

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 10 June 1987****The Council met at half-past Two o'clock****PRESENT**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE HONOURABLE THE CHIEF SECRETARY

MR. DAVID ROBERT FORD, L.V.O., O.B.E., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. PIERS JACOBS, O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL

MR. MICHAEL DAVID THOMAS, C.M.G., Q.C.

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

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

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

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.

SECRETARY FOR DISTRICT ADMINISTRATION

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

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

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

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

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

THE HONOURABLE CHAN YING-LUN, J.P.

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

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

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

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

THE HONOURABLE JOHN WALTER CHAMBERS, O.B.E., J.P.

SECRETARY FOR HEALTH AND WELFARE

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 DESMONG LEE YU-TAI

THE HONOURABLE LIU LIT-FOR, J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.
THE HONOURABLE PANG CHUN-HOI, M.B.E.
THE HONOURABLE POON CHI-FAI
PROF. THE HONOURABLE POON CHUNG-KWONG
THE HONOURABLE HELMUT SOHMEN
THE HONOURABLE TAI CHIN-WAH
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING
THE HONOURABLE TAM YIU-CHUNG
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.
THE HONOURABLE ANDREW WONG WANG-FAT
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.
THE HONOURABLE GRAHAM BARNES, J.P.
SECRETARY FOR LANDS AND WORKS
THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.
SECRETARY FOR SECURITY
THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
SECRETARY FOR TRANSPORT
THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, J.P.
SECRETARY FOR TRADE AND INDUSTRY
THE HONOURABLE MICHELANGELO PAGLIARI, J.P.
SECRETARY FOR EDUCATION AND MANPOWER (*Acting*)

ABSENT

THE HONOURABLE CHEN SHOU-LUM, C.B.E., J.P.
DR. THE HONOURABLE HO KAM-FAI, 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 JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.
THE HONOURABLE MARIA TAM WAI-CHU, O.B.E., J.P.
THE HONOURABLE KIM CHAM YAU-SUM, J.P.
THE HONOURABLE JACKIE CHAN CHAI-KEUNG
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.
THE HONOURABLE DAVID LI KWOK-PO, J.P.
THE HONOURABLE SZETO WAH

IN ATTENDANCE

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

Papers

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

Subject *L.N. No.*

Subsidiary Legislation:

Places of Public Entertainment Ordinance Film Censorship Regulations 1987.....	154/87
Regional Council Ordinance Regional Council Financial (Amendment) By-Laws 1987.....	156/87
The Hongkong and Shanghai Banking Corporation Ordinance Special Resolution	157/87
University of Hong Kong Ordinance Statutes of the University of Hong Kong (Amendment) (No.2) Statutes 1987.....	158/87
Pharmacy and Poisons (Amendment) Ordinance 1986 Pharmacy and Poisons (Amendment) Ordinance 1986 (Commencement of Sections 5 and 6) Notice 1987	159/87
Pharmacy and Poisons (Amendment) Regulations 1987 Pharmacy and Poisons (Amendment) Regulations 1987 (Commencement) Notice 1987.....	160/87
Interpretation and General Clauses Ordinance Rectification of Errors Order 1987	161/87

Oral answers to questions**Review of the Police Superintendent Discretion Scheme**

1. DR. LAM asked (in Cantonese): *Will Government inform this Council whether it has reviewed the effectiveness of the Police Superintendent Discretion Scheme since its inception in 1963 and explain, with statistical support, why the scheme should be continued in the face of a rising trend of juvenile crime for the last five years from a total of 4 159 juvenile offenders in 1982 to a total 6 117 in 1986?*

SECRETARY FOR SECURITY: Sir, the Superintendents' Discretion Scheme has been reviewed three times since it was introduced in 1963: in 1966, in 1978 and in 1985-86 by the Working Group on Youth, a sub-committee of the Fight Crime Committee. The last review led the Attorney General to issue new and expanded guidelines in January 1987. We will review the scheme again in July 1987 and from time to time thereafter.

The scheme is based on a presumption that young people under the age of 17 should not be prosecuted in the courts unless there are good grounds for doing so. Rather than being prosecuted, they should be given a severe warning in the presence of their parents. The object is to give them an opportunity to overcome the consequences of any impulsive and minor transgressions without having to go through the rest of their lives with the stigma of criminal records.

