Council. This point will need to be borne in mind in any future review of the Transit Service Area.

The amendments which Mr. HU will be moving at the Committee stage to allow franchised external buses to set down passengers within the Transit Service Area in case of emergency are fully accepted. I understand that some of my Unofficial colleagues would have preferred clause 23 of the Bill to have been written in such a way as to allow passengers 'with reasonable cause' to alight from franchised external buses within the Transit Service Area. This form of words, however, is somewhat loose and could create a loophole for abuse. If experience should show that this provision was not meeting the needs of the travelling public in the special circumstances Members of the *ad hoc* group had in mind, a suitable amendment to regulation 24A of the Public Bus Services Regulations could certainly be considered in consultation with those concerned.

I thank Mr. LAI for supporting the establishment of the Transit Service Area. However, I should point out that KCRC's decision to proceed with the construction of the LRT system as its owner and operator was made in 1984 after the corporation had made an independent assessment of the viability of the project. The 1978 study by Scott, Wilson, Kirkpatrick & Partners was mainly for the purposes of comparing the merits and demerits of the LRT as against buses to determine which would better meet the needs of the north-western New Territories.

Concern by several of my Unofficial colleagues has been expressed about the future operation of the LRT system and the fares to be charged by the KCRC. The corporation has stated publicly that its fare strategy for the LRT system will be to encourage maximum patronage with realistic and reasonable fares. In this context, I welcome the decision of the Tuen Mun and Yuen Long District Boards to form a joint committee under their auspices to monitor LRT service and fares. I agree entirely with Mr. LAU and Mr. TAI that the two district boards, being statutory bodies with members directly elected by people living in the districts, should take on an active monitoring role. I see the formation of the joint committee as further reinforcing the effectiveness of the three-tier system of monitoring which I mentioned in introducing the Bill into this Council, and Mr. LAU has my assurance that it will receive positive support from the Government departments concerned and the KCRC in carrying out its task.

The suggestion that has been made for one member each from the Tuen Mun and Yuen Long District Boards to be appointed to the KCRC Board has been noted but given the board's existing membership and the monitoring system that is in place, I am of the view that the public interest is more than adequately safeguarded. Mr. LEE's proposal that the Commissioner for Transport be empowered to approve the frequency of service of the LRT system and its associated feeder bus routes was considered at some length in the *ad hoc* group. It was however agreed that such an arrangement would not be appropriate given the monitoring system and the special status of the KCRC as a public corporation wholly owned by Government. As regards the operation of LRT feeder bus services in the Transit Service Area, I agree with Mr. HU that it would be desirable if KMB could reach agreement with the KCRC to operate such services on a contractual basis.

Mr. LAI has criticised the provision under clause 22 of the Bill which empowers the Governor in Council to amend, with or without the consent of the grantee, a franchise under the Public Bus Services Ordinance. I should emphasise that the provision is a prerequisite for the development of an integrated public transport system in the Transit Service Area and that the Bill provides for compensation to be paid on a full and fair basis should such an amendment result in pecuniary loss or damage to the grantee concerned.

As regards the future development of the LRT system, I would like to re-assure Mr. TAI and Mr. LAU that the aim is to achieve a comprehensive integrated public transport network which will fully meet the internal public transport needs of residents in the Transit Service Area. The consultancy studies for phase II and subsequent phases of the LRT system are being carried out by the KCRC with this objective in mind. I am pleased to inform Mr. LAU that extensions of the LRT to Sam Shing Hui and the built-up areas east of the nullah will form part of the phase II development of the LRT system which are expected to operate in the early 1990s. As regards a possible future link to the urban area, the MTRC and the KCRC are currently conducting feasibility studies which are expected to be completed by the end of 1986 or early 1987. The constitutional point raised by Mr. TAI in respect of the agreement reached between the Government and the KCRC for construction of the LRT is noted. There is, on an initial view of the point, nothing in the proposals relating to the LRT which derogates from the power of this Council to legislate.

I agree with Mr. LEE that adequate crossing facilities should be provided in the LRT service area, and this is catered for in the construction of phase I. I also note Mr. TAI's and Mr. LEE's concern about possible noise nuisance which might arise in connection with the construction work. I am able to assure them that there are no plans for major construction work on the LRT to be undertaken at night and that the contract for Phase I makes no provision for night work. Finally, Mr. TAI's concern over compensation for business losses attributable to LRT works is understandable and is indeed being addressed by the departments concerned.

