

# OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 21 May 1986

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 DAVID AKERS-JONES, 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 (*Acting*)  
MR. JAMES KERR FINDLAY, Q.C., J.P.

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

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

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 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, O.B.E., J.P.

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

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

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

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

THE HONOURABLE CHAN YING-LUN, J.P.

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

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

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

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

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

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

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

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

THE HONOURABLE CHENG HON-KWAN

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

DR. THE HONOURABLE CHIU HIN-KWONG

THE HONOURABLE CHUNG PUI-LAM

THE HONOURABLE THOMAS CLYDESDALE

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

THE HONOURABLE HUI YIN-FAT

THE HONOURABLE RICHARD LAI SUNG-LUNG

DR. THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

THE HONOURABLE LEE YU-TAI

THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE LIU LIT-FOR, J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI

PROF. THE HONOURABLE POON CHUNG-KWONG

THE HONOURABLE HELMUT SOHMEN

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE CHI-WAI, O.B.E., J.P.

THE HONOURABLE ANDREW WONG WANG-FAT

THE HONOURABLE JOHN RAWLING TODD, C.V.O., O.B.E., J.P.  
SECRETARY FOR HOUSING

#### **ABSENT**

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

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

#### **IN ATTENDANCE**

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

**Papers**

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Audit Ordinance	
Audit (Director's Salary) Order 1986 .....	122
Trade Marks (Amendment) Ordinance 1985	
Trade Marks (Amendment) Ordinance 1985 (Commencement) Notice 1986 .....	123
Companies (Interest on Investments)(No. 2) Notice 1986	
Corrigendum .....	124

**Oral answers to questions****Lay Assessor Scheme**

1. DR. TSE asked: *Since the introduction of the Lay Assessor Scheme in Magistrates courts in 1978, has Government conducted a review of its effectiveness in providing Magistrates with advice on local traditions and customs and, if not, will it consider doing so?*

CHIEF SECRETARY: Sir, A review of the effectiveness of the Lay Assessor Scheme was carried out in 1985. It showed that the scheme had been useful in assisting newly-arrived expatriate Magistrates to understand Hong Kong and Chinese customs and traditions. The review recommended that upon appointment each new expatriate Magistrate should have the assistance of an assessor for up to three months. This has been and is being done.

DR. TSE: *Sir, has Government experienced difficulties in recruiting suitable lay assessors in the last few years and has there been any complaint made by Magistrates against the lay assessors or vice versa?*

CHIEF SECRETARY: Sir, I'm not aware of any complaints made by one against the other, and with regard to the first question, at present there are 320 assessors. They are called upon to assist in the courts once every eight months although not all of them are able to attend when called. In 1985 assessors sat in the courts on 384 occasions. So there really is no difficulty in recruiting the requisite number.

MR. YEUNG: *Sir, will Government inform this Council (a) how many new expatriate Magistrates have derived benefit from the scheme for the past two years; (b) how frequently are expatriate Magistrates appointed; and (c) based on the recommendation of the said review, how many assessors are actually needed to assist new Magistrates for up to three months?*

CHIEF SECRETARY: Well, Sir, we don't need any more assessors, as I indicated in the reply to Dr. Daniel TSE'S question. With regard to the other points mentioned by Mr. P. K. YEUNG on the question of the recruitment of Magistrates, I answered a question in this Council earlier on this year, in which I informed the Council that there were eight qualified Magistrates, seven of whom were fluent in Cantonese, but I don't think I gave on that occasion, Sir, the number of expatriate Magistrates that had been recruited, and would like to give Mr. YEUNG that reply in writing. (Annex I)

MR. MARTIN LEE: *Sir, if a case lasts for more than a day, does a newly-arrived expatriate Magistrate sit with the same assessor throughout the case or a different assessor on each day?*

CHIEF SECRETARY: It's usual, as I understand it, Sir, for the assessor to sit through the day.

MRS. CHOW: *What criteria were used to gauge the effectiveness of the scheme in the 1985 review?*

CHIEF SECRETARY: The review, Sir, addressed three objectives and came to a decision on these three objectives. The three objectives were: whether it had increased local participation in the administration of justice; whether it had provided new expatriate Magistrates who were not fluent in the customs and traditions of Hong Kong with adequate assistance, and whether, through the assessor's knowledge of Cantonese, help had been given to the Magistrates in assessing the credibility of witnesses and in advising on the community's views as to sentencing. The review came to the conclusion that on the first and the third of those three objectives the system wasn't entirely satisfactory but that, in providing new expatriate Magistrates with no knowledge of Hong Kong and its traditions some knowledge and some help in the administration of justice, the scheme had been successful.

MR. CHEONG-LEEN: *Sir, with regard to those Magistrates who have no or hardly any knowledge about Hong Kong, why is the assistance for a maximum period of only three months, and could it be for a period of longer than three months at the instance of the Magistrate concerned?*

CHIEF SECRETARY: I can see no objection to that, Sir.

DR. HO: *Sir, what briefing or training has been provided to the lay assessors in order to make them more useful to the Magistrates?*

CHIEF SECRETARY: They are given no special briefing, Sir, but they are people who are generally knowledgeable about our society.

MR. CHAN KAM-CHUEN: *Are assessors paid under the Lay Assessor Scheme and have their rates been revised since 1978?*

CHIEF SECRETARY: I can give an answer in writing to that question, Sir. I'm not aware that they are paid. (Annex II)

MR. YEUNG: *Has the said review taken into consideration the feedback of the lay assessors?*

CHIEF SECRETARY: Yes, Sir.

MRS. CHOW: *Will Government be introducing any changes in the scheme so as to enable the scheme to achieve the two objectives which have hitherto not been very satisfactorily achieved?*

CHIEF SECRETARY: The review came to the conclusion, Sir, that there was very little that could be done within the framework of the scheme to address those two objectives.

### **Double taxation in respect of business with presence in both Hong Kong and China**

2. MR. CLYDESDALE asked: *In view of the possibility that exists for the People's Republic of China and Hong Kong to charge tax on the same income, and in view of the importance of maintaining Hong Kong as a suitable base for China trade, what measure does the Government propose to take to ensure that businesses with a presence in both Hong Kong and the People's Republic, and employees who spend time in both jurisdictions are not subject to double taxation on profits and remuneration?*

FINANCIAL SECRETARY: Sir, double taxation arises when the same item of income is liable to tax in two jurisdictions. Relief can be provided either by one tax authority relinquishing its claim to tax in favour of another, or by one tax authority allowing tax paid to another as a deduction against income or as a credit against tax assessed.

The cornerstone of our taxation system is the territorial source principle under which only profits and remuneration having a source in Hong Kong are chargeable to Hong Kong tax. It was for this reason that, in my concluding

speech on this year's Budget debate, I reiterated the Government's view that conventional double taxation agreements have no place in Hong Kong.

