

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 13 March 1985****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR EDWARD YOUDE, G.C.M.G., M.B.E.

THE HONOURABLE THE CHIEF SECRETARY
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN HENRY BREMRIDGE, K.B.E., J.P.

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

THE HONOURABLE SIR ROGERIO HYNDMAN LOBO, C.B.E., J.P.

DR. THE HONOURABLE HARRY FANG SIN-YANG, C.B.E., J.P.

THE HONOURABLE FRANCIS YUAN-HAO TIEN, O.B.E., J.P.

THE HONOURABLE ALEX WU SHU-CHIH, C.B.E., J.P.

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

THE HONOURABLE LYDIA DUNN, C.B.E., J.P.

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

THE HONOURABLE WONG LAM, O.B.E., J.P.

DR. THE HONOURABLE THONG KAH-LEONG, C.B.E., J.P.
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE ERIC PETER HO, C.B.E., J.P.
SECRETARY FOR TRADE AND INDUSTRY

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.

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

THE HONOURABLE ANDREW SO KWOK-WING, O.B.E., J.P.

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

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

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

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

THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.

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

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

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

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

DR. THE HONOURABLE HENRIETTA IP MAN-HING

THE HONOURABLE PIERS JACOBS, O.B.E., J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.
SECRETARY FOR SECURITY

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

THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, J.P.
COMMISSIONER FOR LABOUR

THE HONOURABLE CHAN YING-LUN

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN

THE HONOURABLE PETER POON WING-CHEUNG, M.B.E., 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 KEITH LAM HON-KEUNG, J.P.

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
DIRECTOR OF EDUCATION

THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE DAVID ROBERT FORD, L.V.O., O.B.E., J.P.
SECRETARY FOR HOUSING

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E., J.P.
SECRETARY FOR TRANSPORT

ABSENCE

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, O.B.E., J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI

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

THE HONOURABLE CARL TONG KA-WING

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR. LI WING

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Public Revenue Protection Ordinance. Public Revenue Protection (Road Traffic) Order 1985 -----	32
Public Revenue Protection Ordinance. Public Revenue Protection (Dutiable Commodities) Order 1985 -----	33
Public Revenue Protection Ordinance. Public Revenue Protection (Dutiable Commodities) (No. 2) Order 1985 -----	34
Public Revenue Protection Ordinance. Public Revenue Protection (Dutiable Commodities) (No. 3) Order 1985 -----	35
Buildings Ordinance. Building (Administration) (Amendment) Regulations 1985-----	36
Legal Aid Ordinance. Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulations 1985-----	37
Registration of Persons Ordinance. Registration of Persons (Application for New Identity Cards) (No. 2) Order 1985-----	38
Road Traffic (Parking) (Amendment) Regulations 1985. Road Traffic (Parking) (Amendment) Regulations 1985 (Commencement) Notice 1985 -----	39
Waterworks Ordinance. Waterworks (Amendment) Regulations 1985 -----	40
Air Navigation (Overseas Territories) Order 1977. Authorisation by the Governor -----	41
Telecommunication (Exemption from Licensing) Order. Telecommunication (Hong Kong Telephone Company) (Exemption from Licensing) (Fees) (Amendment) Order 1985-----	42
Supreme Court Ordinance. Rules of the Supreme Court (Amendment) Rules 1985 -----	43

<i>Subject</i>	<i>L.N. No.</i>
University of Hong Kong Ordinance. Statutes of the University of Hong Kong (Amendment) Statutes 1985-----	44
Sessional Papers 1984-85:	
No. 48—The University & Polytechnic Grants Committee of Hong Kong— Report January 1983 to December 1984.	
No. 49—Government Minute in response to the report of the Public Accounts Committee dated December 1984.	

Oral answers to questions

Inspection of export documents in local factories by US Government officials

1. MISS DUNN asked:—*Is the Government aware that officials of the United States Consulate have been visiting Hong Kong factories requesting to inspect documents related to export consignments for the U.S.A.? If so, would the Government say what legal powers give them these rights of entry and inspection?*

SECRETARY FOR TRADE AND INDUSTRY:—Sir, the Government is aware that a member of the U.S. Customs Service has recently visited some Hong Kong factories, by appointment, requesting to see documents and production records relating to certain apparel consignments for the U.S.A.

U.S. Government officials have no authority under Hong Kong law to enter any factory or office in Hong Kong without its owner's permission or to demand to inspect its documents. Managements are not obliged to receive such visitors or to provide any information against their will. However, in the cases which have come to notice the managements concerned willingly received the visitors and voluntarily provided the information or clarification sought.

MISS DUNN:—*Sir, wouldn't it be reasonable to assume that the average factory owner doesn't distinguish between one official from the next, that they allow access to confidential documents by American officials in these cases in the belief that these inspections are lawful, and that refusal may lead to their consignments not being allowed to enter the United States?*

SECRETARY FOR TRADE AND INDUSTRY:—It is possible, Sir, that factory owners may believe that there is an element of legality in the approaches by any visitor, but the fact remains that the U.S. officials in Hong Kong have no such rights under our law.

MISS DUNN:—*Do the American authorities claim any right to refuse shipments to enter the United States as a result of these inspections and has the Government any knowledge whether any consignment has been detained?*

SECRETARY FOR TRADE AND INDUSTRY:—Sir, I am not aware of any consignments having been detained arising from enquiries made as a result of these inspections. However certain knitwear shipments from Hong Kong were detained by U.S. customs pursuant to their adoption of their new rules, and the subject of which was the basis of our complaint to the Textile Surveillance Body in Geneva, leading to recommendations in our favour by the body.

MR. ALLEN LEE:—*Based on the reply from the Secretary, has Hong Kong Government made representation to the U.S. Consul-General in Hong Kong?*

SECRETARY FOR TRADE AND INDUSTRY:—No, Sir, in regard to the visitations which have been made recently because none of the factories concerned has, in fact, made a complaint to us.

MR. STEPHEN CHEONG:—*Sir, is it the usual practice that in the past custom officials of other countries have requested Hong Kong Government's assistance and co-operation in certain specific investigations involving Hong Kong factories and that Hong Kong Government has always been cooperative with such requests?*

SECRETARY FOR TRADE AND INDUSTRY:—Yes, Sir! Indeed, this applies to the U.S. Customs authorities as well. We have regular requests from U.S. Customs in Hong Kong to our Customs for investigations into specific instances where malpractice, or possible breaches of the law may be involved. All such requests for assistance are always received in the most co-operative manner by our own Custom Service.

MISS DUNN:—*Sir, will the Government agree that the recent action by the Americans which has not been the subject of prior consultation with the Hong Kong Government is contrary, at least in spirit, to the Hong Kong U.S. bilateral agreement on textiles which provides for export control being exercised by the Hong Kong Government?*

SECRETARY FOR TRADE AND INDUSTRY:—Sir, as Hong Kong is responsible for exercise of export restraint to the United States in regard to shipments of certain textiles under the Multi Fibre Arrangement, I agree that any queries arising out of the implementation of that bilateral agreement should be made through the Hong Kong Government rather than by direct approach to individual factories.

Disclosure of information to District Boards

2. MR. CHAN YING-LUN asked:—*Is any guidance given to District Boards regarding the disclosure of Government information, both classified and*

unclassified, to unofficial District Board members and, if so, will the same rules and arrangements apply when chairmanship of District Boards is taken over by elected members?

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, it is the duty of District Officers to provide unofficial District Board members with all the necessary information on any matter that may come before the Board. As regards the provision of classified information, it will depend on circumstances but in general such information will be provided where it is necessary and where the public interest will not be prejudiced. This arrangement will continue to apply and I can assure Mr. CHAN that we will do all we can to ensure that the Boards can function effectively.

MR. CHAN YING-LUN:—*Sir, has there been instances when classified information are supplied to unofficial members of District Boards?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Yes, Sir.

MR. CHAN YING-LUN:—*When classified information are given to unofficial members, do they have any obligation to keep the information confidential?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Indeed, Sir, whether it is official or unofficial members, when they are in possession of classified information, there are rules concerning the passing of such information.

MISS DUNN:—*Sir, is the Government satisfied that information is not overclassified and is there any case to review the Government's current system of classification?*

SECRETARY FOR DISTRICT ADMINISTRATION:—I am not aware that they are overclassified as far as I am concerned, Sir.

Failure of publicly listed companies to submit accounts or reports

3. MR. KEITH LAM asked in Cantonese:—

政府可否告知本局，是否曾採取任何行動，以制裁未能準時呈交帳目或報告的上市公司？是否有任何公司人員因而被檢控或有任何公司因而被停止掛牌作買賣？

(The following is the interpretation of what Mr. Keith LAM asked.)

Would Government inform this Council what action, if any, has been taken to sanction publicly listed companies which do not submit their accounts or reports in time and have any company officials been prosecuted or has any company been suspended from trading for this offence?

SECRETARY FOR ECONOMIC SERVICES:—Sir, the sanctions available in relation to the mischief described by Mr. LAM are contained in the Companies Ordinance and enforced by a prosecution section in the Companies Registry of the Registrar General's Department. In the event of a company's failure to comply with the relevant provisions both the company itself and its directors are prosecuted. The maximum penalty now provided by the Companies Ordinance is a fine of \$10,000 or six months' imprisonment. The sanction of suspension from trading is not available.

During the present financial year, the Registrar of Companies has prosecuted eight publicly listed companies and their directors. Convictions were secured in five cases (comprising a total of 104 summonses); one case was withdrawn; and two cases are being defended and have been adjourned.

Co-ordination of road opening

4. MR. SO asked in Cantonese:—

鑑於本港的主要街道經常進行修理工程，令市民蒙受不便，政府可否告知本局，已採取什麼行動去統籌這些修理工程，以確保街道不會經常被公用事業公司連續不斷地掘開？

(The following is the interpretation of what Mr. So asked.)

In view of the inconvenience caused by constant repair works to the main roads in Hong Kong, could Government inform this Council what steps are taken to ensure that such activities are properly co-ordinated to prevent roads from being constantly torn up in succession by one utility company after another?

SECRETARY FOR LANDS AND WORKS:—Sir, to reduce the number of openings to a minimum and to minimise disruptions, the requirements of the various utility companies are co-ordinated through monthly Road Opening Co-ordinating Committee meetings on which the Transport Department, the police and the utility companies are represented. There is one such committee for each Highway Region (namely, Hong Kong, Kowloon and New Territories).

Before new roads are constructed and existing roads reconstructed, all the utility companies are notified of the impending roadworks so that they may put in new services or maintain existing services in phase with the roadworks.

MR. SO asked in Cantonese:—

閣下，這種協調安排，有沒有知會各區區議會，以及這種安排是否包括行人路呢？

(The following is the interpretation of what Mr. So asked.)

Sir, has the District Board been informed of this co-ordinating arrangement and does this arrangement cover pavements?

SECRETARY FOR LANDS AND WORKS:—Sir, I am of the belief that the District Boards are aware of the Coordinating Committee arrangements. As regard to the second part of the question, yes, openings in pavements are covered by the terms of reference of the Coordinating Committee.

MR. SO asked in Cantonese:—

閣下，與其相信有這樣做，可否請陳先生確定是有知會區議會呢？

(The following is the interpretation of what Mr. So asked.)

Sir, rather than believing this is the case, could not Mr. CHAN make sure whether the District Boards are informed?