Sir, examination of this Bill has been a complex and difficult exercise and I am most grateful to Mr. HU and other hon. Members of the *ad hoc* group for their support and for the time, effort and care they have devoted to it.

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).

PEAK TRAMWAY (AMENDMENT) BILL 1985

Resumption of debate on Second Reading (4 December 1985)

SECRETARY FOR TRANSPORT: Debate on the Second Reading of the Peak Tramway (Amendment) Bill 1985 was adjourned on 4 December 1985 and resumption was deferred pending the conclusion of discussions with the Peak Tramway Company on the provision of a firm commitment by the latter to modernise the tramway in return for the right to operate it for 20 years. These discussions have now been concluded satisfactorily with the proposed grant of a 20-year right to be made in two stages and the amendments that I shall move to clause 2 at the Committee stage give effect to this approach. The amendments proposed to clauses 1 and 8 are minor in nature.

Under this revised approach, the company would be granted the right to operate the peak tramway for a period of 10 years with effect from 1 January 1984 upon the payment to Government of a non-refundable premium of $2.79 million within 14 days of the commencement of the Ordinance. The premium comprises a sum of $2.6 million earlier agreed upon for a 20-year right to operate the tramway and a further sum of $190,000 being interest which has accrued since the introduction of the Bill into this Council in December 1985.

The Secretary for Transport would be empowered to grant a further period of 10 years upon the company satisfying him within two years of the date of commencement of the amending Ordinance of its commitment to carry out approved works for the modernisation and improvement of the tramway and ancillary equipment. No further premium would be payable in respect of this second 10-year period.

Sir, as my predecessor stated in this Council when he introduced the Bill on 4 December last, the package of measures contained in the Bill serves to reflect the status of the peak tram as a recreational facility and to streamline the administrative arrangements for it to continue to operate as a commercial undertaking. The further amendments now proposed are designed to ensure

that the Peak Tramway Company will at the same time undertake to modernise the tramway if it is to enjoy the right to operate it for a full 20-year term.

Sir, I beg to move.

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).

PHARMACY AND POISONS (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (16 July 1986)

DR. IP: Sir, this Bill serves to tighten control over the sale of pharmaceutical products for the safety and benefit of our public. It has received full support from the medical and pharmaceutical profession. The Legislative Council *ad hoc* group formed to scrutinise this Bill approves of it. I too would like to extend my warm welcome to these much needed legislative amendments.

It must be confusing to the lay public why a Bill should be so called ... Pharmacy ... and Poisons ... Bill; two apparent extremes of products, one to cure and another to kill. The simple explanation is that there is only a fine dividing line between the two. Namely, the same product can be both a drug and a poison. A drug given correctly and in the right dosage can cure but if not, can kill or maim. Examples are ... iron tablets apparently so benign, can kill with an overdosage. Warfarin kills rats but cures human blood disease. Aspirin cures headache for one person, but precipitates asthma in another and haemolytic anaemia in 5 per cent of Chinese males in Hong Kong. Thalidomide gives a good night sleep for some but given to a pregnant mother maims her unborn foetus. In essence, it is dangerous for the public to play doctors, friends to play pharmacists, and neighbours to play dispensers.

Basically, we can divide drugs into three practical categories.

Firstly, those for minor ailments and which because of their harmless nature are not on the poisons list and can therefore be sold by listed sellers of poisons without the advice from doctors or pharmacists.

Secondly, those which can be poisonous and therefore harmful, but would still be safe if taken with the advice of a pharmacist, working under an authorised seller of poison. (Part I poison under the First Schedule.)

Thirdly, those drugs which can be poisonous and therefore harmful, the seriousness of which warrants prescription by doctors. (Part I poison under the Third Schedule.)

This classification exists in legislation because of the need for consumer protection.

Before the introduction of this Bill, a listed seller can dispense a doctor's prescription if the drugs contained therein are not on the poisons list. Since a usual doctor's prescription would include all those three categories of drugs, how could the lay public know the difference between these drugs and the difference between listed or authorised sellers of poisons for that matter? If listed sellers of poisons are approached, business being the name of the game, it becomes a temptation for the listed sellers to both illegally stock and sell drugs under the poisons list. They even make use of the loopholes of the law by stocking drugs on the poisons list at another address or circumvent control by offering such drugs under the guise of free supply.