Since only income with a Hong Kong source is taxed, the Government believes that, if and when double taxation arises, relief should be given not by Hong Kong but by the jurisdiction seeking to tax Hong Kong sourced income. Many of our trading partners, including the USA, the United Kingdom, Canada and Australia, recognise this and, in one form or another, provide unilateral relief to avoid double taxation of Hong Kong sourced income.

As a result of the increasing involvement of Hong Kong companies and their employees in business activities in the People's Republic of China, and the possibility of differing views being taken on the source of income arising therefrom, it is likely that some Hong Kong sourced income is being taxed there. However, I am not yet convinced this poses a serious threat to the continuation of Hong Kong as a suitable base for trade with China or elsewhere.

Given the concern expressed, and its source, I shall, however, ask the Commissioner of Inland Revenue to consult with the taxation sub-committee of the General Chamber of Commerce in the first instance. He will examine all the issues including if and how the problems of taxation of Hong Kong sourced income by other jurisdictions might be overcome without significant loss of revenue or the creation of expensive precedents.

MR. CLYDESDALE: *Sir, in January of this year a senior representative of the Beijing Tax Bureau publicly in Hong Kong expressed interest in reaching understanding on this matter on a mutual basis, and since the issue is likely to be one which requires a common understanding between the People's Republic of China and the Hong Kong Government, and upon which neither jurisdiction is likely to act unilaterally, will the Government entertain the idea of joint discussions with the appropriate authorities in China to reach understanding, given, of course, that the Government accepts that this is a threat to the continuation of Hong Kong as a suitable base for traders in China or elsewhere?*

FINANCIAL SECRETARY: Sir, obviously, having explained that we are prepared to start discussion, I am rather unwilling to come to conclusions before those discussions. But views on the broad question of double taxation have indeed been exchanged between the tax administrations of Hong Kong and China at informal meetings. The Commissioner of Inland Revenue has explained the principles of Hong Kong's tax systems and the revenue implications that would result from any double taxation arrangements between the two tax jurisdictions.

MR. LEE YU-TAI: *Sir, as China trade is growing in volume and importance, can I say that it's only fair to accept an amount of tax which has been paid to China as an expense item to be deducted from gross profit of a business transaction for the purpose of assessment of tax in Hong Kong?*

FINANCIAL SECRETARY: Sir, I'm always interested in Mr. LEE'S views but I do not necessarily come to the same conclusions as he, least of all before discussions have even started.

MR. HU: *Sir, should China unilaterally decide to charge tax on transactions upon which Hong Kong Government would normally charge tax, would Hong Kong Government consider waiving the tax charge accordingly?*

FINANCIAL SECRETARY: Once again, Sir, I find Mr. HU'S views very interesting but I don't necessarily share the same conclusions.

MR. CHEONG-LEEN: *Sir, could the Financial Secretary put it to the Commissioner of Inland Revenue that when he consults the Taxation Sub-Committee of the General Chamber of Commerce he will enquire whether from the chamber's point of view this matter could pose a serious threat to the continuation of Hong Kong as a suitable base for trade with China or elsewhere?*

FINANCIAL SECRETARY: Sir, I shall be very surprised if the Taxation Sub-Committee of the chamber isn't aware of Mr. Hilton CHEONG-LEEN'S views.

### **Assistance for AIDS carriers and patients**

3. MR. TAI asked: *In view of the excessive media publicity recently directed against particular individuals who are suspected AIDS carriers, could Government inform this Council:*

- (a) what precautions are taken by the Medical and Health Department to prevent the publication of any information which could result in identifying and locating suspected AIDS carriers; and*
- (b) what information, guidance and assistance the department is giving to suspected AIDS carriers and, in the case of children, the parents?*

SECRETARY FOR HEALTH AND WELFARE: Sir, in accordance with the principles of medical ethics, the Medical and Health Department will not disclose particulars relating to any patient without his consent. In the case of AIDS, special arrangements are made to safeguard the anonymity of people being investigated as suspected AIDS carriers or patients. These include the safekeeping of records, the use of code names for people under investigation, and special methods of labelling specimens. Whenever possible AIDS victims are accommodated in separate hospital rooms for additional privacy.

In addition, all staff working in hospitals and clinics are regularly reminded to observe Government Security Regulations and not to communicate to unauthorised persons without authority any information relating to patients under their care.

Although the Medical and Health Department does everything possible to preserve the anonymity of AIDS patients and carriers, there is always a danger that their identity may become known, accidentally or otherwise. The department has recently made an appeal for the co-operation of the news media in refraining from publishing the names or other particulars of people suspected of having been exposed to the AIDS virus. So far this appeal has been respected, and I trust that our press and electronic media will continue to do so; I am sure Members will agree that the disclosure of details of people suspected of being in any way involved with AIDS can only worsen the position of these unfortunate people.

In September 1985 the Medical and Health Department set up a special clinic staffed by experienced senior medical and nursing staff to provide consultation and counselling services for people who are suspected AIDS carriers or patients. Where necessary the services of social workers and clinical psychologists can also be enlisted. There is also a telephone counselling service and pamphlets have been prepared and printed for distribution both to the public and to health care workers.

MR. TAI: *Sir, in respect of a recent case in which the identity of a child suspected to be an AIDS carrier has been disclosed, may I ask what action will be taken by the Government to ensure that the security measure is strictly enforced? Secondly, will the Secretary for Health and Welfare give me an answer to the question of guidance and assistance to the immediate families of suspected AIDS carriers? Thirdly, can I be informed of the number of confirmed AIDS carriers in Hong Kong?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as I said, the Director of Medical and Health Services has appealed to the media not to disclose particulars which enable individual patients or carriers or people connected in any way with AIDS to be identified. If this appeal is not respected, then obviously we would have to consider more drastic measures; in fact, some form of legislation. So far as the families of AIDS-related people are concerned, it's open to them to seek the same assistance as is available to the sufferers themselves. Certainly in the case of children, the special clinic that I mentioned would, I am sure, be available to give advice to the parents of any children that were involved. The number of AIDS carriers is impossible to estimate. The tests that are given identify patients who have antibodies for the HTLV virus. This indicates that they have had some previous contact with the virus but it's not certain in these cases whether these people would become carriers of the disease or not. But the figures for these cases are that up to the end of March 1986, 60 persons had been identified as having contact with the AIDS virus.