SECRETARY FOR LANDS AND WORKS:—Sir, I will. (*laughter*)

Industrial accidents in the plastics industry

5. DR. HO asked:—*Will Government inform this Council whether there has been an increase in the number of industrial accidents in plastic factories since January 1984 and, if so, what are the reasons for the increase and what measures does Government propose to take to lower the accident rate?*

COMMISSIONER FOR LABOUR:—Sir, from 1980 to 1983 the number of accidents reported in the plastics industry remained fairly constant at about 1 500 a year. In 1984 it increased from 1 518 to 2 196. This is an increase of over 40 per cent.

This increase in part reflected economic recovery. 1984 was a busy year for the plastics industry, particularly in the second and third quarters. Unfortunately economic recovery always seems to bring with it an increase in the number of accidents at work. This is partly a direct result of the increased volume of work, partly because the urgent need to complete orders on time puts pressure on both employers and employees ‘to skimp on safety’ and partly because new workers are taken on and these are lacking in experience and therefore particularly accident prone.

Another possible reason for the sharp increase in reported accidents in 1984 is that in July 1983 we introduced a new simplified system for the settlement of minor employee compensation cases and in January 1984 we made employee compensation insurance compulsory. These changes have led to a significant increase in the number of minor accidents being reported. In 1984 the number of accidents in the category assessed under the new simplified procedure increased by about 30 per cent. Much of the increase in accidents reported in the plastics industry consisted of comparatively minor accidents. In previous years some of these may well have gone unreported because the complicated assessment procedures at that time made them not worth reporting.

The Labour Department will continue to try to reduce industrial accidents in all sectors of industry, by inspection and law enforcement and by encouraging safety awareness among both employers and employees.

In 1984 over 24 000 people took part in courses and talks on industrial safety organised by the department. The industrial safety publicity campaign which began six years ago will continue next year and, as in the past, we shall make the fullest possible use of television, radio and newspapers. We are discussing with Radio Television Hong Kong joint plans to organise a series of industrial safety programmes on television and radio. Other publicity activities will include safety exhibitions, posters and television announcements.

The Labour Advisory Board's Committee on Industrial Safety and Accident Prevention and its five industry-based safety sub-committees play a major role in bringing together all those involved in industrial safety. The plastics industry sub-committee, thanks to the energy and enthusiasm of Mr. Kenneth TONGSON, has been one of the more active. Its programme last year included a very successful safety seminar and the production of a code of safe practice for the industry. The sub-committee is now making its plans for the coming year.

On the enforcement side, the Factory Inspectorate pays particular attention to the guarding of plastic injection moulding machines and prosecutes employers who fail to provide adequate guards. The Inspectorate has been reviewing its priorities so as to give greater priority to the more hazardous workplaces and more Inspectors have been deployed to activities which are likely to have a direct and effective impact in the prevention of accidents. Amendments to the Factories and Industrial Undertakings Ordinance are now being drafted which, if enacted, will enable the Inspectorate to spend less time on comparatively unproductive work.

DR. HO:—*As inexperienced workers are more accident-prone and as new production procedures are more likely to create accidents, what measure does Government propose to take to ensure that machine operators will receive proper on-the-job training?*

COMMISSIONER FOR LABOUR:—The Inspectorate does all it can to encourage employers to give adequate training to all operatives but ultimately this is a matter for the individual employer.

Quality of radio reception

6. MR. CHEUNG YAN-YUNG:—asked in Cantonese:—

鑑於不少人投訴無線電收音質素差，政府可否作出聲明，陳述是否已有計劃改善收音質素，特別以在新界新市鎮為然？

(The following is the interpretation of what Mr. CHEUNG Yan-lung asked.)

In view of many complaints about the poor quality of radio reception, could the Government make a statement on any proposals it may have to improve the quality of radio reception, particularly in new towns in the New Territories?

SECRETARY FOR HOME AFFAIRS:—Sir, I share Mr. CHEUNG'S concern. Residents of our growing new towns should enjoy the same standard of facilities as is enjoyed by those in the older urban areas, but, as regards radio reception, they do not.

The Government is conscious of this shortcoming. As early as 1979 the Governor in Council instructed that plans to improve the quality of radio reception for both R.T.H.K. and Commercial Radio be developed. That these have not so far reached fruition results from three principal constraints.

First, the frequency spectrum available for Hong Kong's use is narrower than was originally envisaged. In drawing up a frequency allocation plan the Government has had to take particular care to ensure both that this limited resource is used efficiently and that our plan does not interfere with the plans of neighbouring territories. This has proved complicated.

Secondly, the Government has had to ensure that the large number of new transmitters and frequencies required would in no way interfere with the critical Aeronautical Communications services.

Thirdly, it is clearly desirable that any plan devised should minimise expensive replacement or modification to existing installations and equipment.

I am happy to say, Sir, that a plan has now been devised which meets these constraints and we will shortly seek the Executive Council's endorsement of the proposals. Implementation must be phased over several years and, at least as R.T.H.K. is concerned, it will be subject to the availability of funds. However, detailed proposals are currently under discussion with Finance Branch and it is hoped to place these before the Finance Committee of this Council during the current session.

In the meantime, under the new frequency allocation plan a number of interim improvements will be possible and I have directed that these be put in hand. By using modest standby facilities, R.T.H.K. will be able to duplicate its Radio 1 A.M. service in F.M. to cover what broadcasters call the 'Golden Bowl', that is the north of Hong Kong Island, Kowloon and Tsuen Wan, as well as Sha Tin, Tuen Mun, and the North East New Territories. The existing R.T.H.K. Radio 2 F.M. service will be similarly extended and some improvement will be provided in F.M. for Radio 3 listeners living on the southern side of Hong Kong Island. What this somewhat complex plan amounts to is that we will use spare F.M. channels to fill some of the gaps left by the current A.M. and F.M. services. These improvements will be made by the coming summer.

Discussions are underway with Commercial Radio aimed at facilitating similar interim improvements to their services—improvements which Commercial Radio are I know most anxious to make.

MR. CHEUNG YAN-LUNG asked in Cantonese:—

閣下，電台在廣播新聞時，往往受到鄰國電台干擾，現在中英交好，可否對這問題以外交上提出解決？

(The following is the interpretation of what Mr. CHEUNG Yan-lung asked.)

Sir, local stations are very often interfered by stations of neighbouring countries during their news broadcast; in view of the present good relationship between China and Britain is it possible to solve the problem through diplomatic means?

SECRETARY FOR HOME AFFAIRS:—Sir, in implementing the revised plan, we will certainly have to discuss with our neighbours, who may have interests in sharing some of the frequencies; and interference can certainly be minimised through discussions.

Effect of increases in licence fees and first registration tax on the number of vehicles and traffic conditions

7. MR. S. L. CHEN asked:—*Could Government inform this Council:*

- (i) whether the 1982 increases in annual licence fees and first registration tax have had any effect on the number of registered vehicles in Hong Kong and on traffic conditions; and*
- (ii) of the number of vehicles registered in the different categories at 31 December 1984 compared with 31 December 1983, 31 December 1982 and 31 December 1981?*

SECRETARY FOR TRANSPORT:—Sir, the 1982 increases in licence fees and first registration tax were a major contributor to a fall of over 17 per cent in the number of registered private cars from 217 945 in May 1982 to 180 084 in February 1985. The drop in this category is the main element in a decrease in the total number of registered vehicles from 338 571 to 308 864 over the same period.

Traffic conditions have eased partly as a result of this drop in the number of vehicles registered and partly as a result of improvements to the transport infrastructure such as the opening of the Island Eastern Corridor, and the Cornwall Street flyover, and to traffic management for example the extension of area traffic control of Hong Kong Island.

With regard to the second part of the question I have circulated to Members the necessary table (see appendix), which, with your permission, Sir, will be included in the record of the proceedings of this Council.

APPENDIX

Registration of Vehicles

<i>As at</i>	<i>Motor</i>	<i>Private</i>		<i>Public</i>	<i>Private</i>	<i>Public</i>	<i>Private</i>	<i>Goods²</i>	<i>Crown³</i>	<i>Total</i>
						<i>Light</i>	<i>Light</i>			
<i>31 Dec.</i>	<i>Cycle</i>	<i>Cars</i>	<i>Taxis¹</i>	<i>Buses</i>	<i>Buses</i>	<i>Buses</i>	<i>Buses</i>	<i>Vehicles</i>	<i>Vehicles</i>	
1981	27 443	211 556	11 061	5 496	224	4 350	924	64 214	5 041	339 309
1982	27 437	214 849	12 756	5 611	248	4 350	1 330	67 606	5 380	339 567
1983	25 685	200 923	14 421	5 715	231	4 350	1 724	69 057	5 697	327 803
1984	22 417	182 985	15 984	5 787	186	4 350	1 886	72 469	5 186	311 850

- 1: including urban and N.T. taxis
- 2: including lorries, tractors, special purpose vehicles
- 3: not including Crown vehicles of H.M. Forces

MR. S. L. CHEN:—*Sir, in view of the significant drop in the number of vehicles registered and also the improvement in traffic conditions as a result, does this mean the E.R.P. Scheme might not be required?*

SECRETARY FOR TRANSPORT:—*Sir, experience suggests that it will be unwise to assume that vehicle registrations will continue to fall and indeed new registrations are already beginning to pick up. I therefore believe it would be sensible to evaluate all methods of dealing with road congestion, apart from increases in the cost of motoring through increased taxes. As Members know we are in the middle of an experiment to see whether the E.R.P. System is technically feasible; potentially it offers a more efficient and fairer way of controlling congestion and I think we should fully assess the scheme and public reaction to its results to see whether in practical terms E.R.P. could live up to its potentials.*

Road improvements between Sha Tau Kok and Fanling

8. MR. CHEUNG YAN-LUNG asked in Cantonese:—

沙頭角車輛檢查站開放後，政府是否有計劃擴闊自粉嶺至沙頭角的一段道路，以應付預料將會增加的交通量？

(The following is the interpretation of what Mr. CHEUNG Yan-lung asked.)

With the opening of the Sha Tau Kok check point for motor vehicles, does Government have any plans to widen the road leading from Fanling to Sha Tau Kok in anticipation of increased traffic?

SECRETARY FOR LANDS AND WORKS:—*Sir, yes, there are two items in Category A of the Public Works Programme for the improvement of Sha Tau Kok Road from Fanling to Sha Tau Kok.*

The first item estimated at \$10 million, is for the construction of a dual twolane carriageway from Fanling roundabout to Lung Yeuk Tau. The works have already been put in hand and are schedule for completion in late 1986.

The second item estimated at \$12.3 million including resumption cost, is for the improvement of the section of Sha Tau Kok Road from Lung Yeuk Tau to Sha Tau Kok. Work is scheduled to commence in mid-1985 for completion by mid-1986.

Macau ferry services

9. MR. F. K. HU asked:—*Can this Council be advised how many passengers were carried to and from Macau via the Kowloon/Macau ferry terminal in 1984 and, with the completion of the new Macau Ferry Terminal on Hong Kong Island, will this Kowloon/Macau ferry terminal continue in operation?*

SECRETARY FOR TRANSPORT:—Sir, 1.1 million passengers used the Kowloon to Macau ferry terminal in 1984.

The Sealink Ferries Ltd., which managed by the Hongkong and Yaumati Ferry Company, has a three-year agreement with the Hong Kong Government expiring in September 1986 to operate Kowloon/Macau ferry services. The continued operation of the Macau ferry terminal at Sham Shui Po will be reviewed towards the end of the current three-year agreement.