In determining whether there are good grounds for prosecution as opposed to just cautioning, police officers are required to give the fullest consideration to the public interest and the interest of the offender himself. They must have evidence sufficient for a prosecution and the offender must admit to the offence if he is going to be cautioned. The police officers must take into consideration the type of offence, how prevalent it is in that particular district and how serious the actual offence committed was. They must also take into consideration the attitude of the complainant and the attitude of the parents or guardian of the offender.

In the latest review of the objects and methods of the scheme, the Fight Crime Committee took serious account of the increase in the number of juvenile offenders to which my hon. Friend refers. Our conclusion was that the increase and its possible origins were not such as to negate the presumption on which the scheme is based. Most of the increase in the offences was in respect of theft from shops. We suspect that this increase is more a result of better security measures and a greater willingness to report such thefts rather than a weakness arising from the Superintendents' Discretion Scheme.

DR. LAM: *Sir, will Government inform this Council why people who have committed serious or violent crimes are still discharged under this scheme? For example, in 1985, the number of people involved in violent cases who had been discharged was 243, and the crimes committed included robbery, serious assault and blackmail.*

SECRETARY FOR SECURITY: Sir, as I said, when the police officer makes up his mind to caution rather than prosecute, he takes very carefully into consideration the precise nature of the crime. Just because a crime is labelled robbery does not necessarily mean that it is committed in such a way as to justify prosecution. I can assure my hon. Friend that particularly the interests of the community are taken very seriously into consideration when the police officer comes to his decision.

MR. PETER C. WONG: *Could I ask the Secretary whether he would briefly remind Members what type of offences come within the scheme, and secondly, as Dr. LAM said that robbery was within the discretion of the superintendent, what was the reason for shop thefts not coming within the scheme?*

SECRETARY FOR SECURITY: All offences come within the Superintendents' Discretion Scheme. What matters is the form the offence takes. If in fact it was relatively minor, relatively trivial, then the decision would be caution rather than prosecution. The presumption on which this scheme is operated is that all the young people under the age of 17 should be cautioned rather than prosecuted; in other words, there has to be a case for prosecution rather than a case for cautioning.

MR. CHUNG: *Sir, could the Secretary inform this Council whether there is any measure for appeal against a decision of a superintendent to administer a caution?*

SECRETARY FOR SECURITY: No, Sir, there isn't for the very simple reason that a superintendent cannot administer a caution unless first of all he has adequate evidence for a prosecution and, above all, the offender is prepared to agree that he is guilty.

MRS. CHOW: *Sir, will Government please tell this Council, since the inception of the scheme in 1963, how many youths have actually been exempted from prosecution and how many of those who have been exempted committed crimes after the exemption?*

SECRETARY FOR SECURITY: Sir, I do not have figures going back quite as far as my hon. Friend would like, but since 1978 I do have figures. 1978—769; 1979—667; 1980—749; 1981—1 202; 1982—1 372; 1983—1 733; 1984—2 067; 1985—3 895; 1986—3 638.

MRS. CHOW: *Sir, the Secretary has not answered the second part of my question which was how many of those youths who are so exempted committed a crime after they have been released from prosecution?*

SECRETARY FOR SECURITY: Because one of the objects of this exercise is that these children should not spend the rest of their lives with the stigma of a criminal record, up until very recently records had been destroyed when the children reached the age of 16 or two years after the offence, whichever came first. As a result we do not know the effectiveness of the scheme in terms of recidivism beyond that relatively short period of time, but within that short period of time the indications are that there is very little of it.

MRS. TAM: *Sir, could the Secretary for Security inform this Council how the Administration would approach the review of the Superintendents' Discretion Scheme and what factors will be considered in such a review, in order to determine whether such a scheme will continue or not?*

SECRETARY FOR SECURITY: Sir, one of the factors that we will be taking into consideration a little bit more seriously, is this difficult question of recidivism. We are now going to keep the records for at least three years before destroying them, so we will at least over that period of time have some indication of whether offenders who have been cautioned are inclined to return to crime. Other aspects will also have to be very carefully taken into account and these must include the interests of the community as a whole, and again obviously one of the most important factors will be how successful is this cautioning scheme in stopping the children reverting to crime.