This had been amply demonstrated from the breakdown of statistics on the prosecution and conviction in which 79 listed sellers of poisons were convicted in 1985 of illegal possession, sale or both of drugs under the poisons list. Worse still is that after prosecution, they can re-apply for a licence under another name and address.

While listed sellers of poisons attempt illegally to sell Part I poisons under Schedule I, authorised sellers of poisons attempt illegally to sell part I poisons under schedule III without the doctor's prescription. This is not quite so easy to prove but there has been two such cases convicted last year.

This Bill therefore introduces amendments (1) to forbid listed sellers of poison to dispense doctor's prescription altogether so as to reduce such proven temptation to sell drugs on the poisons list illegally and to plug any loopholes to the same effect; (2) to identify for the public 'authorised sellers' which engage pharmacists and can by law dispense any drugs prescribed by doctors, by allowing such sellers to display a specific logo.

The Bill goes further by (3) widening the power of forfeiture to include unregistered pharmaceutical products not containing poisons and (4) allowing the Pharmacy and Poisons Board to reject applications or licence if the suitability of the persons and premises are open to question from previous conviction or for other reasons, while leaving the unscrupulous pharmacists who had committed offences subject to internal discipline by the same board. After thorough discussion the Legislative Council *ad hoc* group was satisfied with the replies from the Administration on possible criticisms of this Bill or, the possible loss of business of listed sellers when the public will in future turn to authorised sellers to dispense their prescriptions. The replies were:

(1) that as most of the dispensing of doctor's prescriptions was done in hospitals, clinics or private doctors' surgeries anyway, the drop in business of each of the existing 2 566 listed sellers should be negligible;
(2) that the main business of listed sellers in the selling of medicine for minor ailments over the counter would *not* be affected;

(3) that there are some 569 pharmacists but only 167 authorised sellers of poisons, the supply of qualified pharmacists is not a problem if listed sellers apply to become authorised sellers. This is in fact positively encouraged; and lastly,
(4) that any drop in the illegal sale of part I poisons by listed sellers of poisons in fact meets the object of this Bill.

On the possible anomaly that drugs not on the poisons list could not be purchased from a listed seller *with* a doctor's prescription but could be, without a doctor's prescription, the reply was that the protection that the public would receive from the professional service of pharmacists in authorised sellers is of prime importance and far outweigh any minor inconvenience which may arise.

I agree with the essence of the Bill that in tightening control on the sales of drugs, the public are encouraged to purchase drugs from authorised sellers who engage pharmacists. The training and professionalism of pharmacists is a guarantee that prescriptions dispensed (or drugs purchased over the counter) would be accurate and safe in so far as the type, brand, dosage and life of the drugs are concerned. Their expert advice would be invaluable to those who incline towards self-medication and risk their health.

Sir, I see this Bill as one of many to come aimed at improving consumer protections through legislation. I therefore support this Bill before Council.

DR. CHIU: Sir, the Pharmacy and Poisons (Amendment) Bill 1986 is a timely move to tighten the control of sale of poisons and pharmaceutical products. It is particularly significant at a time when an increasing number of the population, for various reasons, tend to undertake self-medication for minor health problems.

To amend the definition of 'dispensing' by including dispensing on a prescription made by a registered doctor, dentist or duly qualified veterinary surgeon is to prohibit listed sellers of poisons from dispensing prescription. The Bill, if endorsed, will plug the loophole of the existing Ordinance and simultaneously will deter people without proper pharmacological training to dispense.

One of the deficiencies in the present Ordinance is in its definition of 'sell' which does not cover 'supply without payment'. The proposed amendment will enlarge the scope to include such an area.

Besides other provisions, The Bill empowering the Pharmacy and Poisons Board to reject applications for registration is on the right track. It not only enables the board to use discretion and flexibility in screening applications but also to disqualify those sellers who have been de-registered owing to committing an offence to re-apply for registration under a new name.

Furthermore, the suggested amendment conditionally exempting registered medical practitioners from requirement of recording the supply and dispensing

of medicines in a separate book will be warmly welcomed by practising medical personnel because it eliminates the duplication of efforts in keeping records.