MR. F. K. HU:—*Sir, is the purpose of the review to ascertain whether Sham Shui Po should continue to be used for this purpose in future or whether such service should continue but from a different Kowloon ferry terminal?*

SECRETARY FOR TRANSPORT:—No, Sir, I think the idea would be to see whether it can be continued. There are arguments in favour of continuing the Kowloon/ Macau facility.

Noise abatement measures for flyovers and elevated roads

10. MR. KIM CHAM asked:—*With the construction of elevated roads and flyovers, what considerations have been given to minimise the noise level to residents in nearby buildings?*

SECRETARY FOR LANDS AND WORKS:—Sir, whenever possible new road alignments are selected so as to ensure that the roads do not pass close to residential developments. Within the predominantly built up urban areas of Hong Kong, however, the choice of road alignments is severely limited.

The introduction of noise barriers is considered to be a practical noise abatement measure in some circumstances. For example, by erecting noise barriers at the edges of an elevated road, a measure of noise alleviation can be achieved at floor levels close to the level of the road although the noise at the

higher floors may be increased. In this context, the Highways Office is examining various types of acoustic barriers, especially those recently used in Japan which appear to be relatively inexpensive and visually more acceptable, to see whether they can be applied in Hong Kong.

Other measures include tunnelling or complete enclosure of elevated roads, but these measures are very expensive.

For road surfaces requiring high skid resistance, bituminous friction courses are adopted in preference to concrete. This surface texture reduces the noise level to some extent, in the order of two to three decibels.

MR. KIM CHAM:—*Sir, as Japan has used the acoustic barriers for some years, may I enquire when we can expect the examination be completed and implementation started while residents suffer?*

SECRETARY FOR LANDS AND WORKS:—The Highways Office will be sending a professional person to Japan to attend a conference. In conjunction with that, the professional will take the opportunity to study what has been done in Japan. Meanwhile literature on the subject is being studied, and subject to the conclusion of the examination, consideration will then be given to the implementation of this kind of noise abatement measures in circumstances that would benefit from this kind of treatment.

MR. KIM CHAM:—*Sir, will priority consideration be given to residential areas such as the Island Eastern Corridor or the elevated road to the airport where residents do suffer?*

SECRETARY FOR LANDS AND WORKS:—Yes, consideration will of course be given to locations where there have been complaints about noise from the elevated road structure. I do have some theoretical calculations of the degree of noise abatement possible from the installation of barriers at the Island Eastern Corridor. To obtain meaningful reduction in the level of noise, the barrier would have to be from three metres high. Even then residents at the higher floor levels, such as floors ten and above, do not get the meaningful reduction in noise level. It is only in the order of one decibel.

DR. IP:—*When the construction of an elevated road or flyover results in a noise level which, according to E.P.C.O.M., is intolerable for residents living nearby, and if Government's measures to rectify this fail, will Government consider this to be good ground for compensation; if so what nature may this compensation be?*

SECRETARY FOR LANDS AND WORKS:—Well, I think a measure of whether or not the noise level is tolerable would be indicated by the number of complaints we received. I believe the guideline figures advocated by E.P.C.O.M. are figures lifted from western countries and of course in the Hong Kong situation we are

in a very densely populated environment. Noise is quite a common element in our life and of course as I said in my main reply we should do all we can to reduce the impact of noise from the roads in our planning and in our construction.

MR. STEPHEN CHEONG:—*In the light of the fact that E.P.C.O.M. probably adopt a standard which is not particularly unique to Hong Kong and in the light of the Secretary's answer that with a three-metre high barrier the decibel reduction is only one, is it really worth the Government's while to spend all the expenses to send in people to Japan to study this particular problem? (laughter)*

SECRETARY FOR LANDS AND WORKS:—This professional is there for another purpose, in fact, originally. Now that the question of traffic noise from road structure has come up, I have asked him to stay over in Japan for three more days to study this problem.

Third party insurance for private cars on private roads

11. MR. KEITH LAM asked in Cantonese:—

政府是否會考慮硬性規定所有車輛，不論行駛公共道路或即使行駛私家路，均須購有第三者保險？

(The following is the interpretation of what Mr. Keith LAM asked.)

Will Government consider making it compulsory for motor vehicles to be covered by third party insurance on private as well as on public roads in Hong Kong?

SECRETARY FOR TRANSPORT:—Yes, Sir. Doubts arise about the requirements for third party insurance on private roads because the definition of 'road' in the Motor Vehicles Insurance (Third Party Risks) Ordinance relates to a road to which the public have access, and there are difficulties in interpreting this. The Government announced last month that the provisions of the road traffic legislation which relate to safety (including insurance, licensing, and construction and maintenance of vehicles) should apply to all roads in the territory, other than industrial and work sites. A working group is now considering legislation to give effect to this decision in principle.

MR. KEITH LAM asked in Cantonese:—

閣下，有關法例何時會完成呢？

(The following is the interpretation of what Mr. Keith LAM asked.)

Sir, when will these legislations be completed?

SECRETARY FOR TRANSPORT:—Sir, I am advised by the Attorney General's Chambers that they hope to have the legislations before this Council during the current session.

DR. IP:—*Sir, does Government consider it beneficial to pedestrians if bicycles carrying goods, namely, those operating commercially on public roads, should also be covered by third party insurance? (laughter)*

SECRETARY FOR TRANSPORT:—Sir, I am afraid I don't know the answer to that one; I have to give a written reply if I may.

(The following written reply was provided subsequently.)

We require third party insurance from the drivers of motor vehicles only because motor vehicles constitute the great majority of road users, and are much more likely than cyclists to cause significant damage to persons or property in an accident. It would, I think, be difficult to justify placing a requirement for third party insurance on 'commercial cyclists' only, notwithstanding the occasional antics of some of them: they are arguably no more dangerous than an exuberant juvenile on a bicycle in a housing estate. Thus to be consistent and equitable, the large group of occasional bicycle riders, including those who hire or borrow a bicycle, would need to have insurance.

Another important consideration is that effective enforcement for motorists is linked to the vehicle licensing system: relicensing is dependent on the production of a valid insurance document. It would be unreasonable to attempt such a control system for cyclists.

In conclusion, I think that the TAVA Scheme, which of course provides compensation to the victims of all traffic accidents, including those caused by cyclists, plus the common law, are sufficient.

Old banyan tree at Stanley Market

12. MR. SO asked in Cantonese:—

由於政府建議出售赤柱街市附近一幅土地，因而可能須除去該處一棵老榕樹，而公眾對此極表關注，政府可否告知本局有關此事的現時情況？

(The following is the interpretation of what Mr. So asked.)

In view of the public concern over the possible loss of the old banyan tree at Stanley Market as a result of the proposed land sale, could Government inform this Council of the present position?

SECRETARY FOR LANDS AND WORKS:—Sir, the tree is situated on Crown land adjoining No. 12 Stanley Market Road. Planning of the Stanley area indicated the site should be used for commercial/residential purposes and accordingly, after consultation with departments concerned, the lot was included in the land sales programme and was scheduled for auction on 1 March 1985.

Subsequently petitions for the preservation of the tree were received which would in effect mean the lot could not be sold. Although the background had been carefully looked into, it was decided a further investigation should be carried out in the light of expressed public concern. To allow additional time for this review, sale of the lot has been postponed to 18 April 1985.

MR. SO asked in Cantonese:—

閣下，政府可否告知本局公眾要求保留這棵老榕樹主要的理由是甚麼？同時，政府決定出售這幅地，曾經小心考慮過的背景又是甚麼？

(The following is the interpretation of what Mr. So asked.)

Sir, can Government inform this Council what is the major reason for the public request for retaining this old banyan tree and what are the backgrounds that Government has seriously considered before deciding to sell the lot?

SECRETARY FOR LANDS AND WORKS:—The reason put forward for the preservation of the tree of course is that it is a very old tree (*laughter*) and in considering whether the site should be used for commercial/residential purposes, the factors considered would be the characteristics of Stanley development, demand for residential/commercial development in that area, and of course, the value of the site.

MR. SO asked in Cantonese:—

閣下，假如因為這棵是老樹，就決定延遲出售及考慮重新檢討，這項決定會不會過於輕率呢？

(The following is the interpretation of what Mr. So asked.)

Sir, if it is simply because the tree is very old that the sale was delayed and a review had to be made, would such a decision be too rash?

SECRETARY FOR LANDS AND WORKS:—No, the feelings expressed were very strongly expressed and there were fairly wide support for that feeling in Stanley. Not only that: there was really no great pressure for the sale of the site—no one applied to buy it; (*laughter*) it was on our programme. So we thought a deferral of a month or so was not too much.

Statements

The Government Minute in response to the Report of the Public Accounts Committee dated December 1984

THE CHIEF SECRETARY:—Sir, the Government Minute is tabled as the Administration's response to the Public Accounts Committee Report No. 7 which was tabled on 23 January 1985.

The purpose of this Government Minute is twofold: *first*, to comment as appropriate on the conclusions and recommendations of the Public Accounts Committee and, *second*, to indicate what action the Administration has taken, or proposes to take, to remedy irregularities and to improve procedures and, if necessary, to explain why it is intended that no action shall be taken.

As the Government Minute speaks for itself, I do not propose to repeat here the responses recorded therein, except to mention that the Administration has taken particular note of the observations set out in the General Conclusions and Recommendations Section of the Committee's Report. Heads of departments and secretariat branches have been reminded of the need to ensure that the terms of reference of *ad hoc* working groups and steering committees, which are designed to overcome the co-ordination problems referred to by the Committee, are carefully drafted and properly approved to establish clear lines of responsibility. Moreover, controlling officers have also been reminded that they remain at all times fully responsible and accountable for the proper disbursement of funds under their control.

As regards the suggestion for a course in financial management for directorate officers made by Mr. S. L. CHEN in his speech presenting the Committee's Report to this Council on 23 January this year, I think Mr. CHEN would be pleased to know that steps are being taken by the Secretary for the Civil Service, in conjunction with the Director of Accounting Services and the Civil Service Training Director to develop a financial management course for senior officials. The course will be in the form of regular seminars designed to improve the awareness of Controlling Officers and other directorate staff as to current budgetary strategy and the policy decisions and management techniques necessary to implement that strategy. While the timing of the course has not yet been decided, we certainly hope to be able to hold the first course before the end of this year.

In addition, the Senior Staff Course, which commenced in September last year and is now in its second run, has on its programme a full session dedicated to financial policy and budgetary management.

Sir, I think these courses, together with the response contained in the Government Minute, demonstrate clearly the Administration's conviction that, although steps are continually being taken to develop better financial

management within the Government—and I do not think we need be too selfconscious about our record—further improvements will continue to be our aim. This does not mean that we intend to turn all our Controlling Officers into cost or management accountants as they have, I am happy to say, much broader responsibilities. The objective is to make them more aware of their financial responsibilities and the role they are meant to play and to equip them with an improved capability to monitor expenditure through the provision of improved financial information and better professional accounting support staff. To this end, the Ledger Accounting and Financial Information System (L.A.F.I.S.) is being extended steadily with the aim, eventually, of covering all government departments.

Finally, Sir, I would like to echo the remarks made by Mr. CHEN in his speech to this Council on 23 January last that the public meetings of the Committee has been an unqualified success. I would also like to place on record the Administration's appreciation of the work of the Public Accounts Committee.

Consultancy to review the Government's Monitoring Arrangements of the Power Companies

SECRETARY FOR ECONOMIC SERVICES:—Sir, Members will recall that on 24 November 1982, there was a debate in this Council on the motion of Mr. Andrew So welcoming the publication of the Scheme of Control Agreements including those relating to the two power companies.