MR. YEUNG: *Sir, in order to assess the degree of success of the Superintendents' Discretion Scheme, will the Secretary state what percentage of the young offenders who have been warned under the Superintendents' Discretion Scheme but have been found committing the offence again?*

SECRETARY FOR SECURITY: Sir, that is not a figure I have with me but I can assure my hon. Friend it is extremely low. I will let him have the answer in writing. (See Annex I)

MR. CHEONG-LEEN: *Sir, can the Secretary confirm that keeping the records in future for a period of three years will apply only to young people who are under the age of 17 and can he give an assurance to this Council that when the scheme is reviewed, the police will give enough input as to the efficacy of the scheme, keeping in mind the public interest and, in particular, the interest of the young person concerned?*

SECRETARY FOR SECURITY: Yes, Sir, the scheme only operates in respect of offenders under the age of 17, that is, aged 16 or less. The review will not, of course, be carried out just by the police force. It will be by the Administration as a whole and the Fight Crime Committee will undoubtedly have a very big say in the final decision on the outcome.

MISS DUNN: *Sir, given the concerns expressed here this afternoon which do reflect the concern in the community about the scheme, would the Secretary for Security inform this Council of the outcome of the review when it is available?*

SECRETARY FOR SECURITY: Certainly, Sir.

British consular protection while travelling abroad

2. MR. DESMOND LEE asked: *What form of assistance or protection can Hong Kong residents holding British (HK) passports or Certificate of Identity receive in the event of being involved in criminal or judicial proceedings whilst travelling abroad?*

SECRETARY FOR SECURITY: Sir, Hong Kong residents holding British passports are entitled to the same assistance and protection as British citizens. The following forms of protection or assistance are available in the event of their being involved in criminal or judicial proceedings while travelling abroad:

firstly, in countries with which Her Majesty's Government has signed and ratified a consular convention, the local authorities are obliged if requested by the detainee to inform British consular officers of the arrest or detention of British nationals and these British nationals will include Hong Kong British Dependent Territories Citizens. The consular officers will then inform the Hong Kong Immigration Department in respect of those who are resident in Hong Kong. The Immigration Department will then notify the next-of-kin if the person arrested so requests;

Secondly, the consular officers will give advice to British nationals including BDTCs arrested on the local proceedings, their rights and the availability of legal aid. The consular officers will make every effort to ensure that the persons concerned take advantage of any free legal aid that is available, and that they are charged and brought to trial without unnecessary delay, or else are released;

thirdly, consular officers will regularly visit British nationals imprisoned overseas. They will try to ensure that the conditions of detention, both before and after sentence, are in conformity with United Nations standard minimum rules for the treatment of prisoners; and

finally, Sir, where repatriation is required and authorised, the consular officers will make the necessary arrangements, for example, as regards documentation and funding.

Certificate of Identity holders, not being British nationals, are not entitled to British consular protection. But given Her Majesty's Government's general responsibility for Hong Kong, British consular posts have been instructed to do as much as they can for Hong Kong Certificate of Identity holders in serious trouble abroad. Her Majesty's Government is also able to offer certain consular services such as assisting with repatriation and with the renewal of Certificate of Identity.

MR. DESMOND LEE: *Sir, may I have more details about the possibility of arranging for the repatriation of Hong Kong people serving prison sentences overseas, in Thailand for example, so that they may serve the same terms in Hong Kong with the benefits of a local environment?*

SECRETARY FOR SECURITY: Sir, this is a possibility to which we are giving very serious consideration.

MR. SOHMEN: *Sir, it might be of interest to the public to know which countries are not included in the list of countries with which HMG has signed conventions.*

SECRETARY FOR SECURITY: Sir, as far as I know, and this is for HMG rather than Hong Kong Government, the British Government has arrangements with virtually all countries. The only countries, as I understand it, with which it has not got this sort of arrangement are those with which it has very poor relations anyway.

DR. CHIU: *Sir, in view of the fact that the BNO passport is going to take effect in the near future, will Government inform this Council whether BNO passport holders are entitled to the same British consul protection and assistance as other British citizens while travelling abroad in future, even after 1997?*

SECRETARY FOR SECURITY: Yes, Sir, the answer is very definitely they will be so entitled.