DR. IP: *Sir, when a person is suspected to have AIDS from a screening test, what other confirmation tests are done to make absolutely sure that the diagnosis is as accurate as possible? And what is the accuracy of the confirmation tests?*



SECRETARY FOR HEALTH AND WELFARE: Sir, I'm not aware of any tests other than the basic tests that are done, but I will check with the Director of Medical and Health Services and write to Dr. Ip. (Annex III)

MR. CHEONG: *Sir, given that it is widely rumoured that AIDS are basically contagious, I find it strange that in the Secretary's answer he only says 'whenever possible, AIDS victims are accommodated in separate rooms,' not for precautionary measures but just for additional privacy. Could I ask the Secretary whether or not the Medical and Health Department and the hospital authorities would do everything possible to make sure that AIDS victims are kept separate from the rest of the patients?*

SECRETARY FOR HEALTH AND WELFARE: Sir, AIDS, as I understand it, is not a particularly contagious disease so far as casual contact concerned, but I appreciate the concern of Members and of the public about this very terrible disease and I will urge the Director of Medical and Health Services to do everything possible to ensure that AIDS patients, of whom so far we have had only three, are kept separate from other patients.

#### **Statutory period for prosecution of summary offences**

4. MR. HUI asked: *Regarding the recent case in which a charge against a businessman for betting with a bookmaker was dismissed due to the expiry of the statutory period for the prosecution of a summary offence, could the Government inform this Council:*

- (a) whether any public officers were responsible for the delay in prosecution and, if so,*
- (b) what actions have been taken against them, and*
- (c) what measures have been adopted to prevent recurrence of such delay?*

ATTORNEY GENERAL: Sir, the dismissal of the charge in question resulted from a simple oversight which although regrettable, I believe, was also understandable in the circumstances.

The charge arose from a very extensive operation, which went by the name of 'Operation Boxbush', mounted by the police against illegal bookmaking. A total of 29 people were charged in what was an important and successful operation by the police and the office of the Director of Public Prosecutions. Sir, in considering the appropriate charges to be laid, on the basis of an enormous volume of documentation seized in two series of raids on 65 premises, the statutory period for the prosecution of summary offences was overlooked.

No action has been taken against the Crown Counsel who inadvertently failed to advise the police to lay the charge within the statutory period—nor do I believe that disciplinary action is warranted in these circumstances. Indeed, the

particular Crown Counsel was praised by the Staff Officer of the Organised and Serious Crimes Bureau for the quality of his overall legal advice on this immensely complicated operation. That assessment has been endorsed by the director of Public Prosecutions.

With respect to the last part of the question, the Director of Public Prosecutions has circulated reminders to all Crown Counsel in chambers drawing their attention to the six-month statutory period for the prosecution of a summary offence.

MR. HUI: *Sir, since there were 29 people charged in this case involving illegal bookmaking, could the Government inform this Council how many of these 29 people were charged of summary offences and how many were charged of indictable offences, and why was there such a difference in charging?*

ATTORNEY GENERAL: Yes. This was the only case—the case raised here—in which there was a summary charge only. The other persons charged were charged with indictable offences and I believe, as I recall, in one case a summary charge was also linked with the indictable offence. So there were, as I say, 29 people charged, but charges were considered against a further 30 people, and 18 of the 29 I've mentioned have been found guilty, eight have been acquitted, and trials are proceeding against three of those persons.

MR. MARTIN LEE: *Sir, who in the Administration is accountable to the public over this oversight, or does the Attorney General believe that such a person really deserves our praises and not our condemnation?*

ATTORNEY GENERAL: Sir, he deserves our praises for the good work he did; he deserves perhaps a reprimand for this particular oversight. Our chambers, Sir, believe one should look at all the circumstances of a particular case of this nature, as one does, of course, in any case, and take into account all the circumstances. That is what we have done. As I have said, we have taken account of the excellent work that this Crown Counsel did in this case and, of course, his general reputation and ability. It's not, I think, just in our view that a man should be tried and punished for a simple mistake of this nature which was pure inadvertence.

DR. LAM (in Cantonese): *Sir, in paragraph 4 mention is made of the statutory period for prosecuting summary offences being six months. Isn't this common knowledge to those in the legal profession? And in paragraph 3 it's indicated that overall legal advice was provided. Shouldn't that include the statutory period for prosecuting summary offences?*

ATTORNEY GENERAL: Sir, the situation here is not that the Crown Counsel concerned did not know of the six-month period. As it is said, this is generally

known in chambers and is part of the instruction process when Crown Counsel join our chambers. The Crown Counsel knew of it; he simply, in the heavy workload he had with this enormous operation, overlooked it. But, as I said, to be sure, the Director of Public Prosecutions has circulated to all Crown Counsel the fact of the matter, what the law is, so that we are now sure that everyone is aware of it.

MR. LAI: *Would the Government inform this Council (1) whether there is any other means under our present law that the Director of Public Prosecutions can bring the alleged businessman to trial again; (2) although 29 people were charged in 'Operation Boxbush', I understand some were acquitted; what was the total police manpower deployed and what was the total number of people that were investigated in this case?*

ATTORNEY GENERAL: Sir, no, perhaps unfortunately, there is no way of resuscitating a charge against the man concerned. The statutory limitation period having run out, that is the end of the matter. Sir, as I said, as far as the second part of the question is concerned, there were 29 people eventually charged, although, as I've said, 30 other people were investigated with a possibility of charging. As I've also said, of the people charged, eight have been acquitted—on the evidence, I should say. Of the police involved in this, Sir, there were 250 police personnel involved in the two series of raids; several hundred exhibits were seized; the Serious Crimes Bureau employed 30 officers full time in collating that evidence and the officer, the Crown Counsel concerned in our chambers, spent his full time for several months on this matter.

MR. HUI: *Sir, while thanking the Attorney General for giving me a breakdown of the 29 cases, could I ask him to address the last part of my question: that is, why was there such a difference in charging?*

ATTORNEY GENERAL: I'm not sure I understand the question. The charges are formulated according to the evidence available. The evidence is looked at, assessed, and one then sees what kind of charge can be brought on that evidence. If one charges one offence, that means the evidence supports that in our view; if one charges another, the evidence supports the other.

MR. MARTIN LEE: *Sir, I don't believe the Attorney General has properly understood my first question. May I repeat: who in the Administration is accountable to the public over this oversight? Sir, the question is on accountability; it cannot be the responsibility of a mere Crown Counsel when one talks about accountability of the Government.*

ATTORNEY GENERAL: At this very moment, I am accountable.

**Soft drugs**

5. MRS. TAM asked (in Cantonese): *Regarding the problem of soft drugs, will the Government inform this Council:*

- (a) *whether the number of youths under 21 charged with taking soft drugs illegally has increased or decreased during the past three years;*
- (b) *if the number is on the increase, has the Government taken any effective measures to rectify the situation;*
- (c) *whether it has conducted any territory-wide survey to fully understand the situation concerning youths taking soft drugs and, if so, what are the findings;*
- (d) *if no such survey has yet been conducted, will the Government consider carrying out one now; and*
- (e) *what is the average length of sentence imposed by courts on traffickers in soft drugs in the past three years?*

ATTORNEY GENERAL: Sir, I apologise in advance for the length of the answer but the question is, of course, pretty far-reaching.