In the course of the debate some Members expressed concern that the existing monitoring arrangements did not serve the public interest because *first* there was no public involvement in the process, and *second* there was a danger that Government might accept too readily the position of the power companies. In answer I mentioned that we were considering the possibility of appointing independent professional consultants to examine our monitoring arrangements in order to see whether they accomplished the purposes for which they were designed. I added that the proposal, if implemented, could give that reasonable assurance to the public that was clearly needed.

In due course a consultancy agreement was concluded with a firm of professional accountants, Messrs. ERNST and WHINNEY. The consultancy commenced in August 1983. The consultants' terms of reference were to advise whether, given the Government's basic policy towards public utilities and the provisions of the Schemes of Control, the Government's monitoring arrangements safeguarded both consumers and shareholders, and whether any improvements in those arrangements could be justified.

On 27 October 1983 in the Debate on the Motion of Thanks, Mr. Stephen CHEONG referred to the consultancy and expressed the hope that the Government would treat it as something much more important than a purely

public relations exercise, and I replied in this Council on 9 November 1983 that we were treating the consultancy very seriously. I said that whilst we believed that the system of monitoring was effective it would be foolhardy to work on the basis that there was no room whatsoever for improvement.

The consultants have now completed their report, and on the advice of the Executive Council you, Sir, ordered that the report be published. Publication will take place tomorrow when the report will be available for sale to the public.

In view of the interest in the Government's monitoring arrangements shown in this Council, and indeed by members of the public, it is appropriate that I should make this statement indicating the findings of the consultants. But, I must add that the report is detailed. In describing its contents, it is inevitable that I cannot cover all the points made, and in these circumstances I do recommend that the report should be read in its entirety. I have no doubt that it will be read avidly by my Unofficial colleagues.

The consultants have concluded that the monitoring arrangements in the past have been suitable given the emphasis on ensuring a reliable supply of electricity at a cost that is comparable with or less than the cost of electricity in other places in the region. They have also concluded that the annual review process has been comprehensive and has fulfilled the requirements set forth in the Scheme of Control Agreements. To this extent I believe that the consultants' report should give considerable assurance to the public that the monitoring process so far has been proper and adequate.

Nevertheless, as I said before, it would be foolhardy to work on the basis that there is no room for improvement. We therefore looked to the consultants for suggestions as to how the monitoring arrangements could be improved in future.

In response, the consultants have made recommendations concerning the organisation of the Government's monitoring arrangements and the documentation of the whole monitoring process. They recommend that existing procedures should be placed on a more formal basis and that a task force should be set up to oversee and implement this process. The consultants discuss in their report the questions of system planning and load forecasting and have also commended the Government's programme for monitoring in this field. They describe the Government's commissioning of technical consultants as adequately fulfilling the monitoring requirements in relation to systems planning, and they recommend that such consultants be retained to examine the technical aspects of future financing plan submissions. We welcome these recommendations.

The report examines the monitoring of the operational aspects of the power companies' activities, including such subjects as fuel procurement, major equipment and service procurement and transactions with affiliated companies. The full implementation of all the recommendations in these areas would result

in a much greater level of Government involvement in the affairs of the power companies than at present. It will thus be important, when examining the extent to which we should implement these recommendations, to draw a line between the monitoring process itself and interference in the companies' internal management. It is essential that we limit our role to that of monitoring.

In the course of the review, the consultants examined longer term considerations and the negotiating position of the Government vis-a-vis the power companies. Some views were conveyed to the Administration by the consultants, and whilst no firm recommendations have been made it is our intention to give further consideration to the various points made. They are of relevance to the next regular review of the Scheme of Control due in 1988 but do not form part of the report which is to be published tomorrow.

Sir, I believe, and I hope that Members of this Council will agree with me, that the consultants have provided in their report that comprehensive and independent management audit for which both the Government and the public were looking. We consider that our monitoring arrangements have provided proper and adequate safeguards. but we have always sought to improve our procedures, and the consultants' recommendations will assist us in continuing this process.

Sir, any monitoring system, no matter how good, can always be improved. I would, however, sound a note of caution. We must be sure that the benefits to consumers are commensurate with the cost of making the improvements. It is not worthwhile employing vast numbers of additional staff to carry out additional monitoring if that monitoring is unlikely to bring any significant benefit to the consumer.

The task force to which I referred earlier will be charged with drawing up the formal procedures recommended in the consultants' report. We will have discussions with the power companies particularly on the recommendations relating to the technical and operational aspects of the power companies' activities and the documentation of the monitoring process. I shall inform the Executive Council in twelve months' time of the progress made and the conclusions reached.

Finally, Sir, I am confident that we will be able to use the consultants' report to enhance our monitoring arrangements so as to meet the challenge posed by the increasing complexity of power generation and the expectations of the consumers in the years ahead.

Report of the University and Polytechnic Grants Committee in Hong Kong— January 1983 to December 1984

MR. SWAINE:—Sir, included in the papers before you is the Report of the University and Polytechnic Grants Committee for 1983 and 1984. This records developments in the field of tertiary education during this period and describes the Committee's involvement in them.

Two events of major significance for the Committee were: the decision that the Baptist College should become a publicly funded institution of higher education from November 1983; and the establishment of the City Polytechnic in January 1984. The Committee, therefore, now advises on the funding of five institutions—the two universities, the two polytechnics and the Baptist College.

This funding takes the form of both recurrent and capital grants, and total grants in the last complete financial year, ending 31 March 1984, amounted to \$1,009,272,938 for recurrent expenditure and \$150,168,703 for capital expenditure.

We estimated student population (f.t.e.) at the five institutions at 31 December 1984, the end of the period covered by this report, expressed in terms of full time equivalence, numbered 27 460. This was made up as follows:—

Hong Kong University	—	6 550
Chinese University Hong Kong	—	5 850
Hong Kong Polytechnic	—	12 200
City Polytechnic	—	760 (having just made a start at temporary premises)
Baptist College	—	2 100

First-year degree places provided represent 3.1 per cent of the relevant age group (namely the mean of the 17 to 20 year olds) and the present targetted growth is for the provision of full-time first-year places for 6 per cent of that age group by 1989-90 and for 8 per cent by 1994-95. As the age group starts to rise towards the end of the century, a further institution will be required and the U.P.G.C. has already recommended that this be a new university, centred on professional schools, and with a strong postgraduate and research emphasis.

Sir, the work of the U.P.G.C. would not be possible without the contribution made in particular by its overseas members. They are distinguished academic personalities drawn from the U.K., Australia and, until a recent retirement, from Canada. I pay tribute to them and to my local members as well for the selfless work that they have put into the U.P.G.C., involving some three to four weeks on average of meetings in the year, held in both Hong Kong and London, as well as untold hours of research and reading to keep abreast of developments in Hong Kong so to be able to offer advice throughout the year. I would like also to acknowledge the U.P.G.C.'s debt to the outgoing Chairman, the Honourable Mr. Justice YANG, and outgoing Secretary, Mr. W. M. BRADLEY.

With the increasing pace of localisation, there will be growing local representation on the U.P.G.C., but it is essential that we retain an overseas element for the expertise and experience that this brings to the Committee, and in order that we maintain a correct balance.

A strong U.P.G.C. is essential if the aims and aspirations of Article 5 of the Joint Declaration on Hong Kong's future and its elaboration at section X are

to be achieved. This provides for the continuation of the present educational system and for autonomy of decision in the fields of culture, education, science and technology, including the allocation of funds, the system of academic awards and the recognition of educational and technological qualifications.

Within normal budgetary constraints, and safeguards as to the efficient expenditure of funds, our tertiary institutions should be free to develop and to manage their own affairs. This will help to provide the underpinning of the high degree of autonomy that is the agreed aim for Hong Kong itself. I must ask that Government resist the temptation, with the increasing dependence of the institutions on public funds, to encroach on the autonomy of these institutions. Self-regulation in this field as in other fields of endeavour is the hall-mark of the Hong Kong system. But where public funding is involved, of course, there lies a positive duty on the part of the institutions to ensure that self-regulation works.

Sir, the move towards localisation is reflected in the proposals now under study by the Government for the establishing of a local authority for the accreditation of non-university degree courses. Such accreditation has been provided up to now, by the U.K. Council for National Academic Awards, with a measure of local participation. The composition of the new local body will require careful consideration with some provision for overseas participation, particularly in the early stages.

The proper development of our tertiary institutions and their growth in particular in the field of postgraduate work requires that due recognition be given to the importance of research within these institutions. The U.P.G.C. recommendations based on the report of the working group chaired by Lord Flowers for a phased increase in funds for research are already with Government. A start has been made by the U.P.G.C. with a modest provision of funds in the block grants for 1984-85 for research, and a further allocation has been recommended for the 1985-88 triennium.

Quite understandably, the emphasis in recent times has been on education, and the establishment of the Education Commission is a concrete example of the importance of this subject in the overall development of Hong Kong. As Chairman of the U.P.G.C., I am an *ex-officio* member of the Commission, and welcome the opportunity to work with my colleagues in the field of education. One particular topic that will need to be further addressed is that of open education. The U.P.G.C. has already forwarded its views to Government and its dialogue with the institutions is continuing. I look forward to further consideration of this subject within the Education Commission

Government Business

Motions

PUBLIC FINANCE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—That—

1. Authority is hereby given for a sum not exceeding \$14,931,571,000 to be charged on the general revenue in advance of an Appropriation Ordinance for expenditure on the services of the Government in respect of the financial year commencing on 1 April 1985.
2. The sum so charged may be expended against the heads of expenditure listed in the First Schedule:

Provided that such expenditure shall not exceed the amounts specified in relation to those heads in the last column of that Schedule.

3. Expenditure of the funds on account for each head of expenditure listed in the First Schedule shall be arranged in accordance with the subheads in the draft Estimates of Expenditure 1985-86 and shall be limited to an amount equal to the sum of—
 - (a) in the case of a Recurrent Account subhead, other than a subhead listed in the Second Schedule, 20 per cent of the provision shown in respect of it in the draft Estimates; and
 - (b) in the case of a Capital Account subhead, other than a subhead listed in the Second Schedule, 100 per cent of the provision shown in respect of it in the draft Estimates; and
 - (c) in the case of a Recurrent Account or Capital Account subhead listed in the Second Schedule, that percentage of the provision shown in respect of it in the draft Estimates which is specified in relation to it in the last column of that Schedule,

or such other amount as may in any case be approved by the Financial Secretary:

Provided that expenditure on any subhead shall not exceed the amount of the provision shown in respect of that subhead in the draft Estimates.