Sir, using a statutory logo for authorised sellers of poisons is a device for the public interest. The purpose of using such a logo will never be fulfilled unless the general public are equipped with basic medical knowledge. It is not uncommon that many people still have difficulty in distinguishing 'listed' and 'authorised' sellers of poisons as well as 'Part I' and 'Part II' poisons and so on.

I, therefore, urge the relevant Government departments to plan and organise health education programmes for conveying basic but essential knowledge on pharmacy and poisons in order to help the general public to have a better understanding of the proper use of pharmaceutical products.

In order to properly enforce this law, an effective monitoring system is indispensable. One of the areas we are concerned with most is whether the current system is adequate to monitor the enforcement.

Sir, with these remarks, I support the motion.

DR. LAM (in Cantonese): Sir, the Pharmacy and Poisons (Amendment) Bill 1986 aims at plugging the loopholes and amending certain unrealistic provisions in the original Ordinance, with the overall objective of protecting public health. The amendments made by the Bill will affect about 2 500 listed sellers of poisons by prohibiting them from dispensing prescriptions and this will result in a certain degree of inconvenience to the public. After the Bill is passed, only 167 stores (1986 figure), as authorised sellers of poisons, will be able to dispense Part I poisons in Hong Kong. Moreover, an authorised seller of poisons is required only to engage a registered pharmacist to conduct the dispensing of medicines for two-thirds of the time during which the seller is opened for business. That is to say, the public will not be able to obtain medicines they need from an authorised seller of poisons for one third of the seller's business hours. There are at present 569 registered pharmacists in Hong Kong. After the Bill becomes law, the authority concerned should take appropriate action to provide the public with a sufficient number of registered pharmacists.

The amendment Bill may cause embarrassment to the doctors in that while a listed seller of poisons cannot dispense a non-poison medicine by prescription, it may sell the same medicine to the public without prescription. This may create a false impression to the public that it may be more convenient to do without prescriptions.

Nevertheless, the advantages of the amendment Bill to the public at large outweighs any disadvantages.

Sir, I support the motion.

SECRETARY FOR HEALTH AND WELFARE: I wish to thank Members of the Legislative Council *ad hoc* group for having scrutinised this Bill and for their support for it.

Dr. CHIU suggested that Government should plan and organise health education programmes to convey basic knowledge of pharmaceutical products. I assure him that the Central Health Education Unit, together with the medical and pharmaceutical associations, will continue their efforts to promote public awareness on these matters.

Dr. CHIU stressed the need for an effective monitoring system to ensure that the Pharmacy and Poisons Ordinance is properly enforced. This was of course one of the principal matters of concern to the Working Party on the Practice of Pharmacy and Ancillary Matters. Since then the staff of the Forensic Pharmacy Section in the Medical and Health Department have been greatly increased and the number of prosecutions concerning retail premises under the Ordinance has risen from 29 in 1980 to 96 in 1985.

The Bill will enable regulations to be made by the Pharmacy and Poisons Board to prohibit listed sellers of poisons from dispensing prescriptions. Dr. LAM is concerned that such a provision will cause in convenience to the public as they may have to approach an authorised seller even for some simple medicine prescribed by their doctors. However, Dr. IP has described how the dispensing of medicine is a more complex matter than would at first appear, and thorough knowledge of the properties of the various drugs is important if mistakes are to be avoided. As Dr. IP has pointed out, the fact that there were 79 convictions of listed sellers in 1985 for illegal possession and sale of part I poisons may indicate that because they are not at present debarred from dispensing prescriptions there is a temptation not to confine their activities to the safer substances in part II of the poisons list but to deal also in part I poisons. In practice, most patients receive their medicine directly from hospitals, clinics and private medical practitioners' surgeries, in addition to the 169 authorised sellers. There is thus an adequate number of outlets already. It is therefore expected that any inconvenience resulting from this provision would be minimal.

Dr. LAM noted also that a registered pharmacist need be present at the registered premises of the authorised sellers for only two-thirds of the business hours. I wish to point out that the intention of the existing provision is to prevent a registered pharmacist from working for more than one authorised seller and for this purpose the present requirement would seem to be appropriate. In addition, each authorised seller is required to display the hours during which a registered pharmacist is in attendance, thereby enabling the customers to call in at the right time.

Sir, I beg to move.

Questions 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

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1986

Clauses 1 to 6 were agreed to.