Sir, I am sure that hon. Members are well aware in the first place that the law, as it stands, makes no distinction between so-called 'soft' and 'hard' drugs. For example, heroin, cocaine, mandrax, amphetamine and marijuana are all defined as dangerous drugs under the Dangerous Drugs Ordinance. Other drugs of abuse, such as valium, mogadon and librium are defined as part I poisons under the Pharmacy and Poisons Ordinance.

On the assumption that Mrs. TAM is referring to both dangerous drugs and part I poisons of the non-opiate psychotropic variety, the answers to her questions are as follows:

- (a) The number of youths prosecuted for non-opiate drug offences in the past three years were 76 in 1983, 61 in 1984 and 101 in 1985.
- (b) The Government has been monitoring the situation very closely since 1983 when a Working Party on the Control of Psychotropic and Non-opiate Narcotic Substances was established by the Action Committee Against Narcotics. The working party submitted its first interim report to ACAN in June 1984, making a number of recommendations to tighten controls on the drugs in question. The majority of the recommendations were approved by ACAN and have been implemented. These include:
  - the scheduling of seconal as a dangerous drug;
  - a requirement for wholesalers of psychotropic drugs to employ a qualified pharmacist;
  - the provision of a small computer to the Pharmaceutical Service of the Medical and Health Department to assist in monitoring the distribution of controlled drugs;

- the sending of returns to ACAN of the import, export, manufacture, stock holding and consumption trends of non-opiate drugs of abuse;
- the provision to police and customs officers of drug identification charts and kits containing samples of known drugs of abuse;
- amendments to the report form of the Central Registry of Drug Abuse to reflect all types of drugs abused by the person reported;
- a request to the British Medical Association (Hong Kong Branch) and the Hong Kong Medical Association for registered medical practitioners to exercise a self-regulatory system of control over prescriptions for psychotropic drugs;
- inspection of the dangerous drug records of registered medical practitioners; and
- training for social workers.

In addition, preventive education publicity through posters, television announcements and school talks is being undertaken to an extent commensurate with the known size and seriousness of the non-opiate drug abuse problem. At the same time, care is being taken not to arouse undue curiosity in these drugs for fear of encouraging experimentation.

As regards what further action, if any, should be undertaken, ACAN is keeping a close eye on the situation to see what needs to be done to counter it.

- (c) With regard to a territory-wide survey on the abuse of non-opiate drugs, one of the recommendations of the working party was that a household survey should be undertaken to collect data on the possible extent of the occasional abuse of non-opiate drugs. ACAN approved that recommendation. But the experts considered that such a sensitive question, if included in the general household survey, would not get statistically reliable answers. Younger members of a family would be most reluctant to admit to a census enumerator in the presence of their parents that they had taken illicit drugs.

Instead, the Narcotics Division in collaboration with the Education Department and Medical and Health Department conducted a school survey in June 1985. The survey covered six districts. A total of 18 schools with 2 500 students participated.

Sir, on the basis of that school survey, surveys among heroin addicts on the types of drugs ever abused by them, seizures of illicit non-opiate drugs, prosecutions and the number of drug abuse related admissions to the psychiatric wards and emergency departments of hospitals, the abuse of non-opiate drugs does not appear to be a serious problem at the present time when compared I stress that, Sir, when compared with heroin. But there are indications of some increase in the abuse of mandrax and marijuana and as I have said, ACAN will be reviewing the position in the near future.

- (d) Strictly speaking, Mrs. TAM'S fourth question has already been answered. But I can add that the Government intends to conduct *another* school survey in 1987-88. Also, the Hong Kong Council of Social Service is proposing to conduct a survey on the abuse of drugs among young people who have dropped out of school.
- (e) On Mrs. TAM'S fifth question, because the circumstances of each offence and the amount of drugs involved differ greatly from case to case, it may not be helpful to talk in terms of the average length of sentences. And in many cases, sentences involve fines and not imprisonment. But some examples of sentencing in 1985 are:
- For trafficking in 2 kg of cannabis, a 12 months' prison sentence.
  - For a case involving 1.2 kg of cannabis, a sentence of two years' imprisonment.
  - For trafficking in 274 mandrax tablets, the offender was sent to gaol for 18 months.

MRS. TAM (in Cantonese): *Sir, I would like to thank the Attorney General for the very detailed answer. In Western countries I think they have a higher level of acceptance of what we call soft drugs but in Hong Kong it is quite different so will we consider that in courts we will arrange that we should have Chinese Magistrates to try such cases because they will understand better the cultural background in Hong Kong?*

ATTORNEY GENERAL: Sir, yes certainly, I would see that as a very sensible measure.

MR. LEE YU-TAI: *Sir, the surveys mentioned in the Attorney General's answer apply to schools. Does Government intend to do anything about youngsters who have left school?*

ATTORNEY GENERAL: Yes, Sir, as I said the Hong Kong Council of Social Service is proposing to conduct a survey on young people who have dropped out of school. I think that must mean those who have left school early. I know of no plans to conduct a survey of those who have left school in the normal course but I can enquire about that and give a written answer. (Annex IV)

MR. HUI: *Sir, according to previous cases we know that after people had taken soft drugs they would lose their senses and would do something to upset law and order, so will Government consider taking measures to protect the people who are found to be taking soft drugs publicly? For example, we should arrange for them to be taken to hospitals and then we should inform the parents to take them back to their homes?*

ATTORNEY GENERAL: Sir, the position is as I understand it that if a person is seen in a public place taking drugs of this nature then the police would involve

themselves. Additionally if the person is in some way misbehaving himself although there is no evidence of him having taken drugs, equally the police will involve themselves in the matter. Their prime duty is, of course, to protect the public and I understand that they will do that in those situations.

MR. YEUNG: *Sir, will the Attorney General inform this Council (a) how many wholesalers of psychotropic drugs are there at present and what approach has been adopted to ensure that the requirement to employ a qualified pharmacist is being complied with; (b) how is the inspection of the dangerous drug records of registered medical practitioners carried out; and (c) whether there has been any discrepancy or non-compliance in respect to (a) and (b) after the implementation of the said recommendations?*

ATTORNEY GENERAL: Sir, I am afraid I have no information on that. I can supply that information in writing after further enquiries. (Annex V)

MR. SOHMEN: *Sir, could the Attorney General clarify his statement that the abuse of non-opiate drugs does not appear to be as serious a problem at the present time when compared with heroin, by providing us with some statistics?*

ATTORNEY GENERAL: Yes, certainly, Sir. I did want to, and I did stress I think, that I was speaking comparatively. Of course a single addict on so-called soft drugs is to him, his family, and the community a serious problem. But, Sir, when one looks at the situation as far as heroin is concerned then it does indicate that it is nowhere near as serious. Sir, I think the most accurate way of looking at this is the individuals reported to the Central Registry of Drug Abuse for the abuse of drugs and over the last three years I can give those figures. In 1983 non-opiate cases 82, opiates (mainly heroin) 11 397. 1984 non-opiate 114, opiates 12 347. 1985 non-opiate cases 74, and opiates 10 964.