FIRST SCHEDULE		[para. 2 & 3]
(1) Head of Expenditure	(2) Amount shown in the draft Estimates	(3) Amount of provision on account
	\$	\$
His Excellency the Governor's Establishment.....	7,314,000	1,823,000
Agriculture and Fisheries Department.....	164,593,000	51,908,000
Audit Department.....	28,027,000	5,618,000
Auxiliary Medical Services.....	9,957,000	2,047,000
Building Development Department.....	458,238,000	94,612,000
Census and Statistics Department.....	76,540,000	15,394,000
Civil Aid Services.....	20,676,000	5,036,000
Civil Aviation Department.....	158,098,000	39,583,000
Civil Service Training Centre.....	44,703,000	9,021,000

(1) Head of Expenditure	(2) Amount shown in the draft Estimates	(3) Amount of provision on account
	\$	\$
Correctional Services Department.....	485,544,000	101,517,000
Customs and Excise Department.....	234,027,000	49,846,000
Education Department.....	725,743,000	152,016,000
Education Subventions.....	4,175,956,000	1,014,638,000
Electrical and Mechanical Services Department.....	536,217,000	122,777,000
Engineering Development Department.....	682,184,000	142,316,000
Environmental Protection Agency.....	21,299,000	6,935,000
Fire Services Department.....	471,460,000	119,512,000
General Expenses of the Civil Service.....	1,252,208,000	253,466,000
Government Data Processing Agency.....	55,263,000	14,498,000
Government Laboratory.....	30,366,000	7,410,000
Government Land Transport Agency.....	14,629,000	3,791,000
Government Secretariat.....	251,740,000	63,738,000
Government Secretariat; City and New Territories Administration.....	212,504,000	55,215,000
Government Secretariat: Lands and Works Branch.....	39,134,000	7,835,000
Government Secretariat: Municipal Services Branch.....	55,166,000	13,123,000
Government Supplies Department.....	97,761,000	43,913,000
Housing Department.....	286,254,000	72,049,000
Immigration Department.....	317,467,000	67,976,000
Independent Commission Against Corruption.....	140,228,000	29,347,000
Industry Department.....	41,556,000	18,436,000
Information Services Department.....	65,730,000	14,128,000
Inland Revenue Department.....	228,754,000	52,392,000
Internal Security: Miscellaneous Measures.....	1,559,345,000	577,695,000
Judiciary.....	148,250,000	30,774,000
Labour Department.....	125,890,000	26,884,000
Lands Department.....	308,200,000	68,088,000
Legal Department.....	93,289,000	23,949,000
Legal Aid Department.....	66,000,000	13,200,000
London Office.....	26,122,000	6,035,000
Marine Department.....	184,002,000	45,894,000
Medical and Health Department.....	2,347,297,000	501,275,000
Medical Subventions.....	1,129,905,000	341,143,000
Miscellaneous Services.....	2,323,019,000	551,750,000
New Territories Development Department.....	71,031,000	14,547,000
Office of Unofficial Members of Executive and Legislative Councils.....	13,786,000	3,124,000
Pensions.....	1,112,060,000	223,372,000
Police: Royal Hong Kong Police Force.....	2,375,000,000	595,000,000
Post Office.....	520,756,000	109,925,000
Printing Department.....	82,019,000	22,372,000
Public Debt.....	186,954,000	115,229,000
Public Service Commission.....	1,493,000	299,000
Radio Television Hong Kong.....	137,363,000	34,302,000
Rating and Valuation Department.....	62,844,000	12,605,000
Regional Services Department.....	455,995,000	113,595,000
Registrar General's Department.....	75,624,000	16,424,000
Registry of Trade Unions.....	2,486,000	504,000
Royal Hong Kong Auxiliary Air Force.....	23,630,000	12,430,000
Royal Hong Kong Regiment (The Volunteers).....	20,156,000	4,922,000
Royal Observatory.....	45,647,000	13,700,000
Social Welfare Department.....	1,800,147,000	363,259,000

(1) Head of Expenditure	(2) Amount shown in the draft Estimates	(3) Amount of provision on account
	\$	\$
Social Welfare Subventions.....	421,200,000	106,200,000
Standing Commission on Civil Service Salaries and Conditions of Service.....	4,085,000	1,057,000
Subventions: Miscellaneous.....	488,725,000	132,881,000
Technical Education and Industrial Training Department	451,153,000	241,880,000
Television and Entertainment Licensing Authority.....	5,869,000	1,174,000
Trade Department.....	58,404,000	15,606,000
Transfers to Funds.....	7,130,000,000	7,130,000,000
Transport Department.....	391,107,000	80,707,000
Treasury.....	73,554,000	16,182,000
Universities and Polytechnics.....	1,780,978,000	534,436,000
Water Supplies Department.....	868,881,000	177,236,000
Total.....	<u>38,361,602,000</u>	<u>14,931,571,000</u>

SECOND SCHEDULE

[para. 3]

Head of Expenditure	Subhead	Percentage of provision shown in draft Estimates
Audit Department	113 Administration.....	30
Civil Aviation Department	102 Cable and Wireless services.....	30
	113 Administration.....	25
	170 Airport insurance.....	100
Education Department	152 Scholarships, bursaries and maintenance grants.....	25
	154 External activities for government primary schools.....	45
Education Subventions	330 Assistance to private secondary schools and bought places.....	30
	350 Refund of rates for private schools.....	30
	355 Assistance to post-secondary colleges.....	50
	365 Grants towards selected adult education services.....	30
	489 Miscellaneous educational services.....	25
Electrical and Mechanical Services Department	115 Fuel and lubricating oil.....	30
General Expenses of the Civil Service	028 Legal assistance for civil servants.....	100
Government Data Processing Agency	111 Hire of services and professional fees.....	60
Government Land Transport Agency	225 Traffic accident victims assistance scheme—levies.....	100
Government Department	227 Unallocated stores.....	100

Head of Expenditure	Subhead	Percentage of provision shown in draft Estimates
Housing Department	228 Clearance.....	25
	230 Management of cottage areas.....	25
	231 Management of temporary housing and temporary industrial areas.....	25
	232 Squatter control.....	25
Independent Commission Against Corruption	203 Expenses of witnesses, suspects and detainees.	40
Inland Revenue Department	209 Special legal expenses.....	100
Internal Security: Miscellaneous Measures	195 Defence Costs Agreement: cash contribution..	30
Labour Department	255 Storage of explosives.....	25
Lands Department	221 Clearance of Crown land — <i>ex-gratia</i> allowances.....	35
Legal Department	111 Hire of services and professional fees.....	30
London Office	116 Office rents and rates.....	25
Medical Subventions	382 Cheshire Home.....	25
	383 Community Nursing Service.....	25
	384 Family Planning Association of Hong Kong....	25
	394 St. John Council for Hong Kong.....	25
	401 Refund of rates (non-profit-making hospitals)..	25
Miscellaneous Services	190 Other miscellaneous services.....	50
	192 Refunds of revenue.....	100
Pensions	026 Employees' compensation.....	50
Post Office	174 Dues to other administrations.....	25
Public Debt	238 Loans (Asian Development Bank) Ordinance, Cap. 271: Second Sha Tin urban development project: commitment charges and interest.....	70
	257 Loans (Government Bonds) Ordinance, Cap. 64: borrowings for General Revenue: interest and service charges.....	50
Radio Television Hong Kong	102 Cable and Wireless services.....	30
Rating and Valuation Department	113 Administration.....	25
Registry of Trade Unions	100 Stores and equipment.....	50
Royal Hong Kong Regiment (The Volunteers)	106 Temporary staff.....	30
	111 Hire of services and professional fees.....	25
	245 Pay and allowances for the auxiliary services..	30
Royal Observatory	102 Cable and Wireless services.....	30
Social Welfare Department	177 Emergency relief.....	100
Social Welfare Subventions	All recurrent subheads.....	25
Subventions: Miscellaneous	445 Hong Kong Trade Facilitation Council.....	50
	462 United Nations Fund for Drug Abuse Control..	100
	All other recurrent subheads except 448 Prince Philip Dental Hospital.....	25
Technical Education and Industrial Training Department	468 Grant (Recurrent) Vocational Training Council.....	25

Head of Expenditure	Subhead	Percentage of provision shown in draft Estimates
Trade Department	109 Training expenses.....	40
	111 Hire of services and professional fees.....	40
	186 Trade negotiations and associated activities.....	30

He said:—Sir, I move the first motion standing in my name in the Order Paper.

As is our normal practice, the debate on the second reading of the Appropriation Bill will be extended into April in order to give Members time to examine the draft Estimates of Expenditure for 1985-86. Thus the enactment of the Appropriation Bill cannot take place before the first day of April. The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 1985 and the enactment of the Appropriation Bill consequent on the decisions of this Council.

The funds on account sought under each head have been determined in accordance with paragraph 3 of the resolution. This paragraph provides that expenditure shall be arranged in accordance with the subheads in the draft Estimates of Expenditure 1985-86. It also enables the Financial Secretary to vary the funds on account in respect of any subhead, provided that these variations do not cause an excess over the amount of provision entered for that subhead in the draft Estimates or an excess over the amount of funds on account for the head.

A Vote on Account Warrant will be issued to the Director of Accounting Services authorising him to make payments up to the amount specified in this motion and in accordance with its conditions. The Vote on Account will be subsumed upon the enactment of the Appropriation Bill, and the General Warrant issued after the enactment of the Appropriation Bill will replace the Vote on Account Warrant and will be effective from 1 April 1985.

Sir, I beg to move.

Question put and agreed to.

RATING ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—That with effect from 1 April 1985 the percentage prescribed for the purposes of section 18(1) of the Rating Ordinance shall, in respect of every tenement in a specified area listed in

the first column of the Schedule, be the percentage of the rateable value of such tenement respectively set out opposite that area in the second and third columns of the Schedule.

SCHEDULE

<i>Specified Area</i>	<i>General Rates</i>	<i>Urban Council Rates</i>
A	3%	2.5%
BC	3%	2.5%
D and D2	5.5%	Nil
E	5.5%	Nil
F1, F2, F3, F4, F5, F6 and F7	5.5%	Nil
G1, G2, G3, G4 and G5	5.5%	Nil
H1, H2, H3, H4 and H5	5.5%	Nil
J1, J2, J3 and J4	5.5%	Nil
K1 and K2	5.5%	Nil
L1, L2, L4 and L5	5.5%	Nil
M1, M2, M3, M4 and M5	5.5%	Nil
N1, N2, N3, N4 and N5	5.5%	Nil
P	5.5%	Nil
Q	5.5%	Nil
R	5.5%	Nil
S	5.5%	Nil

He said:—Sir, I move the second motion standing in my name in the Order Paper.

In accordance with established policy, the full general rate charge for newly assessed areas in the New Territories is phased in over a period of five years. In the first year of assessment the actual charge applied is 50 per cent of the full charge, in the second year 60 per cent, and so on until the full charge is levied in the sixth year.

The full general rate charge of 5.5 per cent already applied to all but four rating areas in the New Territories. In 1985-86 these four areas (Areas P, Q, R and S comprising Cheung Chau, Peng Chau, Lantau and Ma Wan, and Lamma Islands) will be in their sixth year of assessment: the full charge of 5.5 per cent should therefore be applied to them.

The percentage charges for the other rating areas will remain unchanged at this year's level. In order that the percentage charges for 1 April 1985 onwards may take effect, a resolution is required under section 18(1) of the Rating Ordinance, which is the sole object of this motion.

Sir, I beg to move.

Question put and agreed to.

TELEPHONE ORDINANCE

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:—That the Schedule to the Telephone Ordinance be amended by adding after **PART VII** the following—

‘PART VIII

PUBLIC SWITCHED TELEPHONE NETWORK(P.S.T.N.) AND PUBLIC MOBILE
RADIOTELEPHONE SERVICES (P.M.R.S.) INTERCONNECTION CHARGES

<i>Item Particulars of Charge</i>	<i>Amount of Charge</i>
1. For an interconnection line between P.M.R.S. and P.S.T.N.	\$60 per month (see <i>Note 1</i>)
2. Associated charge for item 1—	
(a) Installation or removal of an interconnection line between P.M.R.S. and P.S.T.N.	\$525 (see <i>Note 1</i>)
(b) removal of an interconnection line within the same building	\$200 (see <i>Note 1</i>)
3. For usage of an interconnection line between P.M.R.S. and P.S.T.N.	7 cents per minute subject to <i>Notes 1 and 2</i>

- Note:*
1. All charges are raised against the provider of P.M.R.S. and not customers of P.M.R.S.
 2. In item 3, the usage charge is calculated monthly on the accumulated number of minutes for which the interconnection line is used, rounded up to the nearest minute.’