New clauses 5A. 'Addition of new section 31'.

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

ATTORNEY GENERAL: In accordance with Standing Order 46(6) I move that the new clause 5A as set out in the paper circulated to Members be read the Second time.

Question put and agreed to.

Clause read the Second time.

ATTORNEY GENERAL: I now move that new clause 5A be added to the Bill.

Proposed addition

New Clause 5A

By adding, after clause 5, the following clause—

'Addition of new section 31.

5A. The principal Ordinance is amended by adding, after section 30, the following section—

"Power to alter fees.

31. The Legislative Council may by resolution vary the amount of any fee specified in this Ordinance.".'.

The addition of the new clause was agreed to.

FOREIGN MARRIAGE (AMENDMENT) BILL 1986

Clauses 1 and 2 were agreed to.

New clause 3. 'Addition of new section 7'

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

ATTORNEY GENERAL: In accordance with Standing Order 46(6) I move that the new clause 3 as set out in the paper circulated to Members be read the Second time.

Question put and agreed to.

Clause read the Second time.

ATTORNEY GENERAL: I now move that new clause 3 be added to the Bill.

Proposed addition

New Clause 3

By adding, after clause 2, the following clause—

'Addition of new section 7.

3. The principal Ordinance is amended by adding, after section 6, the following section—

"Power to alter fees.

7. The Legislative Council may by resolution vary the amount of any fee specified in this Ordinance.".'.

The addition of the new clause was agreed to.

LEGITIMACY (AMENDMENT) BILL 1986

Clauses 1 and 2 were agreed to.

New clause 1A. 'Amendment to section 3 (Cap. 184)'

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

ATTORNEY GENERAL: In accordance with Standing Order 46(6) I move that the new clause 1A as set out in the paper circulated to Members be read the Second time.

Question put and agreed to.

Clause read the Second time.

ATTORNEY GENERAL: I now move that new clause 1A be added to the Bill.

Proposed addition

New Clause 1A

By adding, after clause 1, the following clause—

'Amendment of section 3. (Cap. 184.)

1A. Section 3 of the principal Ordinance is amended by inserting, after subsection (3), the following subsection—

"(4) The Legislative Council may by resolution vary the amount of any fee specified in the Schedule.".'.

The addition of the new clause was agreed to.

FIRE SERVICES (AMENDMENT) (NO. 3) BILL 1986

Clauses 1 to 5 were agreed to.

REHABILITATION OF OFFENDERS BILL 1986

Clauses 1, 5 to 9 were agreed to.

Clause 2

ATTORNEY GENERAL: I move that clause 2 be amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 2

That clause 2 be amended by inserting after 'sentenced to' the following—

'death,'.

The amendment was agreed to.

MRS. TAM: I move that clause 2 be further amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 2

That clause 2(4) be amended—

(*a*) In paragraph (*c*) by deleting '[and]';

(*b*) in paragraph (*d*) by deleting '[.][';

(*c*) in paragraph (*e*) by deleting—

'[unless the individual convicted of that offence signs in presence of, and lodges with, the Registrar of Societies a document, in a form approved by the Registrar, stating that the individual renounces membership, office or any other affiliation with any Triad Society.]]'.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3

MISS TAM: I move that clause 3 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 3

That clause 3(2) be amended by deleting paragraph (*a*) and renumbering paragraphs (*b*), (*c*) and (*d*) as paragraphs (*a*), (*b*) and (*c*) respectively.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4

ATTORNEY GENERAL: I move that clause 4 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 4

That clause 4 be amended—

(*a*) In subsection (1)—

(i) in paragraph (*c*) by deleting 'and';

(ii) in paragraph (*d*) by deleting 'office.' and substituting the following—

'office; and';

(iii) by inserting the following paragraph—

(Cap. 41.) '(*e*) proceedings under the Insurance Companies Ordinance—

(i) relating to a person's suitability to be authorised as an insurer; or

(ii) by the Insurance Authority in the exercise of the powers conferred on him by sections 27 to 35 of that Ordinance.'.

(*b*) In subsection (2)—

(i) by deleting 'an individual' and substituting the following—

'another person';

(ii) in paragraph (*c*) by deleting 'office.' and substituting the following—

'office; or';

(iii) by inserting the following paragraph—

(Cap. 41.) '(*d*) to be authorised as an insurer under the Insurance Companies Ordinance.'.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Schedule

ATTORNEY GENERAL: I move that the Schedule be amended as set out in the paper circulated to Members.