Effects of the Long Service Payment Scheme on small manufacturers

3. MR. CHEONG-LEEN asked: *Will Government inform this Council whether there are any indications that since operation of the Long Service Payment Scheme commenced on 1 January 1986, small manufacturers are being discouraged from continuing production in Hong Kong and are being induced more and more to set up production outside of Hong Kong; if so, what action is Government taking to remedy or ameliorate the situation?*

SECRETARY FOR EDUCATION AND MANPOWER: Although I have little direct knowledge of where Hong Kong's small industries and manufacturers set up their production facilities, much less of the motives which underly their choice of location, my friend and colleague the Secretary for Trade and Industry informs me that large numbers of Hong Kong manufacturers have indeed set up production facilities across the border to take advantage of lower land and labour costs.

As Mr. CHEONG-LEEN says in his question, the Long Service Payment Scheme came into effect on 1 January 1986. However, neither I nor the Secretary for Trade and Industry, nor, I gather from the radio this morning, the Federation of Hong Kong Industries, are aware of any indications that the introduction of the Long Service Payment Scheme has either discouraged small manufacturers from continuing production in Hong Kong or has induced them to set up production outside of Hong Kong. Indeed, according to figures produced by the Census and Statistics Department, the number of small manufacturers in Hong Kong, that is those employing less than 100 persons, has actually risen by over 1 per cent since the introduction of the Long Service Payment Scheme. During the same period the number of persons employed in such companies has also risen; by some 3 per cent. Furthermore, this item has never been identified as a business problem in the Quarterly Business Survey Reports prepared by the Census and Statistics Department.

The cost to employers in the first year of the scheme's operation has been estimated at less than 0.3 per cent of the total pay-roll of all employers, which when compared with lower land and labour costs over the border, is not even marginal.

MR. CHEONG-LEEN: *Sir, are there any statistics for factories employing say, for example, less than 20 and if those statistics are available, could I be supplied with those figures for the period mentioned in the Secretary's reply at a later date?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am not aware of the existence of such figures. My friend, the Secretary for Trade and Industry, may have more information but I am sure if they are available, they will be made available to Mr. CHEONG-LEEN. (See Annex II)

MR. TAM (in Cantonese): *The Government have promised us that within this year there will be a review of the Long Service Payment Scheme. What is the progress so far and what the review will consist of?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, a review is indeed taking place at the present time and proposals have been put to the Labour Advisory Board for its consideration. These proposals include such issues as whether the Long Service Payment Scheme should be extended to become payable to employees who resign on grounds of illness or those who resign on grounds of old age or indeed whether it should be payable to the dependents of employees who die in service.

'Route X'

4. MR. LAI asked: *Given the strategic importance of the proposed Route X (that is, the road link between the north-west New Territories and urban Kowloon) to the development of road links between Hong Kong and China, will Government inform this Council whether early commencement of the project would bring additional development opportunities to Hong Kong?*

SECRETARY FOR TRANSPORT: Sir, the need for the Route X road link was established by several sub-regional development studies conducted between 1981 and 1985. The general conclusion is that the capacity of existing links between the north-west New Territories and the urban area would be inadequate to cater for traffic growth after the mid-1990s.

It is not envisaged that the early commencement of the project, in the sense of building it before it is needed, will bring additional development opportunities to Hong Kong. Route X will, however, provide additional access to the

north-west New Territories, and thus can be expected to have a beneficial effect on economic activity there, and will also be required as an additional route for cross-border traffic.

The timing and priority relative to other transport projects for constructing Route X depends to a large extent on the pace of development in the north-west New Territories and the build up of cross-border traffic. This will be assessed in the Second Comprehensive Transport Study (CTS-2) now being undertaken to determine the future transport infrastructure requirements for the Territory. Results of the study should be available in May 1988.

In the meantime, in view of the need and importance to select and protect the preferred route to facilitate detailed planning, consultants will be engaged shortly to carry out a preliminary feasibility study to identify the best alignment for this road and to estimate its order of cost. The study will commence in September this year and will take six months to complete.