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

In November 1982 certain telecommunication services provided by the Hong Kong Telephone Company Limited, including public mobile radiotelephone services, were excluded from the Company’s Scheme of Control. Among the conditions imposed on that occasion was one requiring the Telephone Company to provide a connection for these deregulated services to the public telephone network, subject to a fee or charge to cover the cost and the Telephone Company’s permitted return. Following deregulation, licences for operating public mobile radiotelephone services were granted to Communication Services Limited, Hutchison Radio Telephone Limited, and China Telecom Systems Limited.

Sir, before explaining the underlying principles governing the determination of these new charges, I would like to express my thanks to Mr. Francis TIEN and his Unofficial colleagues on the Economic Services Working Group for the time and effort they have spent on the matter and for the helpful and

constructive suggestions they have made. The group held two meetings with the Administration. We agreed that because the public mobile radiotelephone service is new to Hong Kong, it is desirable that a review of the level of charges should be conducted twelve months after the service provided by the three licensees has come into operation.

Sir, interconnection charges should be levied on the basis that there will be no significant cross-subsidisation between the Telephone Company's various services; and the charges should as far as possible reflect the cost of providing the use of the public telephone system to each type of subscriber. Thus, the interconnection charges should comprise *first*, a fixed rental component to cover the capital cost of the interconnection line, and its installation and maintenance costs; and *second*, a usage charge component to cover the average cost of switching and junction circuits. There is included the appropriate permitted return under the Scheme of Control.

These underlying principles have been applied in determining the level of charges set out in the resolution, which seeks to amend the Schedule to the Telephone Ordinance by adding after Part VII a new Part VIII. This new Part contains the particulars and amounts of interconnection charges between the public switched telephone network and public mobile radiotelephone services. Members will note that the usage charge amounts to seven cents a minute.

Sir, I beg to move.

MR. ALLEN LEE:—Sir, the motion seeks to amend the Schedule to the Telephone Ordinance in order to specify the level of interconnection charges to be levied by the Hong Kong Telephone Company Limited on companies which have been licensed by the Telecommunication Authority to operate a public mobile radiotelephone service. The Secretary for Economic Services has very capably explained the underlying principles in determining the level of charges set out in the resolution and I do not propose to repeat them here.

The motion has been carefully scrutinised by the Legislative Council Economic Services Working Group, and as an indication of the importance Unofficial Members attached to the issue, the motion which was originally scheduled for the Council's sitting on 9 January 1985 was twice deferred to enable Members of the working group to examine, *inter alia*, the representations made by the Hong Kong Telephone Company. We also met on two occasions with the Administration to study the principles employed by the Administration in determining the pricing structure of the public mobile radiotelephone interconnection charges. After detailed deliberations, we are generally satisfied that the principles applied are consistent with the Administration's policies on charges levied by utilities.

We are, however, concerned that without past experience to guide us, the implications and effects of the proposed level of charges may not have been fully

appreciated at this stage. It is therefore felt that a review on the pricing structure at a later stage would seem appropriate and I am delighted to learn that this would be conducted by the Administration 12 months after the service provided by the three licensees has come into operation.

With these remarks, Sir, I support the motion.

(Mr. CHAN Kam-chuen declared interest as a Director of the Hong Kong Telephone Company Limited and abstained from voting on this motion.)

Question put and agreed to.

KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:—That the Kowloon-Canton Railway Corporation By-laws 1985, made by the Corporation on 25 January 1985, be approved.

He said:—Sir, I move the resolution in my name that the Kowloon-Canton Railway Corporation By-laws 1985, made by the Corporation on 25 January 1985, be approved.

Section 31 of the Kowloon-Canton Railway Corporation Ordinance (Chapter 372) empowers the Corporation to make by-laws and provides that they shall be subject to the approval of this Council.

These new by-laws replace those which were made in pre-electrification days and they set out the conditions for the carriage of passengers, luggage and goods; for the issue of passenger tickets; and for vehicles on railway premises. They prescribe the authority of Corporation staff; the conduct of persons on the Railway premises; restricted areas; and the penalties for contravention of the by-laws. The Administration has examined them carefully and considers them acceptable.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS) BILL 1985

TRIAL OF COMMERCIAL CRIMES BILL 1985

PROTECTION OF WAGES ON INSOLVENCY BILL 1985

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

Second reading of bills

LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS) BILL 1985

THE CHIEF SECRETARY moved the second reading of:—'A bill to provide for the election of persons to be elected Members of the Legislative Council and for matters incidental thereto'.

He said:—Sir, I move that the Legislative Council (Electoral Provisions) Bill 1985 be read a second time.

The purpose of this Bill is to provide for the election of 24 members to the Legislative Council in September 1985 as envisaged in the White Paper on the Further Development of Representative Government in Hong Kong which was laid on the table on 21 November 1984. The Bill seeks to provide for the establishment of 12 electoral college constituencies and nine functional constituencies which will return, between them, a total of 24 members to the Legislative Council. The Bill also prescribes the relevant electoral procedures, which are based, as far as possible, on those already well tried procedures, recently tested again with success, contained in existing legislation applicable to the Urban Council and District Board elections.

I think it would be helpful, Sir, if I reminded Members, at this stage, of the objectives of the plans for more representative government set out in the White Paper. As I said in my speech to this Council on 9 January this year, these objectives can be stated quite simply: the *first* objective is that the future system of representative government in Hong Kong should be rooted firmly in the community and thereby be directly accountable to the people of Hong Kong. The *second* objective is to provide for changes in the composition and method of selection of the Legislative Council which will ensure that it is broadly based, and which will minimise any tendency to factional politics and divisiveness. The *third* objective is to provide a foundation for further developments in the composition and method of selection of the membership of the Legislative Council, in the light of experience gained. Of course, the ultimate objective of our present plans and any later extensions and modifications of those plans is to ensure that a system of government is firmly established during the next 12 years which will preserve and enhance the essential features of our present society. If this is achieved then we can be hopeful of a smooth transition for Hong Kong from its present status as a British Dependent Territory to that of a Special Administrative Region of China, with a high degree of autonomy. With effect from the 1985-86 Session, the total membership of the Legislative Council will comprise 56 members: 12 will be drawn from the electoral college constituencies (i.e. ten from the district board level and two from the regional council level), 12 members will be drawn from functional constituencies, 22 members will be appointed by the Governor and 10 members will be selected and appointed by the Governor from the civil service.

The Bill is structured in eight parts with two separate schedules which set out details of the various constituencies, the categories of persons who are eligible to be registered as electors in each of them, and the number of members to be elected in each constituency.

But turning to the Bill itself, *Part I* of the Bill is largely preliminary and calls for little elaboration. However, it does introduce two new concepts in the context of functional constituencies: that of an 'electoral division' and of a 'substantial connexion'.

The concept of an 'electoral division' has been adopted as a means of providing for the electors from each of the nominated representative organisations within the commercial and industrial constituencies to return their own representative, rather than to elect jointly, two representatives which could result in both representatives coming from one organisation. It is also designed, as in the case of the labour constituency, to enable the result of an election to be determined on the basis of absolute majority, a procedure about which I shall be saying more in a few moments' time.

The concept of a 'substantial connexion' has been introduced to help achieve one of the main purposes of having functional constituencies, namely, that candidates for election to the Legislative Council are properly qualified, that is to say, competent by virtue of their own personal experience, to represent the interests of the particular constituencies in which they stand but with the ultimate purpose, of course, of serving the interests of the community as a whole.

Part II of the Bill sets out the general provisions relating to the holding of elections and the establishment of constituencies. It provides for the first elections to be held in 1985 and in every third year thereafter, or otherwise within three months of a dissolution of the Legislative Council; for the actual establishment of electoral college and functional constituencies and the number of seats; for the tenure of office of members; for the circumstances in which an elected member's seat shall become vacant; and for the declaration of casual vacancies and the holding of elections to fill casual vacancies. In *Part II* it is also provided that an elected member who fails to attend sittings of the Legislative Council for a period of three consecutive months shall cease to hold office unless his absence has been excused by the Governor. This is similar to a provision already contained in the Urban Council and District Boards Ordinances. There is a special provision in clause 5(b) for the tenure of office of the member elected by the members of the Provisional Regional Council in 1985 to end when the Provisional Regional Council ceases to exist in 1986. A new member will be elected by the members of the full Regional Council when it has been established.

Part III of the Bill deals with the electoral franchise and with the question of eligibility to register as an elector. In the case of the 12 electoral college

constituencies, eligible electors are the members of the District Boards and the Urban Council and the Regional Council. As a result of views expressed by a number of representative organisations making up certain functional constituencies, there is one important exception to the rule announced in the White Paper, namely, that in order to qualify as an elector in a functional constituency a person must also be registered as an elector on the general electoral roll under the Electoral Provisions Ordinance. Clause 13(3) provides, *for the purposes of the 1985 elections only*, that a person shall be eligible for registration as a functional constituency elector whether or not he is registered on the general electoral roll, provided he is duly qualified and eligible to be so registered. This will enable those persons who failed to register on the general electoral roll last year, despite the intensive publicity which was devoted to this point at that time, to apply for registration on their functional constituency electoral roll. This special provision has been introduced to enable as many members of the various functional constituencies as possible to register as electors for these first elections to the Legislative Council, so that the representative quality, as it were, of elected members of functional constituencies is not suspect. Thus we have met the views of those who petitioned us on this point. But we have done so having regard to the public interest, not out of sympathy for those who failed to register on the general electoral roll. The public interest, I am afraid, clearly requires that we must do what we reasonably can to avoid putting at risk the whole concept of functional constituencies at the outset, which concept the Government regards as an important element in the process of producing a blend of membership which is appropriate to Hong Kong's circumstances. I do hope that those concerned *will* now take full advantage of the opportunity which is now being so generously made available to them.

There are two further provisions in *Part III* to which I would also, Sir, invite the attention of Members. Clause 14 provides that no person shall be eligible to register as an elector in more than one electoral college constituency. Nor may he register, in his own right, in more than one functional constituency of his choice. Clause 15 provides that those who have been so registered shall be disqualified from voting in the event of their ceasing to be a member of the constituency in question. In practice, this means that a person who is qualified will be able to vote *once* in an electoral college constituency, that is to say, in his capacity as a member of a District Board, the Urban Council or the Provisional Regional Council and *once* in a functional constituency in his own right as an individual. In addition, that person will be able to cast a vote on behalf of a corporate elector in a functional constituency if he is appointed as the authorised representative of that corporate elector. However, he would cast that vote in accordance with the instructions of the corporate elector and *not* on his own behalf.

Part IV contains the conventional provisions for the registration of electors for both the electoral college constituencies and the functional constituencies. It provides for the appointment of a registration officer by notice in the Gazette;

for the final register of electors to be published and to remain in force until the publication of the next register; and for the Chief Justice to appoint a magistrate or other legal officer to act as a revising officer. And clause 19 confers, for the purpose of *Parts III and IV* of the Bill, certain regulation making powers upon the Governor in Council. There will be two sets of regulations: *one* covering the detailed procedures for the registration of electors and the *other* the detailed arrangements for the nomination of candidates and supervision of the elections. These regulations will be published as soon as possible after this Bill has been enacted.