MR. MARTIN LEE: *Sir, it cannot be right on principle for Chinese Judges to be asked to try some cases and for expatriate Judges to try other cases. So could the Attorney kindly confirm that he will reconsider his answer given to Mrs. TAM'S supplementary question?*

ATTORNEY GENERAL: Sir, it is quite often that when I reconsider answers I have given, I change them. I think that is common to everyone. It just seemed to me that on immediate response that it seemed for the reasons given as to cultural differences and certain cases, it sometimes is useful to have local people trying particular cases. Mr. LEE is obviously speaking of matters of principle and it may be that on reconsideration that matter of principle will overcome the expediency of the situation.

MRS. TAM (in Cantonese): *Sir, since there is an increase in the number of people taking soft drugs, so will the Government consider changing legislation to differentiate between soft drugs and hard drugs?*

ATTORNEY GENERAL: Sir, frankly I don't think the Government would know how to do that. Where does one draw the line? It is a graduated thing. I don't think that the problem of differentiation is really of any importance. They are all conduct which one wants to discourage and the courts will take into account in criminal cases, the seriousness of the case, including the dangerousness of the drug concerned. I don't myself at this very moment standing on my feet see any great advantage in trying to draw a strict dividing line between so-called soft and hard drugs.

### **Withdrawal of private school from bought place scheme**

6. MRS. CHOW asked: *Will Government inform this Council in relation to its phased reduction of bought places from private schools:*

- (a) how many schools will be removed from the bought place list in the coming academic year;*
- (b) how many schools so affected will stop operation because of financial difficulty resulting from the removal;*
- (c) how many school children will thus be affected; and*
- (d) what assistance has been, is or will be given by Government to transfer these school children?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I will take the four parts of Mrs. CHOW'S question in order:

- (a)* Seventeen private schools were informed in March 1985 that the Education Department would cease to buy Form I places from them with effect from September 1986. The remaining bought places, in Form II and Form III, will be phased out over the following two years.
- (b)* Up to the present, three schools out of the 17 have ceased operation, these closures taking places in the summer of 1985, one year before the phasing out of bought places was due to begin. It is not possible to say whether closure was the result of financial difficulties arising from the phasing out of these schools from the bought-place scheme or from other causes.
- (c)* The total number of students affected by the closure of these three schools was 1 332. 266 of these were, however, Form V graduates, the majority of whom would be completing their secondary education at that point.
- (d)* Whenever a school indicates its intention to close, for whatever reason, the Education Department provides the school with information about vacancies in nearby schools for the assistance of students. Assistance and advice is also provided by District Education Officers directly to parents and students approaching them. Places were found in this way for the students displaced from the schools which closed in September of last year.



MRS. CHOW: *Sir, is the private school in the bought-place list required to give reasonable and adequate notice to Government of its intention to close so as to prevent trauma and disruption to the students concerned?*

SECRETARY FOR EDUCATION AND MANPOWER: I am not sure whether there is actually a legal requirement to do so but I will check that and let Mrs. CHOW know. (Annex VI)

DR. TSE: *Sir, as a result of this exercise how many private schools in total will be removed from the bought-place scheme and how many will be expected to remain?*

SECRETARY FOR EDUCATION AND MANPOWER: Sorry, Sir, I don't quite understand Dr. TSE'S question because I think my reply covers the number of schools which is 17 for that particular year.

DR. TSE: *Yes, Sir, I want to find out in total how many schools will have been affected or will have been removed as a result of this exercise.*

SECRETARY FOR EDUCATION AND MANPOWER: I am not sure that it is possible to assess that at this stage because it is possible that some schools which might at the present time appear ineligible to retain bought places might be able well to improve their circumstances and become more satisfactory schools so I cannot give a predicted figure for that.

MR. LEE YU-TAI: *Sir, perhaps I can put Dr. Daniel TSE'S question in more specific terms as I understand it. Will there be further reductions in bought places at private schools from 1987 onwards and, if so, how many schools are expected to be affected and when does the Government anticipate the reduction of bought places to level off?*

SECRETARY FOR EDUCATION AND MANPOWER: I am afraid, Sir, Mr. LEE'S question remains answered by the answer I gave Dr. TSE. What I can add is the number of additional schools which were given notice in March of this year for withdrawal of the bought places for the 1987 academic year, and that is 16 private schools with bought places operating in 18 school premises.

MR. SZETO (in Cantonese): *Sir, a private school which has to close will have students who will have to be transferred to some other schools, and if the other private schools that the students intend to go into have already been listed as those to be excluded from the bought-place scheme, then can the Government inform us whether it is proper to transfer these students to these private schools?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I take Mr. SZETO'S point which is clearly that we don't want to remove children from one school if they are then to be removed to another. But this is largely an operational matter and I will make enquiries of the Director of Education and let Mr. SZETO have a reply. (Annex VII)

MRS. CHOW: *Sir, what has Government done to assist students of the private school which closed about three weeks ago, thereby causing considerable disruption to the students, and does Government anticipate similar cases as a result of the announcement of further cuts in the bought place list?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, in the case which Mrs. CHOW refers, which incidentally as far as we can ascertain had very little to do with the withdrawal of the bought place scheme and indeed, as far as I recall, the authorities of the school did not so claim, the total number of students affected was 957 excluding those Form V students who had already completed their Form V, and the supervisor of the closing school had made arrangements to transfer all the students to a neighbouring bought place school. And the Education Department also provided information about vacancies in other neighbouring schools to the supervisor of this school as well as those affected students who wished to find alternative places in other schools. And so far as I am aware all were accommodated.

MR. HUI: *Sir, in deciding to phase out bought places in a private school, does Government use the examination performance of a school as a major criterion and why?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, there are a number of criteria which are used in assessing this matter and in general examination results as such can play a comparatively small part in the assessment. The Director of Education has agreed with Unofficial Members that the assessment and its weightings should be reviewed. This point will be taken into account when that review takes place.

MR. LEE YU-TAI: *Sir, have school operators been notified of the shortcomings and given an opportunity to make improvements before being removed from the list of bought-place schools?*

SECRETARY FOR EDUCATION AND MANPOWER: As far as I am aware, yes, Sir.

### **Limit on election expenses**

7. MR. LEE YU-TAI asked: *Will the Government inform this Council whether or not it will review the current limits on election expenses in respect of district board and Urban/Regional Council elections?*

CHIEF SECRETARY: Yes, Sir, an inter-departmental working group has been set up to review the electoral provisions and administrative procedures, in the light of experience gained in the recent Urban Council and Regional Council elections. The limits on election expenses is one of the subjects for the review which will be completed within six months.