MR. LAI: *Sir, will Government inform this Council whether the recent announcement of the construction of an airport in Shen Zhen will make road links even more vital in future and whether this has any effect on Government's plan for territorial development? And will the Secretary give a rough estimate of costs of road links at this stage?*

SECRETARY FOR TRANSPORT: Sir, the question of the airport is, of course, for the Financial Secretary to handle. As far as transport is concerned, the existing assumptions are that there is no change in the current airport facilities in Hong Kong upon which the Comprehensive Transport Study II is based. If however there are changes to these arrangements, then transport will naturally have to adjust itself to the future needs. As regards the cost of Route X, a very rough order of costs made last year was about \$4-6 billion at 1986 prices.

Guidance on career and further education opportunities

5. MR. POON CHI-FAI asked (in Cantonese): *In order to protect secondary school graduates from being exploited by any unscrupulous individual, will Government consider offering special counselling for those who are currently pursuing higher academic or employment opportunities?*

SECRETARY FOR EDUCATION AND MANPOWER: The Education Department, in conjunction with the Hong Kong Association of Careers Masters and Guidance Masters, and the Labour Department, through its Youth Employment Advisory Service, both provide school leavers with comprehensive advice and guidance on career and further education opportunities. This advice and guidance includes warnings to young people to beware of exploitation by unscrupulous individuals.

Every year at about this time there is an extensive publicity campaign aimed specifically at school leavers, involving radio and television programmes, press releases, circulars to school principals, and pamphlets issued to Form III, Form V and Form VI leavers. This publicity is reinforced by the careers guidance teachers in the schools and by the staff of the five Careers Enquiry Service Centres under the aegis of the Education Department and the 15 Local Employment Service Offices of the Labour Department.

Legal protection against unscrupulous employment agencies is given by the requirement that such agencies should be licensed, with fees and commissions controlled by the Employment Agency Regulations. The Overseas Students and Scholarships Section of the Education Department provides advice on further educational opportunities overseas and information on overseas educational institutions.

Sir, if any school leaver is in any doubt as to the status of any local or overseas educational institute in which he proposes to continue his studies, or if he is in any way doubtful of the bona fides of an offer of employment, I urge him to contact the appropriate government department for advice.

MR. POON CHI-FAI (in Cantonese): *Sir, even though it has been said that there are a number of government departments responsible for giving advice and guidance, can the Administration tell this Council whether there has been an increase in the number of cases of students who are being exploited and which are the most common types of cases? Do the cases include those in which students are trapped into places of debauch, or doing certain illegal act?*

SECRETARY FOR EDUCATION AND MANPOWER: I am afraid, Sir, I have no knowledge as to the number of students employed in places of debauch and similar establishments. I have no evidence that there is an increase in exploitation in the areas which are the substance of my direct reply; namely, employment and further education.

PROF. POON: *Sir, the Secretary inform this Council if the Government has paid attention to local advertisements? And what action will the Government take to investigate into suspicious advertisements to prevent school leavers from being exploited?*

SECRETARY FOR EDUCATION AND MANPOWER: Well, Sir, we certainly do not scrutinise all advertisements. We do, however, continue to monitor the newspapers and periodicals which advertise offers of further education but there is little action that one can take against misleading advertisements per se. Action can be taken, and is taken, where the Education Ordinance is contravened. If an unregistered school is found to be operating, then there is action which can be taken.

MR. YEUNG: *Sir, will Government state whether there have been actual cases of prosecution against unscrupulous employment agencies, for the last 12 months; and if so, how successful were they?*

SECRETARY FOR EDUCATION AND MANPOWER: Yes, Sir, prosecutions do take place and there was recently a case where a fine of \$15,000 was imposed on just such an agency.