Schedule

The Schedule be amended—

(*a*) In item 7 by deleting '30' and substituting the following—

'31'.

(*b*) After item 8, by inserting the following—

(Cap. 95.) '**9.** Any person holding any rank in the Fire Services Department set out in the Sixth Schedule to the Fire Services Ordinance.'.

The amendment was agreed to.

Schedule, as amended, was agreed to.

KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT) BILL 1986

Clauses 1, 2, 4 to 21, 24 to 26 were agreed to.

Clause 3

MR. TAI: I move that clause 3 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 3

That clause 3 be amended by deleting paragraph (*c*) and substituting the following—

'(*c*) by inserting after subsection (1) the following—

"(2) The Governor in Council may, upon being satisfied that the Corporation has been consulted about the variation, by order in the *Gazette* require the Commissioner for Transport to vary the boundaries of the North-west Transit Service Area in such manner as may be specified in the order.

(3) The Commissioner for Transport shall prepare a plan showing the variation required by the Governor in Council under subsection (2) and shall deposit that plan in the Land Office; and upon such deposit the boundaries of the North-west Transit Service Area shall be amended to the extent shown in the plan.".'

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 22

MR. LAU: I move that clause 22 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 22

That clause 22 be amended—

(*a*) In paragraph (*b*) by inserting after the new subsection (8) the following—

'(9) The powers conferred on the Governor in Council by subsection (5) shall cease to be exercisable after a period of 20 years from the commencement of the Kowloon-Canton Railway Corporation (Amendment) Ordinance 1986 or such further period or periods as may be authorised by resolution of the Legislative Council.'.

(*b*) In paragraph (*d*) by inserting before 'prohibiting' in the new paragraph (*fa*) the following—

'during the period referred to in section 5(9),'.

The amendment was agreed to.

Clause 22, as amended, was agreed to.

Clause 23

MR. HU: I move that clause 23 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 23

That clause 23(*b*) be amended—

(*a*) In new regulation 24A by deleting from 'Every grantee' to 'Corporation—' and substituting the following—

'During the period referred to in section 5(9) of the Ordinance every grantee shall within the North-west Transit Service Area ensure that no bus used by it in connexion with its franchise, otherwise than as may be permitted by its franchise, or as may be permitted by the Commissioner with the consent of the Kowloon-Canton Railway Corporation, or in an emergency—'.

(*b*) In new regulation 24B by inserting after 'he may' the following—

', during the period referred to in section 5(9) of the Ordinance,'.

The amendment was agreed to.

Clause 23, as amended, was agreed to.

PEAK TRAMWAY (AMENDMENT) BILL 1985

Clauses 1, 2 and 8.

SECRETARY FOR TRANSPORT: I move that clauses 1, 2 and 8 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 1

That clause 1 be amended by deleting '1985' and substituting the following—

'1986'.

Clause 2

That clause 2 be amended by deleting the new section 2A and substituting the following—

'Right to run and operate the tramway. (57 of 1986.)

2A. (1) Upon the payment to the Government by the company of a non-refundable premium of $2,790,000 within 14 days after the commencement of the Peak Tramway (Amendment) Ordinance 1986, the company shall have the right to run and operate the tramway authorized by this Ordinance, along the route specified in section 3, for a period of 10 years commencing on 1 January 1984.

(2) The Secretary for Transport shall—

(*a*) if within 2 years after the commencement of the Peak Tramway (Amendment) Ordinance 1986 there is produced to him evidence of a commitment by the company to the carrying out of approved works for the modernisation and improvement of the tramway and ancillary equipment; and

(*b*) if such commitment is of a kind and in a form satisfactory to him,

by notice in the *Gazette* grant to the company the right referred to in subsection (1) for a further period of 10 years commencing immediately after the expiration of the first such period.

(3) For the purposes of subsection (2) 'approved works' means works approved by the Secretary for Transport.

(4) The right conferred by subsections (1) and (2) shall be subject to this Ordinance.'.

Clause 8

That clause 8 be amended—

In the new section 22(2) by deleting 'Where the company issues a monthly ticket for the use of the tramway,' and substituting the following—

'If any person applies for a monthly ticket for the use of the tramway, the company shall issue the monthly ticket and'.