MR. LI: *Sir, has the Administration received any feedback from the candidates relating to the inadequacy or otherwise of the amount of limit set on election expenses?*

CHIEF SECRETARY: We have received 13 written submissions, Sir, which will be taken into consideration by the review committee in considering this matter.

### **Imitation weapons**

8. DR. CHIU asked: *Will the Government inform this Council of the progress of the proposed amendments to the Firearms and Ammunition Ordinance relating to imitation weapons?*

ATTORNEY GENERAL: Sir, the Fight Crime Committee has a Working Group on the Use of Firearms in Crime. That group is examining the amendments proposed to the Firearms and Ammunition Ordinance.

The amendments aim at banning the possession in Hong Kong of imitation firearms that very closely resemble genuine firearms, sometimes known as replica firearms, thereby reducing the potential for these items to be used in crime. As was noted, Sir, in the last Fight Crime Committee report, a number of difficulties have arisen in preparing this unique legislation, particularly in defining adequately in law what we mean by imitation firearms. Some of these difficulties are still unresolved. The working group is continuing to study the problem. The intention is to seek the views of the Fight Crime Committee on the proposed amendments and on whether they are in fact practicable in legal terms at the committee's next meeting in July of this year.

DR. CHIU: *Sir, will the Government inform this Council the total number of accidents and criminal cases in connection with the use of imitation weapons in the last three years and if there is any plan to restrict the sales of toy pistols which could be converted into real firearms?*

ATTORNEY GENERAL: Sir, it is very difficult to ascertain whether a firearm, or pistol-like object if you like, used in a crime is indeed genuine weapon or an imitation weapon except in certain circumstances. Obviously if someone is shot, a bullet hole is found, then that indicates that it is a genuine firearm. Equally if the matter is detected, the people arrested, and they are found in possession of an imitation firearm that indicates the other way. In the in-between cases of course it is simply not known whether the pistol-like object used is genuine or imitation. Perhaps I can give some figures that might assist you, Sir. In 1985 pistol-like objects—by that term, Sir, I mean objects that are pistol-like whether they are genuine or imitation—were used in 143 reported crimes. That, Sir, compares most favourably with the equivalent number of 284 in 1984. In 18 of these cases, that is the ones in 1985, it was detected that imitation firearms were

used as opposed to 57 in 1984. In other cases it was not discovered whether the objects used were genuine or imitation. But common sense would indicate that at least some of these crimes, some of those other crimes, involved imitation firearms. Sir, last year there were 20 reported incidents of genuine firearms being used in crime, 10 of which were detected, with the figures for 1984 being 32 and 18 respectively. So there is a very large gap in between. Until April this year there have been 51 reported cases of crimes involving the use of pistol-like object and in seven of these cases it is known that an imitation was used and in eight cases genuine firearms were used and two of those were detected. Sir, as far as pistols which are not imitation nor are they designed to fire missiles, the law is the same. If a person uses an object of that nature for the purposes of a crime then he commits a criminal offence and it makes no difference whether the weapon is genuine, imitation, or something such as a starting pistol.

### **Noise as a health hazard**

9. DR. IP asked: *Regarding the loss of hearing caused by the working environment, will Government inform this Council:*

- (a) of the reported number of workers suffering from loss of hearing due to exposure to excessive noise level in the work place;*
- (b) whether employers are required to ensure that staff exposed to excessive noise at work wear protective gear; and*
- (c) what has Government done to promote public awareness about noise as a health hazard?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, with regard to the first part of Dr. IP's question, no information is available. Loss of hearing is a gradual process which may take place over a long period of years and is therefore difficult to measure objectively. It may also be caused by factors other than noise at the work place. Consequently, it is not notifiable under the Factories and Industrial Undertakings Regulations. There is therefore no ready source of statistics.

As to the second part of the question, the proprietor of an industrial undertaking is indeed required, under the provision of the Factories and Industrial Undertakings Regulations, to provide suitable ear protectors and make them readily available for the use of those employees who are exposed to levels of noise, as defined in the regulations, which are likely to pose a threat to health. Employees are similarly required to wear the ear protectors provided.

Finally, as regards measures to promote awareness of the potential dangers of noise in the work place, this has been one of the main areas of focus in the Labour Department's industrial health and safety campaigns since 1978. The department has produced a range of publicity material on the subject and has drawn up a code of practice on the protection of hearing. There are special courses on the subject at the department's Industrial Safety Training Centre and

the topic is also covered in more general courses and seminars on industrial health and safety.

The promotion effort is supported by the work of the Labour Advisory Board's tripartite safety committee and its industry-based sub-committees and by officers of the department's own Noise Control Office and Occupational Health Division, who give expert advice on protection of hearing to both management and employees in the course of their regular visits to factories.

DR. IP: *Sir, would Government inform this Council whether the ear, nose, and throat medical experts can distinguish between loss of hearing due to exposure to excessive noise levels, and due to other causes? And if the answer is yes, would Government (1) gather information in this respect so as to bring out the significance of noise as a cause of deafness in Hong Kong and, secondly, to consider making deafness due to noise notifiable under the Factories and Industrial Undertakings Regulations?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I feel rather on professional medical ground here. I am not sure whether the distinction is easy because if you have a worker who is working in a noisy factory who also spends two hours an evening in a loud disco it might be rather difficult to distinguish which was which. There certainly would be very considerable problems in making this notifiable because not only is the problem of—even if one were able to prove that the deafness arose from the working environment where workers move from factory to factory it might be very difficult to allocate to any particular employer the compensation required. I might say that this has been tried elsewhere and has not, I think, been very successful.

PROF. POON: *Sir, in fact Dr. IP has asked the major part of my question. Although there could be several factors leading to the loss of hearing and therefore there is no ready source of statistics, would Government consider it useful to try to correlate the number of workers suffering from loss of hearing with the nature of work of these workers so as to see if exposure to excessive noise could be the major factor?*

SECRETARY FOR EDUCATION AND MANPOWER: I take note of Professor POON's question, Sir. I will, in consultation with the Commissioner for Labour, see what more could reasonably be done. I should perhaps add in order that there is no confusion on this that loss of hearing is covered by a schedule to the Employees Compensation Ordinance but this covers only the situation where the deafness arises from an accident, thus it would normally be from an explosion or the cause of traumatic deafness. These cases are covered although there are not very many of them. (Annex VIII)

MR. CHEONG-LEEN: *Sir, in seeking to assess to what extent the regulations referred to in the answer to the second part of the question are honoured more in the breach than in practice, could I enquire how many cases were brought to court in 1984 and 1985 respectively?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I will check for Mr. Hilton CHEONG-LEEN. I think the problem lies not so much in the honouring in the breach or the observance. After all in a sense these are all educational processes. But there are actual practical problems in prosecuting cases of this kind because it to some extent depends on periods of time which may be difficult to prove. (Annex IX)

MR. TAM (in Cantonese): *Sir, improving working environment and machinery is a positive way to reduce noise and protect the workers. Is the Government intending to do more in that regard?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the current regulations do contain provisions for ensuring proper maintenance of equipment as poor maintenance is often a cause of over-noisy equipment. We have considered in the past whether it would be possible to control the actual machinery that is brought in for use here but the problems which relate also to import and export of machinery are virtually insuperable I think.