MRS. FAN: *Sir, can the Secretary inform this Council whether the Overseas Students and Scholarships Section keeps a list of overseas educational institutions for which complaints have been received from Hong Kong students who are enrolled in these institutions? And, if the answer is yes, whether such information is made available to those students who go to the section for advice?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I have no doubt that such information is kept, otherwise I fail to see how the Education Department would be able to give advice to students on these matters. But whether the names of specific institutions are drawn to students' attention as places to avoid, that I would doubt. I can, however, check and will let Mrs. FAN have a written reply. (See Annex III)

MR. SOHMEN: *Sir, I fail to understand how the mere licensing of employment agencies could provide legal protection against those that are unscrupulous. Could the Secretary for Education and Manpower perhaps explain how the actual behaviour of employment agencies is regulated through the licensing procedure?*

SECRETARY FOR EDUCATION AND MANPOWER: The licensing procedure, Sir, in particular is designed to govern the fees which these employment agencies can charge, and indeed, commissions which they frequently wish to levy. There are fines and penalties specified in these regulations should employment agencies exceed those limits. The licensing requirement, as with all government licences, provides us with a remedy for a recalcitrant employment agency. It can lose its licence and then it will be prosecuted for opening at all.

Protection of youths against the broadcasting of indecent lyrics

6. MRS. NG asked (in Cantonese): *In view of the vulnerability of youths to the influence of provocative or vulgar lyrics of songs broadcast on television or radio, will government inform this Council whether it has any plans to protect our youths against such influence in addition to the existing legislation?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir the broadcasting of indecent lyrics constitutes an offence under the Objectionable Publications Ordinance in the same way as the publication of an indecent article.

Moreover, under the codes of practice issued by the Commissioner for Television and Entertainment Licensing, television and radio licensees are prohibited from broadcasting any matter, including lyrics, which is considered obscene, vulgar, indecent or profane.

The commissioner regularly monitors the lyrics of songs broadcast on television and radio and takes action to stop the broadcast of any lyrics which are in breach of the codes of practice. In so doing, the commissioner adopts a higher standard in respect of programmes and matters which are intended for children and young persons.

MRS. NG (in Cantonese): *Sir, at the moment the Government has implemented a nine-year compulsory and free education. However, we hear this in one of the songs:*

*'You are a bookworm, You study at home,
This is no longer fashionable.'*

What sort of action will you take against lyrics like this?

SECRETARY FOR DISTRICT ADMINISTRATION: I may have to refer the particular song to the Commissioner for Television and Entertainment Licence. I have personally listened to this particular piece of music. I hardly noticed the wording, but the music was quite pleasing.

MR. HUI: *Sir, could Government inform this Council if the Objectionable Publications Ordinance covers the publication of indecent lyrics in music magazines? If so, how many prosecutions against such publishers have been instituted during the last three years?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, I am certain such magazines are also covered. As to the number of prosecutions against such publishers within the last three years, may I reply to Mr. HUI in writing later with the exact number, if any. (See Annex IV)

Compliance with the code of practice for private homes for the elderly

7. MR. LIU asked (in Cantonese): *Will Government inform this Council how many private homes for the elderly have still failed to comply fully with the code of practice published by the Social Welfare Department six months ago and what measures will be taken to improve the ratio of compliance?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the code of practice was introduced last October to provide a guide for operators of private homes for the elderly and since then staff of the Social Welfare Department and the Fire Services Department have been visiting these homes to encourage them to comply with

the provisions of the code. While some of the homes have already taken positive action to introduce improvements such as the installation of fire fighting equipment, others have difficulty in complying with the per capita space standards and in recruiting nursing staff with the recommended qualifications.

We shall not however know the extent of compliance until a full assessment is conducted in October, one year after the code was introduced. In the light of this assessment we shall then consider what further action should be taken, and in particular whether legislation should be proposed and we shall be seeking the advice of the Social Welfare Advisory Committee on this question.

MR. LIU (in Cantonese): *Sir, on occasions, the qualifications for some of the nursing staff are not adequate. Will Government consider running courses to train such staff so that we have enough qualified manpower in this area?*

SECRETARY FOR HEALTH AND WELFARE: Sir, one of the requirements of the code of practice is that enrolled nurses should be employed for this purpose. There are, of course, already training facilities for enrolled nurses. But I am sure that one of the possibilities that may be considered if there is obvious difficulty in this area when the review takes place in October, will be whether special courses should be started for this purpose.

MR. HUI: *Sir, could Government inform this Council how the review in October would be conducted and whether voluntary welfare agencies, being experts in providing residential service for the elderly will be involved in the review?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the review initially will be a complete assessment by the Social Welfare Department in consultation with the Fire Services Department and other government departments involved of the extent of compliance. We shall then need to consult various bodies and I am sure that we shall make use of the expertise of the welfare agencies in reaching a decision on the best course of action.