Part V of the Bill sets out the qualifications for candidature. It requires that a candidate must have been ordinarily resident in Hong Kong for the ten years immediately preceding the date of his nomination and must have been registered as an elector on the general electoral roll under the Electoral Provisions Ordinance. There is, however, an exception to this latter qualification which matches the compromise solution proposed for 1985 only in respect of electors. In the case of a functional constituency *for the 1985 elections only*, it shall be sufficient for a candidate to show, if he is not so registered, that he is duly qualified and eligible to be registered as an elector and, of course, he must have a substantial connexion with that constituency. In clause 22, it is provided that no candidate may be nominated or stand for election in more than one constituency. Finally, in clause 21, are prescribed the grounds for disqualification from being nominated as a candidate, which *include* the holding of any public office and membership of any parliament, assembly or council of any place outside Hong Kong.

Parts VI and VII deal respectively with the appointment of returning officers, the supervision of elections and with election petitions. They repeat, generally, the provisions already contained in the legislation dealing with Urban Council and District Board elections. Finally, *Part VIII* covers a number of miscellaneous matters, including the very important requirement that voting shall be in secret.

Sir, I mentioned earlier the intention to use of the absolute majority system in the determination of election results. This system is proposed, rather than the simple majority procedure currently used in the Urban Council and District Board elections and certainly will be used for the Regional Council elections. An absolute majority system is a more effective way of ensuring the election of candidates with a large degree of consensus support in the electoral colleges and functional constituencies. The detailed procedures will be spelt out in the subsidiary legislations to be made under the Bill, but, in essence, the system is designed to provide that no candidate may be declared elected until he has secured more than 50 per cent of the votes cast in the election.

In the case of the *electoral college constituencies*, where the numbers of voters will be relatively small, it is proposed to adopt a system of repeated ballots, whereby voting is continued through a series of ballots until one candidate

secures an absolute majority of the votes cast. In the case of *functional constituencies*, where there will be greater numbers of voters, it is proposed to adopt a preferential voting system under which electors record their votes for the candidates in order of their preference. This system calls for repeated counts of the votes, with lower preference votes being added at each count to the first preference votes. The candidate securing the lowest number of votes on each count is eliminated, until a single candidate emerges with the support of more than 50 per cent of the voters. It is to accommodate this procedure that the labour functional constituency has been divided into two electoral divisions.

As I mentioned in a reply to a question by Mr. CHAN Ying-lun in this Council on 6 February last, consultations have been held with the representative organisations making up the various functional constituencies on the principles now embodied in this Bill. Meetings have been held with the principal officers of each of these organisations, and careful and detailed consideration has been given to their views. It has been possible to meet some of these views, but not all of them. However, as was stated in the White Paper, a review of the arrangements will be conducted in 1987 to identify any desirable improvements in present arrangements; and, of course, to decide whether any further constitutional changes are indicated at that time to be effective from the 1988-89 session or later. I have no doubt that any improvements which may be identified *ad interim* will be fully considered in the course of that review and that ideas as to further constitutional developments will be floated and debated in readiness for that review. Meanwhile, Sir, may I suggest that we should all concentrate on the immensely important task of assembling the new style Legislative Council for the next three years, 1985-88, and here time is of the essence if we are to complete all the necessary practical arrangements in time for the 1985 elections to be held in September this year.

Sir, this Bill, which implements the plans in the White Paper, represents an extremely significant development in the constitutional history of Hong Kong. For the first time, elections are to be held for seats in the Legislative Council. We are experimenting with a unique mix of systems designed to assemble a Legislative Council consisting of (1) what one might describe as populist elected members, (2) representatives elected by interest groups, (3) appointed members carefully selected on the basis of their track record in public life and their invaluable experience to date of Government in order to secure their experience for the future and to cover elements in our society which might not otherwise be satisfactorily catered for and (4) a few civil servants to provide, for the time being at least, that necessary link with the Administration. I have not listed these four groups of members in our future Legislative Council in any particular order of importance, obviously, for I have mentioned civil servants last. So we are about to embark on a major step in the process of developing, through this mix of systems, our own unique legislature, one which has a diversity of roots in the community and one which will be seen to be directly accountable to the people of Hong Kong.

I sincerely hope, Sir, that all those people who will be enfranchised by this Bill will take the opportunity to *register* as electors or establish their claim to be electors, for mere membership even of a District Board, let alone a functional constituency, will not obviate the necessity to register. I sincerely hope that they realise that, by the act of *registering*, they will demonstrate their understanding of the need to develop mechanisms to assemble the membership of the Legislative Council and that they will express their confidence in the future of Hong Kong by *casting* their votes, and *standing* as candidates, when the elections are held.

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

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

Question put and agreed to.

TRIAL OF COMMERCIAL CRIMES BILL 1985

THE ATTORNEY GENERAL moved the second reading of:—'A bill to make provision for the trial of certain complex commercial crimes by a judge and commercial adjudicators; and for connected purposes'.

He said:—Sir, no-one disputes that it is of prime importance in a financial and business community such as ours with an international reputation that it should possess efficient means of combatting and punishing commercial crimes, however arrogant, sophisticated or unscrupulous the criminal may be. This modern breed of criminal deliberately hides his activities behind a bewildering maze of transactions, calculated to mislead and baffle his investors, his bankers and his advisers. Months of painstaking investigation by the police are required, often aided by professional accountants, to unravel his activities. And then severe strains can be placed upon the traditional modes of trial in court, which will develop to meet the needs of a simpler age. Sir, it is those strains which have led to the modest proposal in this Bill which will provide the courts with an additional mode of trial specifically for the cases of complex commercial crimes.

Sir, I would emphasise from the start that, far from removing bricks from Miss Lydia DUNN'S famous Great Wall, the provisions of this Bill will be an additional buttress for our legal system. It is an inevitable part of the on-going process of strengthening our criminal procedures to service new demands.

Most people recognise that the present state of affairs is unsatisfactory, if only because nearly all ordinary jurors and many lawyers who serve on the bench of judges lack the commercial experience and skill that is necessary to read, absorb and assess with confidence the kind of evidence involved in prosecuting the

modern criminal commercial fraudster. Most people also recognise that it is doubly unfair to ordinary men and women who respond to the call for jury service to expect them, not only to abandon their ordinary pursuits for months on end to assist in the trials of such cases, but also to concentrate on learning the details of business coups and accounting manipulation which is outside their ordinary experience. There is also the fear that the traditional system or trial may not be able to cope satisfactorily with the complexities of the task. Criminals will sometimes go free simply because, as one High Court judge has pointed out, 'complication is a weapon for the defence'. In commercial cases, the charges cannot be kept simple because the transactions themselves are not simple. As the case lengthens, and the issues and documents multiply, so there is scope for oversight and confusion in the mind of the High Court judge who sums up to a jury, or the District Court judge who is required to write out his reasons for a verdict of guilty, and within the jury room as well, when the jury retire to consider their verdict.

Sir, these problems are recognised in Hong Kong and elsewhere. Work is being done in England by the Roskill Committee on Fraud Trials to find a solution there. Some say we should await their conclusions. But why? The problems in the United Kingdom are different from ours. There it is the case that all commercial crimes are tried by jury. Here many of them can be tried in the District Court where the judge sits alone without a jury. There a pool of specialised judges exists whose entire career at the Bar and on the Bench has been in complex commercial work. But in Hong Kong we are not so fortunate. So I think, Sir, that Hong Kong should devise its own proposals, drawing on its commercial community to assist in the task. And with so many cases in the pipeline at this stage, we ought to be tackling the problem right away and producing a solution that meets the needs of Hong Kong.

Sir, this Bill is the result of discussions and consultations which have been taking place for over a year. Initially my Chambers sought views on the problem informally. I was sufficiently encouraged by support for the view that the present system was unsatisfactory, that I issued a discussion paper in July 1984 with specific proposals. After considering all the views expressed in response to that paper, not only by lawyers but by many in the business sector and in other fields in the community, I am convinced that the revised proposals contained in this Bill are a reasonable and sensible way forward.

Sir, the essence of the proposal is this. Under the present arrangements any complex commercial crime might presently go to the High Court for trial by High Court judge and jury or to the District Court for trial by District Court judge alone. Under this Bill, the prosecution or the defence will be able to apply to the Chief Justice to have the case tried instead before three commercial adjudicators sitting with the judge. In the High Court this would relieve the ordinary jury of the heavy burden of adjudication. In the District Court, this

would assist the judge in his burden or adjudication. In both courts, the judge would enjoy the advantage of sharing in the special expertise and skills of the adjudicators to understand and evaluate the evidence.

I do not suppose that more than ten cases a year would qualify as complex commercial crimes, long and heavy though they may be. Only where the Chief Justice was satisfied that the evidence was likely to be difficult to understand or appreciate because of its technicality or quantity, *and* satisfied that the justice of the matter would be best served before a trial by commercial adjudicators would this proposed mode of trial take effect. This Bill does nothing to abolish any mode of trial, still less to abolish trial by jury. It provides an additional mode of trial for the Chief Justice to use when appropriate. Both the prosecution and the defence would, of course, be entitled to be heard on the matter and to raise objections to the particular adjudicators proposed for appointment. Just as with jurors, it is important that they should not have any axe to grind, nor should they be prejudiced by previous knowledge of the transaction. Sir, I am confident that the business community is large enough to enable adjudicators to be selected who have no previous involvement in the case.

Why, some have asked, does this Bill propose a novel mode of trial by a mixed tribunal of judge and adjudicators? If these cases are too long or complicated for ordinary juries, why not have trial by judge alone or revive the special jury which has fallen into disuse? Sir, many different solutions have been put forward to meet the problem which nearly everyone agrees exists. Members of the Judiciary are by no means of one mind. Some have favoured various alternatives, all of which I have considered. In the end, the one that seems best to fit Hong Kong's needs is the mode of trial proposed in this Bill. The Chief Justice has authorised me to say that the Bill has his personal backing, but that many judges do not support it, sometimes in principle and sometimes in detail, and that some judges do support it. Among the merits of the proposal of this Bill are that it provides an element of lay participation in justice which trial by judge alone does not. It also enables the judge to share with the adjudicators their skill and expertise which is not possible in a trial by jury. The proposal indeed has all the features of a specialist jury, and in addition gives the lay adjudicators direct access to the judge's guidance in all matters of law, procedure and evidence. It also has the advantage over the special jury that only three rather than seven businessmen are required to devote their valuable time to assisting in the administration of justice.

Some critics have misrepresented this Bill as an attack on the jury which is seen as one of the bulwarks of liberty. Rather than arguing against this Bill, those who believe in the jury should be arguing for the introduction of juries to the District Court. There criminals are sentenced for up to seven years' imprisonment on the decision of a District Court judge sitting alone. And that is where the ordinary experience of jurors could play a greater part in determining the guilt of those standing trial on serious charges.

But, Sir, I cannot accept the argument that this modest proposal to give the Chief Justice the power to order the trial of complex commercial crimes before a tribunal more suitable for the purpose than the ordinary jury, represents a threat to the traditional and well-established role of the jury. We should not be clinging to jury trial for its own sake where the jury is not thought suitable. It cannot be seriously represented that the freedom of people in Hong Kong is threatened by permitting a new mode of trial for this handful of complex cases. On the contrary, it seems to me that we are doing no more than ensuring that the courts are developed meet the changing needs of a more complex society. By adapting to change, public confidence in the law and the administration of justice will surely be enhanced.