DR. CHIU: *Sir, will the Secretary for Education and Manpower inform this Council if employees working in discos who are constantly exposed to excessive noisy environment are also under the protection of Factories and Industrial Undertakings Regulations? If not, what measures will the Government take?*

SECRETARY FOR EDUCATION AND MANPOWER: Discos would not be regarded as industrial undertakings as defined by the Factories and Industrial Undertakings Ordinance.

MR. CHENG: *Sir, will the Government advise this Council (a) how frequently factory inspectors check the various industrial undertakings to ensure compliance with the provision of the Factories and Industrial Undertakings Regulations, and (b) during their inspections are factory inspectors themselves provided with any ear protectors by their employer, i.e. the Commissioner for Labour?*

SECRETARY FOR EDUCATION AND MANPOWER: The answer to the first question is I will provide the figures. The answer to the second question is yes. (Annex X)

DR. IP: *Sir, I have not got a satisfactory answer to the first part of my supplementary question which is whether the ear, nose, and throat medical experts can distinguish between loss of hearing firstly due to exposure to excessive noise or due to other causes. If it is possible to have this answer in writing I will be quite prepared to accept.*

SECRETARY FOR EDUCATION AND MANPOWER: Certainly, Sir, I'll try to answer. I meant that I was not myself competent to answer that particular point. I will do so, Sir. (Annex XI)

MR. CHEONG: *Sir, it seems that people erroneously think that factories and other industrial undertakings tend to disregard the health hazards created by noise to their workers. What measure, if any, the Government would consider taking against those employees who disregard the equipment that is being provided for them?*

SECRETARY FOR EDUCATION AND MANPOWER: Well as I have said, Sir, they are required to wear them where their employer requires them to do so in these conditions. And I think I am right in saying in my answer to the question from Dr. HO some months ago failing to comply is also an offence.

## **Government Business**

### **First Reading of Bill**

#### **DRUG ADDICTS TREATMENT AND REHABILITATION (AMENDMENT) BILL 1986**

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

### **Second Reading of Bill**

#### **DRUG ADDICTS TREATMENT AND REHABILITATION (AMENDMENT) BILL 1986**

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend the Drug Addicts Treatment and Rehabilitation Ordinance'.

He said: Sir, I move that the Drug Addicts Treatment and Rehabilitation (Amendment) Bill 1986 be read a Second time.

This Bill makes several minor amendments to the Ordinance (Cap. 326) in the light of a recent review.

The principal amendment deals with section (7). This section requires the consent of a parent or guardian of a young addict aged below 19 years before he or she can be admitted to one of the two treatment centres run by the Society for the Aid and Rehabilitation of Drug Abusers. If this consent is not forthcoming, for example where the parent or guardian of the young addict cannot be traced, the Director of Social Welfare may apply for a Care and Protection Order under the Protection of Women and Juveniles Ordinance (Cap. 213) to assume legal guardianship of the addict and thereafter apply for admission into the centre on the addict's behalf. The Director's power, however, is confined to young persons aged 18 years or below. In order to avoid the situation where addicts

between 18 and 19 years old are prevented from seeking voluntary treatment because the consent of their parents or guardians is not forthcoming, the Bill proposes to lower the maximum age limit for a young person from 19 to 18 years. This amendment would bring the Drug Addicts Treatment and Rehabilitation Ordinance in line with the Protection of Women and Juveniles Ordinance.

The Bill also proposes minor amendments to the Ordinance. These include a provision for visits by Justices of the Peace to the two treatment centres at least once every three months; cancellation of the need to gazette such visits; a change in the ex-officio membership of the Addiction Treatment Centre Appeal Board; and the revision of the monetary penalties which have not been revised since 1960 in order to bring them up to date.

Sir, I wish to thank the Legislative Council ad hoc group under the chairmanship of Dr. HO Kam-fai which devoted a lot of time in scrutinising this Bill. I understand the group is in full support of the Bill except a particular clause I've mentioned relating to the frequency of visits by Justices of the Peace to the treatment centres. Members of the group are all in favour of the existing arrangement of monthly visit by Justices of the Peace. In fact Mr. HUI Yin-fat, a member of the ad hoc group is going to move a Committee stage amendment to the Bill to preserve the existing arrangement of monthly visit. Sir, the Administration is much obliged to the advice of the group and will support this Committee stage amendment.

The work of these treatment centres I have mentioned is a valuable service to those most in need of help in curing their addiction to narcotics and I am sure, Sir, Members will wish to support these refinements to the legislative framework under which those centres operate.

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

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

*Question put and agreed to.*

### **Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 28 May 1986.

*Adjourned accordingly at fourteen minutes to Four o'clock.*

*Note:* The short title of bill listed in the Hansard has been translated into Chinese for information and guidance only; it does not have authoritative effect in Chinese.



**WRITTEN ANSWERS****Annex I****Written answer by Chief Secretary to Mr. YEUNG's supplementary question to Question 1.**

Ten new expatriate Magistrates have sat with assessors during the past two years.

Five expatriate Magistrates were appointed in 1985 and two so far this year. There is no particular pattern to their appointment. If the Judiciary is successful in its efforts to recruit local, Cantonese-speaking Magistrates then very few expatriate Magistrates will be appointed. In the same period six local Cantonese-speaking Magistrates have been appointed.

The number of assessors actually required is dependent upon the number of new expatriate Magistrates recruited. On the basis of the recommendations of the review a panel of 100 active assessors would have been sufficient in 1986.

**Annex II****Written answer by Chief Secretary to Mr. CHAN Kam-chuen's supplementary question to Question 1.**

Assessors are paid an honorarium of \$50 per day under the Lay Assessor Scheme. This rate has not been revised since 1978. The Judiciary has not thought it necessary to seek an increase in the honorarium because assessors are motivated by a sense of public service rather than a desire to supplement their income. Many assessors, in fact, decline to draw their honorarium.

**Annex III****Written answer by the Secretary for Health and Welfare to Dr. IP's supplementary question to Question 3.***Tests for AIDS*

The first screening test for AIDS is a serological test for the presence of HTLV-III antibodies. At present it is carried out using the commercially available enzyme linked immunosorbent assay (ELISA) method. A positive result of the test will indicate that the individual concerned has been exposed to the virus and have mounted an immunologic response to it. However, it does not indicate that he is suffering from AIDS or is likely to develop AIDS.