DR. CHIU: *Sir, will Government inform this Council whether the Secretary for Health and Welfare will consider giving clear indication to private homes for the elderly that the code of practice will become legislation at a certain time in the future so as to encourage the compliance?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not think we can make such an assertion at this stage. We shall obviously have to assess how far the homes have complied with the code of practice and then we shall have to consider the implications, if they have not complied completely, of enacting legislation. This is not a simple matter, I believe, and we shall have to consider what would happen if insisting on a high standard of compliance were to drive some of these homes out of business and possibly, make some of their residents homeless.

Payments awarded to employees by the Labour Tribunal

8. MR. PANG asked (in Cantonese): *Will the Government inform this Council in cases where employers fail to make payments awarded to employees by the Labour Tribunal within a set period of time what action could be taken by the Government to assist the aggrieved employees?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the time limit within which employers must make payments is set by the presiding officer of the Labour Tribunal when making the award and varies from case to case.

There are three possible ways in which the Government can assist employees whose employers fail to make such payments.

Firstly, the employee can approach the Labour Department with the certificate of award which has been issued by the Labour Tribunal. The Labour Department will then issue a warning letter to the employer reminding him that the non payment of wages and other related benefits is an offence under the Employment Ordinance. If the employer ignores this warning, prosecution will be instituted against him in a magistrate's court. Experience has shown that in most cases of this kind employers will pay the sum awarded by the Labour Tribunal. A magistrate's court does not, however, have the power to enforce an award but only to impose an appropriate penalty.

Secondly, if the employer continues to fail to pay an award the employee may, if he qualifies, obtain the assistance of the Legal Aid Department to help him to enforce the award through a district court.

Thirdly, if the non payment arises because of the insolvency of the employer, the employee can approach the Protection of Wages on Insolvency Fund for the payment of outstanding wages. I intend at the next meeting of this Council to introduce a Bill to extend the scope of the fund to cover wages in lieu of notice.

MR. PANG (in Cantonese): *Sir, the objective of setting a Labour Tribunal is to simplify the procedures for resolving disputes between employers and employees. If a decision has been made by the Labour Tribunal, and if the employees go to the district court, then it will be a verdict of the district court that should be upheld. The answer says that the employees can take three measures but in the past, experience has shown that employees usually take over a year before they can get payment. They have to go to the Labour Department and then the Legal Aid Department and the district court. And if it is not a case of insolvency, the employees cannot get compensation from the Protection of Wages Insolvency Fund. So under such circumstances, how can they get payment and how can we achieve the objective of simplifying the procedure?*

SECRETARY FOR EDUCATION AND MANPOWER: I have no doubt, Sir, that everything that Mr. PANG says is quite correct and that it can take a very long time for the money to eventually be made to the employee who so richly needs it. The remedies for this, I fear, lie elsewhere than within the realms of the Labour Tribunal. Unfortunately, it does seem to take quite a long time for cases to actually come before district courts. This, I think, accounts for the largest single element of that period that Mr. PANG has referred to. I am afraid I am qualified to comment on the appropriate remedies there.

MR. TAI: *Sir, would the Government be willing to amend the appropriate legislation so as to give the Labour Tribunal the enforcement power to streamline the process in order to cut out the red-tape for application to the magistrate's court and the district court for enforcement proceedings?*

SECRETARY FOR EDUCATION AND MANPOWER: It might be useful, Sir, if we put this in some sort of perspective. The Labour Tribunals last year, heard 4 914 cases which comprised 12 000-plus items of individual claim. Of these 4 914 cases, 3 569 were concluded there and then and in the majority of cases payment was made virtually on the spot. The number of cases where certificates of award actually had to be issued to the plaintiff only numbered 331,9 per cent of the actual cases concluded. So in the vast majority of cases, the present procedure works and works very well. I do, however, recognise that the time frame for those where it does not work well requires some improvement, and the possibility of the Labour Tribunal having some enforcement powers can certainly be looked at. This, however, takes us into areas of legal policy which are beyond the scope of this particular question.