The amendments were agreed to.

Clauses 1, 2 and 8, as amended, were agreed to.

Clauses 3 to 7, 9 to 12 were agreed to.

PHARMACY AND POISONS (AMENDMENT) BILL 1986

Clauses 1 to 11 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

FIRE SERVICES (AMENDMENT) (NO. 3) BILL 1986 and the

PHARMACY AND POISONS (AMENDMENT) BILL 1986

had passed through Committee without amendment, the

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1986

FOREIGN MARRIAGE (AMENDMENT) BILL 1986

LEGITIMACY (AMENDMENT) BILL 1986

REHABILITATION OF OFFENDERS BILL 1986

KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT) BILL 1986 and the

PEAK TRAMWAY (AMENDMENT) BILL 1985

had passed through Committee with amendments and the

SUPPLEMENTARY APPROPRIATION (1985-86) BILL 1986

having been read the Second time was not subject to Committee stage proceedings in accordance with Standing Order 59. He then 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

Second Reading of Bill

CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF SHAW COLLEGE) BILL 1986

Resumption of debate on Second Reading (23 July 1986)

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I rise on behalf of the Administration to welcome warmly the establishment of a fourth college at the

Chinese University of Hong Kong. Its establishment will certainly complement the three existing constituent colleges as the student population at the university continues to grow. The Shaw College will also provide a basis for the continued development of the Chinese University, and contribute to meeting the demand for additional university places. Sir Run Run, whose generous donation makes the establishment of this new college possible, can rightly be proud of his contribution to higher education in Hong Kong, for which the Government and the community are deeply appreciative.

In view of the contribution the Shaw College will make, Sir, I have the greatest pleasure in supporting this Bill.

Question put and agreed to.

Bill read the Second time.

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

Committee stage of bill

Council went into Committee.

CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF SHAW COLLEGE) BILL 1986

Clauses 1 to 4 were agreed to.

Schedule was agreed to.

Council then resumed.

Third Reading of Bill

MR. CHEN reported that the

CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF SHAW COLLEGE) BILL 1986

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

Question put on the Bill and agreed to.

Bill read the Third time and passed.

Valedictory

HIS EXCELLENCY THE PRESIDENT: Hon. Members, before adjourning this Council, I should like to pay tributes to Mr. CHAN Nai-keong and Mr. Neil HENDERSON who will be retiring from the public service and leaving this Council after this session.

Mr. CHAN joined this Council in 1983 on his appointment as Secretary for Lands and Works. But before that he had served for more than 30 years in various offices of the Public Works Department. He has witnessed, taken part in, and contributed to the great changes of the past three decades which have transformed Hong Kong from a dilapidated and struggling city, blanketed with squatters, into a thriving metropolis which in 30 years has housed millions of people and has transformed its communications and infrastructure.

Mr. CHAN leaves this Council knowing that the major reorganisation of the land and works group of departments is now in place, that we now have a Territory Development Department and that the highways which are so vital to our economic life now have a director in charge of their development and care.

Mr. CHAN was awarded an Honorary Degree of Doctor of Technology in 1984 by his old university at Loughborough, and this month, to set a seal upon so many years of achievement he was elected to a Fellowship of Engineering in the United Kingdom.

Mr. HENDERSON is leaving Hong Kong next month after more than 24 years of service with the Government, and eight years in this Council and engineering of another kind—social engineering. Mr. HENDERSON has worked in many branches of Government but for much of the last 13 years he has been pursuing administrative and statutory measures which have already had a profound effect upon the safety and well-being of our workforce. That, in our industry, we are generally able amicably to resolve problems which arise between workers and employers is a result of the timely introduction of many improvements to these relationships which have been steered through by Mr. HENDERSON.

His contribution to education since his appointment as Secretary for Education and Manpower has been no less significant; he has provided most valuable counsel to the Education Commission which produced its first report in January 1985 and to its second report which will be issued in the next few months. He has also contributed in setting up our own Planning Committee for Academic Awards and the extension of our tertiary education institutions.

His contribution to the rehabilitation of the disabled dates back to his days as Commissioner for Labour, when he set up the Selective Placement Service; and his efforts to improve the welfare of the disabled have led to commercial buildings being provided with access for them.