Other criticisms of the proposals centred on details of the Bill. There was one lobby which disliked the idea originally put forward that the judge would not sum up the evidence to his adjudicators nor give reasons for the judgement. Initially it did not seem to me to be appropriate that the judge, who is not necessarily an expert in business matters, should be asked to sum up in open court and explain the evidence in a complex commercial case to his expert adjudicators. In any event they would have access to a transcript of the evidence under the provisions of the Bill. Equally, it seems to be difficult for a judge practically speaking to give full and detailed reasons for the verdict of the court covering every aspect of a case which might have lasted several months and involved thousands of documents. This task may be complicated still further by the fact of life that the tribunal might be united in their conclusion but each might have reached their verdict by a different although legitimate route.

However, I am persuaded that in spite of these considerations, it would be right for the parties and for any appellate court to know how the court had approached its task and what was taken into account in reaching a decision. Accordingly, the Bill now provides that as well as directing the court on the relevant law, the judge should sum up the evidence in open court as if he were sitting with a jury. This will serve as a discipline to him and to his co-adjudicators to set the legal framework for their task and to marshal the issues which they must address when they retire to consider their verdict in private. But it would not be appropriate to expect a four-man tribunal to give detailed reasons for their conclusions. A jury, of course, does not do so.

There have been other modifications, Sir, to the original proposals. Where both prosecution and the defence agree that the case is suitable for trial by adjudicators, the Bill avoids the need for a reference to the Chief Justice. There were some who thought that the provision for a judge sitting with two commercial adjudicators reaching a unanimous verdict was unsatisfactory because a single adjudicator could easily frustrate a long and expensive trial. I agree with this and so the Bill now provides for a judge to sit with three commercial adjudicators and for the verdict to be reached, if necessary, by a majority of three to one. The original proposals allowed the adjudicators to ask

questions without restriction. This was thought by some to be undesirable because they would be ignorant of legal constraints. I accept this point too and so the Bill now gives a discretion to the judge to stop and prevent legally improper questions from being asked.

Questions have been raised as to whether there will be sufficient interest in the commercial sector to support this proposal by making available services of a sufficient number of suitable adjudicators. I canvassed this question at an early stage with a number of leading companies and banks and I was much encouraged by their view that it was entirely right that they should support the efficient prosecution of commercial crimes by making their expertise available as a matter of public duty. One inducement to them will be an exemption from jury service for those who are willing to allow their names to be put upon a panel of adjudicators which will be drawn up under this Bill by the Registrar of the Supreme Court. In practice, their convenience will be taken into account before appointments are made. Suitable fees will be paid for their services although they will have to reflect the fact that they are being called upon to perform a public duty. Given the limited number of cases in each year, I doubt if any adjudicator would be called upon to sit more than once in a decade. It should be possible in Hong Kong to have 150-200 names on a list of adjudicators from which the Chief Justice can draw whenever he decides that a case is appropriate for the proposed mode of trial.

Finally, Sir, may I observe that this Bill has given rise to a good deal of public interest, if not controversy. From the business sector the response has been generally favourable. Reaction among the lawyers has been mixed. The Law Society supported the proposal. Some members of the Bar have raised their voices against it although some have expressed support. I shall be careful to note any fresh views which come forward. Indeed, today, in the newspapers, we have seen further discussion of the proposal contained in this Bill. Some comment relates to matters of detail and those suggestions merit consideration. I notice that the provision in the Bill that the judge should sum up the evidence rather than give reasons comes under attack. Sir, it does seem to me to be strange that those who advocate the use of the jury in complex commercial cases, in which, of course, the jury would give no reasons, argue that in this kind of specialist jury with adjudicators, the tribunal should give reasons. From the point of view of defence lawyers, an appeal is easier to argue when there are stated reasons because criticism can be directed, not to whether the verdict is right or wrong on the evidence, but whether the tribunal has formulated the reasons correctly. Surely, Sir, an appeal should be decided on the merits of the case itself, not on how well or how badly a judgment is written.

One criticism in the editorial of the South China Morning Post is of the provision for re-trial where there is no majority for a verdict. Sir, it reveals a misunderstanding of the present position in jury trials. If a jury is unable to return a verdict, the accused, as the law now stands, is liable to be tried again. He does not go free.

Sir, there is a comment that this Bill is the 'thin end of a wedge' and could one day result in the total loss of the jury system and, with it, personal liberty. In my view, Sir, this alarmist talk has simply no merit. The basis for this Bill is the unsuitability of the jury in cases of complex commercial criminal trials. I am sure this Council and the people of Hong Kong are astute enough not to allow this argument to be used in cases to which it does not apply. It will take a great deal more than the use of the ordinary jury in a handful of commercial cases to protect our freedoms.

The Solicitor General argued in a public letter that the proposal does not dispense with the jury concept but adopts it, builds on it and strengthens it. The Bar Association today claims that this is wrong because they say the selection of adjudicators is not random; the adjudicators will be paid volunteers; and because the judge will retire with the adjudicators.

Sir, if these criticisms are the most that can be put against the Solicitor General's argument, then I am content. Of course the selection of adjudicators is not random. The whole point is that the adjudicators should be the kind of people who will understand the evidence by reasons of their skill and special experience. And they will be chosen by the Registrar and the Chief Justice, after consultation with the parties. In practice, the adjudicators will be paid volunteers. I cannot see the objection to that. It is correct to say that under the provisions of this Bill, the judge will retire with the adjudicators. He is part of the decision-making tribunal and he has important functions to perform. Unlike the jury, the lay adjudicators will have the benefit of direct access to the guidance of the judge. Unless it is suggested that he will mislead the adjudicators or influence them improperly, I see no force in the criticism.

Sir, I hope that this public debate will continue and that it will concentrate upon the specific provisions of this Bill.

As it happens, there will be plenty of time for Members of this Council to consider the Bill and formulate their views because it is proposed that the remaining stages of the debate in this Council should take place on the 15 May 1985. I have no doubt that the consideration of this measure will continue behind the scene during that period and I shall be very glad to discuss with Members any concerns which they may have.

Sir, I move the debate on the second reading of this Bill be now adjourned.

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

Question put and agreed to.

PROTECTION OF WAGES ON INSOLVENCY BILL 1985

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to provide for the establishment of a board to administer the Protection of Wages on Insolvency Fund, to provide for payment of monies from the Fund to employees whose employers become insolvent; to amend the Business Registration Ordinance, the Employment Ordinance, the Companies Ordinance and the Bankruptcy Ordinance and for matters connected therewith or incidental thereto’.

He said:—Sir, I move that the Protection of Wages on Insolvency Bill 1985 be read the second time.

The purpose of the Bill is to give effect to the recommendations of the Working Group on the Problems experienced by Workers of Companies in Receivership. The group's report was accepted in principle by the Executive Council and that acceptance was announced by you, Sir, in your address to this Council on 5 October 1983. The main recommendation of the working group was that a Protection of Wages on Insolvency Fund should be established and that it should be financed by a levy of \$100 on business registration certificates. At present many workers in this situation have to wait several months before receiving wages owed to them because of the complicated and time consuming nature of insolvency and bankruptcy proceedings, and they may never receive the full wages owed to them if their employer's assets are insufficient to cover them.

The \$100 levy became payable on 1 October 1984 as a result of the enactment of the Business Registration (Amendment) Ordinance 1984. That Ordinance also established the Protection of Wages on Insolvency Fund as a holding fund managed temporarily by the Secretary for Education and Manpower. To accumulate funds in this way before enactment of the main legislation establishing the Fund Board was a somewhat unorthodox procedure, but as the Secretary for Education and Manpower explained at the time, unless the fund was able to start operation with a substantial working capital in hand, there would have been a delay of some months after its establishment before the fund built up sufficient working capital to meet demands for payment. The working group estimated that the fund might have to pay out about \$18 million during its first six months of operation. The fund stood at about \$10 million at the end of January and is expected to have increased to about \$16 million by the time payments start being made in April.

In moving the second reading of the Business Registration (Amendment) Bill 1984 the Secretary for Education and Manpower said that legislation was then being drafted as a matter of priority to give effect to the working group's recommendations. You, Sir, in your address at the opening of this Session of this Council on 5 October 1984 also said that priority was being given to the

drafting of this Bill. The Bill provides for the establishment of a Protection of Wages on Insolvency Fund Board with power to administer the Fund and make recommendations as to the rate of levy. It also empowers the Commissioner for Labour to investigate wage claims and make payments from the Fund. Employees aggrieved by the Commissioner's decisions will have a right of appeal to the Board.

If the Bill is enacted it is intended to start making payments with effect from 1 April 1985 and that payments will normally be made within one month of application. As recommended by the working group, the presentation of a winding up or bankruptcy petition will normally be a precondition for payment. However, the Bill proposes that the Commissioner for Labour will have discretion to waive this requirement for small concerns employing less than 20 people, if the amount of wages claimed or the value of unsecured assets are insufficient to make it economic to institute liquidation or bankruptcy proceedings. Once a worker has been paid wages from the Fund, his rights in relation to those wages will be transferred to the Fund, but his other rights to priority payment of other debts, such as severance pay, will not be affected.

The Bill also proposes consequential amendments to the Business Registration Ordinance, the Employment Ordinance, the Bankruptcy Ordinance and the Companies Ordinance.

The main effect of this Bill, if enacted, will be to ensure that workers of companies that become insolvent receive wages due to them and receive them much more quickly than under existing procedures. I have no doubt that it will be welcomed both by the workers who will benefit from it and by the public in general.

Sir, I move that the debate be now adjourned.

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

Question put and agreed to.

PENSIONS (SPECIAL PROVISIONS)(CUSTOMS OFFICERS) BILL 1985

Resumption of debate on second reading (6 February 1985)

Question proposed.

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).

INLAND REVENUE (AMENDMENT) BILL 1985

Resumption of debate on second reading (6 February 1985)

Question proposed.

MR. POON:—Sir, the Inland Revenue (Amendment) Bill 1985 is simple and non-controversial. The increase in the number of deputy chairmen of the Board of Review from two to six and the maximum size of the panel of members from 75 to 100 will hopefully expedite the large back-log of outstanding cases before the Board. Earlier settlement of such cases, a substantial majority of which are usually decided in favour of the Inland Revenue Department, will mean quicker collection of revenue from tax under dispute. As the enactment of the Inland Revenue (Amendment) Ordinance 1985 enables the Commissioner of Inland Revenue, in objection cases, to require the purchase of tax reserve certificates or in some circumstances to charge interest if the decision is in favour of the Inland Revenue Department, taxpayers will also welcome speedy settlement. I strongly recommend the granting of such additional resources to the Inland Revenue Department as soon as possible and shall watch with great interest the outcome. With these observations, I support the Bill.

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

PENSIONS (SPECIAL PROVISIONS)(CUSTOMS OFFICERS) BILL 1985

Clauses 1 to 4 were agreed to.

INLAND REVENUE (AMENDMENT) BILL 1985

Clause 1

THE FINANCIAL SECRETARY:—I moved that clause 1 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 1

That clause 1 be amended by inserting after ‘(Amendment)’ the following—
‘(No. 2)’.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 to 6 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

PENSIONS (SPECIAL PROVISIONS)(CUSTOMS OFFICERS) BILL

had passed through Committee without amendment and the

INLAND REVENUE (AMENDMENT) BILL

had passed through Committee with amendment, and moved the third reading of the Bills.

Question put on the Bills and agreed to.

Bills read the third time and passed.

Adjournment and next sitting.

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on 27 March 1985.

Adjourned accordingly at twenty minutes to five o'clock.