**WRITTEN ANSWERS—*Cont'd***

When a specimen is found to be positive for HTLV-III antibody, the ELISA test is repeated. A specimen with a repeated positive result would be subjected to further tests by immunofluorescence and the western blot assays. The immunofluorescent antibody test includes a normal cell control to rule out non-specific reactions. The western blot technique detects antibodies to specific proteins of the virus. Positive results of these tests will confirm the positive result of the initial ELISA test. Both confirmatory tests are highly specific, but, like most biological tests, accuracy is not absolute.

However, to determine the significance of positive results of the above tests, the individual concerned should be referred to a physician for medical evaluation. The patient would be questioned about possible exposure to the virus or possible risk factors for AIDS in his or her sexual contacts and examined for signs of AIDS or related conditions. Additional laboratory studies, such as tests for immune functions, would also be carried out. Until the clinical signs and symptoms of AIDS have developed, it is impossible to confirm that an individual is an AIDS patient.

**Annex IV****Written answer by the Secretary for Security on behalf of the Attorney General to Mr. LEE Yu-tai's supplementary question to Question 5.**

There are at present no plans for the Government to conduct such a survey. But as the Attorney General said in the Legislative Council, the Hong Kong Council of Social Service is planning a drug abuse survey among young people aged between 15 and 20 who have left school and discontinued their education

The next Government survey among secondary school students, to be held in the academic year 1987-88, will include students in Form I to Form VII.

Apart from these surveys, the psychotropic drug abuse situation will continue to be monitored through seizures of illicit drugs; prosecutions; reports to the Central Registry of Drug Abuse from its 41 reporting agencies; admissions to the psychiatric wards of hospitals; drug related cases treated in the emergency departments of hospitals and through surveys among heroin addicts of the types of drugs ever abused by them.

**WRITTEN ANSWERS—*Cont'd*****Annex V****Written answer by the Secretary for Security on behalf of the Attorney General to Mr. YEUNG'S supplementary question to Question 5.**

There are at present a total of 59 licensed wholesalers dealing in psychotropic drugs in Hong Kong. This figure represents about 8 per cent of the total number of wholesalers licensed to deal in poisons.

The Government ensures that the wholesalers comply with the requirement to employ qualified pharmacists through a condition in the wholesale poison licence which stipulates that unless exempted by the Pharmacy and Poisons (Wholesale Licences) Committee, the sale and distribution of psychotropic substances by holders of wholesale poisons licences can only be effected by or under the supervision of a registered pharmacist.

These wholesalers are inspected on a routine basis at least twice a year by inspectors appointed under the Pharmacy and Poisons Ordinance (Cap. 138). During the inspection, the inspector will ensure that there is proper professional supervision and control over the custody, receipt and supply of the drugs, that the records and supporting documents are properly kept and that the physical stock tallies with the recorded balance.

The inspection of the dangerous drugs records of registered medical practitioners may be authorised by the Director of Medical and Health Services in exercise of his powers under subsection (5) of section 52 of the Dangerous Drugs Ordinance (Cap. 134). The inspections are usually carried out as a result of complaints made to the police. However, the supply of dangerous drugs to registered medical practitioners from wholesalers is monitored by the Pharmaceutical Service of the Medical and Health Department and the Director of Medical and Health Services may request an explanation from any registered medical practitioner who appears to be ordering excessive quantities of dangerous drugs, from a wholesaler.

Regarding your last question, there has been one case of non-compliance with the requirement to employ a registered pharmacist. This involved a small wholesaler who carries stocks of two slow moving items. As, in these circumstances, it would not be reasonable to require the wholesaler to employ a qualified pharmacist, the stock and supply of these two items are being closely monitored by pharmacy inspectors. This will continue until the existing stocks are exhausted. The wholesaler will then not be allowed to purchase further quantities of psychotropic drugs for distribution unless he employs a registered pharmacist.

**WRITTEN ANSWERS—*Cont'd*****Annex VI****Written answer by the Secretary for Education and Manpower to Mrs. CHOW'S supplementary question to Question 6.**

There is no such requirement under the provisions of the Education Ordinance. In normal circumstances, however, schools close at the end of an academic year and they do usually inform the department of their intention so that time is available for alternative arrangements to be made before the start of a new academic year.

In the case of a sudden closure, of courses, this will not be so, but such cases are uncommon and the circumstances are likely to be such that the operator could well be unable to comply with a requirement to provide notice.

**Annex VII****Written answer by the Secretary for Education and Manpower to Mr. SZETO'S supplementary question to Question 6.**

The answer is that this could happen. However, it must be borne in mind that phasing out takes place over a period of three years. If notice is given to the school in, say, March 1986, then no new Form I places will be bought in September 1987. Form II and III places will continue to be bought in 1987, however, and Form III places in 1988.

Therefore, even if a child is in Form I of the school which closes, he will still be able to complete his secondary education in the school which is being phased out of the bought place scheme.

Of course, if the school to which a child transfers decides to close before phasing out is completed, then a further move would be necessary. This is difficult to guard against, but is unlikely to be a frequent occurrence.

**Annex VIII****Written answer by the Secretary for Education and Manpower to Prof. POON'S supplementary question to Question 9.**

Such a survey would probably not in fact produce much additional information of value. It is an accepted fact that exposure to excessive noise is a major cause of hearing loss and the particular industries and processes which produce high noise levels are already well known.

**WRITTEN ANSWERS—*Cont'd***

The approach which has been adopted in the regulations is to protect the worker, in whatever industry he may be employed, by specifying the maximum period of exposure to various noise levels without ear protection.

**Annex IX****Written answer by the Secretary for Education and Manpower to Mr. CHEONG-LEEN'S supplementary question to Question 9.**

Seven cases were brought to court in 1984. Convictions were obtained in all cases and fines imposed totalled \$8,250. In 1985, six cases were prosecuted, all successfully, with fines again totalled \$8,250.

In all but one of these cases, the offence involved failure to provide suitable ear protectors. The remaining case involved failure to post a notice advising of the danger of not wearing ear protectors.

**Annex X****Written answer by the Secretary for Education and Manpower to Mr. CHENG'S supplementary question to Question 9.**

I think I might best quote the reply which I gave in Legislative Council on 29 January 1986 to Mr. TAM Yiu-chung. This was as follows:

'The frequency of routine inspections varies from once in six months in the case, for example, of a large factory with high hazard potential to once in a maximum of 54 months in the case of, say, a small, low-risk factory with a good safety record. In addition to routine inspections, special investigations are undertaken in the case of serious or fatal accidents or complaints. Follow-up inspections for enforcement purpose are normally made within one to three months where a need for safety improvements has been identified.'

**WRITTEN ANSWERS—*Cont'd*****Annex XI****Written answer by the Secretary for Education and Manpower to Dr. Ip's supplementary question to Question 9.**

I am advised that this could be done by examination of the case history of the person concerned with a view to eliminating factors other than noise which could have resulted in hearing loss. However, such examination cannot determine whether the noise which caused the hearing damage arose in the work environment or elsewhere.