Members will wish to join me in thanking Mr. CHAN and Mr. HENDERSON most warmly for their contributions to the work of this Council, and to Hong Kong, and in wishing them and Mrs. CHAN and Mrs. HENDERSON every happiness in the future.

MR. CHEN: Sir, on behalf of the Members of the Council, I join you, Sir, in expressing gratitude to Mr. CHAN Nai-keong for his service as Secretary for Lands and Works and Mr. Neil HENDERSON for his service as Secretary for Education and Manpower.

We all recognise the importance of the provision of infrastructural facilities in Hong Kong. As Secretary for Lands and Works, Mr. CHAN has played an important role in laying the foundation work on which our prosperity is based. Furthermore, our prosperity cannot be guaranteed without careful long-term planning. In this respect, the Lands and Works Branch has compiled an important document providing a planning framework for growth which will take us into the 1990s and beyond. The leadership provided by Mr. CHAN in this complex and careful exercise has been most valuable.

We also wish to place on record our appreciation of Mr. HENDERSON's contribution in this Council. His dedication in the many aspects of labour legislation was evident way back in his time as Commissioner for Labour. His good work in this area continued in his term as Secretary for Education and Manpower; for example, the Pneumoconiosis (Compensation) (Amendment) Bill 1986 provided greater flexibility for the payment of compensation to dependants of a pneumoconiosis victim who died from a cause other than pneumoconiosis. In addition, his portfolio was since expanded to include legislation on education and rehabilitation of the disabled as well. His contribution to these new areas of responsibility was as significant. The City Polytechnic of Hong Kong Bill 1983 for example, provided for the establishment of Hong Kong's second polytechnic and was a step forward in education.

The two hon. Members are each going their separate ways after leaving this Council. We wish them every happiness and success.

Close of session

HIS EXCELLENCY THE PRESIDENT: Hon. Members, that brings to an end the formal business of this session. Just under a year ago the last session in the old Council Chamber was closed. That was a momentous session with historic meetings which debated the Joint Declaration and the very future of Hong Kong. The present session has been distinguished in other ways: the range of business and the thoroughness with which matters have been studied and debated have proven how, without great drama and with dignity, the interests of the community can be and are represented in this Chamber and the work of the Council.

As to the details of the work that has been completed, I shall spare you the statistics but, as you will know far better than I do, the workload has increased enormously.

Our move from the old Chamber, into the middle of the business district of Hong Kong has narrowed the physical gap between the Council and the city, it

has symbolised the increasing tempo of business of the new Council; and the mixture of Members elected and appointed has focussed the attention of people throughout Hong Kong on the Council and its proceedings.

The diversity of views freely expressed in this Chamber add breadth and strength to the processes of law making and of government. This unity out of diversity enables us to find solutions to our problems which generally command a consensus throughout the community.

Most of our business is quietly conducted, aiming at efficiency and economy. The resilience and health of our economy and its powers of recuperation reflect this basic approach of prudence, common sense and consensus, of taking opportunities when they present themselves and working for the general good of the whole people.

The highlights of the year included the determined efforts of Members to put the views of Hong Kong to Her Majesty's Government in regard to the draft Hong Kong-British Nationality Order 1986. As a result of those representations on the Nationality Order, Her Majesty's Government agreed to two of three requests and gave an assurance in respect of the third. A matter of current major importance to Hong Kong people has been their concern, which Members have so ably reflected and are pursuing, in regard to the nuclear power station at Daya Bay.

Two important Select Committees have sat during the year with their meetings largely held in public. This in itself was an important development towards a more open government. And this, too, is the first full year in which meetings of the Finance Committee as well as the Public Accounts Committee have been held in public, providing an opportunity to taxpayers to see how their money is being spent and accounted for.

In thanking Members for their contribution to the work of Council in this session, I should like to thank the staff who, behind the scenes, have supported us so well as our work has expanded and increased in complexity.

May I wish you all a most enjoyable break and for those who go on journeys either for pleasure or in pursuance of the affairs of this Council God speed and also an enjoyable break before the start of the next session, which will be opened on the 8 October by His Excellency the Governor.

I now declare the 1985-1986 session of this Council to be at an end.

PRINTED AND PUBLISHED BY H. MYERS, GOVERNMENT PRINTER
AT THE GOVERNMENT PRINTING DEPARTMENT, HONG KONG