MR. TAM (in Cantonese): *Sir, some labour associations have suggested that the Government should take action against the employers who deliberately do not comply with this and that they should be prosecuted. Would Government consider this as possible?*

SECRETARY FOR EDUCATION AND MANPOWER: That, Sir, is precisely what happens once it goes to the district court.

Government Business

First Reading of Bills

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1987

WEIGHTS AND MEASURES BILL 1987

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

Second Reading of Bills

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1987

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: 'A Bill to amend the Public Health and Municipal Services Ordinance'.

He said: Sir, I move that the Public Health and Municipal Services (Amendment) (No.2) Bill 1987 be read the Second time.

The proposed amendments update the maximum penalties relating to various offences under the Public Health and Municipal Services Ordinance. Most of these penalties have remained unchanged since 1978 and are now in need of revision in order to preserve their deterrent effect for the protection of public health.

The Bill seeks first to amend section 143(a) of the Ordinance to raise the maximum penalties that may be imposed by regulations made under the Ordinance from \$10,000 to \$25,000 in respect of fines and from \$250 to \$600 in respect of the daily penalty. Secondly, it amends the Ninth Schedule of the Ordinance so as to raise the maximum penalties for offences related to environmental health and food hygiene under the Ordinance, and also to delete section 79(3) from the Schedule as this section involves no offences. Finally, the Bill deletes section 15(1C) of the Ordinance to bring the maximum penalties for offences under the Public Cleansing and Prevention of Nuisances (Urban Council/Regional Council) By-laws within the ambit of section 143(a).

Inflation since 1978 increases in enforcement staff costs during the same period, and the nature and seriousness of each offence and the deterrent required are the factors which have been taken into account in working out the proposed increases in the maximum penalties.

Both the Urban and Regional Councils have endorsed these proposals. After the Bill has been enacted, the two councils will similarly increase the maximum penalties prescribed under their By-laws.

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

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

Question put and agreed to.

WEIGHTS AND MEASURES BILL 1987

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: 'A Bill to make provision with respect to units and standards of measurement and weighing or measuring equipment used for trade, to regulate trade transactions regarding goods supplied by weight or measure including pre-packed goods, and to provide for the administration of this Ordinance, offences and the forfeiture of weighing or measuring equipment and goods in the case of certain contraventions; and for connected purposes'.

He said: Sir, I move the Second Reading of the Weights and Measures Bill 1987.

The existing Weights and Measures Ordinance (Chapter 51) was enacted in 1885 and last amended in 1937. Those dates alone would suggest that the existing Ordinance needs updating, and indeed that is the case. The Ordinance does not meet contemporary requirements and in particular makes no reference to the metric system, and its enforcement provisions are inappropriate and ineffective.

The Bill will provide a modern legal framework to facilitate the orderly conduct of trade, safeguarding the interests of both traders and consumers. It will also enhance Hong Kong's reputation overseas as a trading community that uses modern, internationally accepted standards.

A number of broad areas are covered by the Bill. First, it defines the units of measurement, and stipulates the units, and the weights and measures which are lawful for use for trade in Hong Kong. Secondly, it provides for offences and an administrative machinery to enforce the legislation. Lastly, the Bill gives regulation-making powers governing trade transactions involving the use of weights and measures.

While the Bill has been drafted having regard to the views received from a wide range of relevant boards and committees, its enactment is likely to require a degree of adjustment on the part of some sectors of the trading community. To ensure that everyone involved has adequate opportunity to adapt to the new requirements, it is not intended to bring the legislation into effect until at least 12 months after enactment. During this period, efforts will be made to educate and inform traders of the new requirements.

Sir, the Weights and Measures Bill 1987 is significant for another reason, as the first Bill drafted and gazetted in both English and Chinese. This was to assist the development of the bilingual laws project. Only the English text of the Bill will however be debated in this Council for the purposes of enactment.

Finally, I would like to advise Members that the Administration has identified a number of areas in the Bill that would benefit from improved drafting. Subject to Members' comments, I shall propose some minor amendments at Committee stage to implement these improvements.

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

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

Question put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 17 June 1987.

Adjourned accordingly at twenty-three minutes past Three o'clock.

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

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

Until the scheme was revised in April 1987, records were kept only until the person's 16th birthday or for two years, whichever was the sooner. So, we are unable to provide statistics over a long follow-up period. And indeed without a detailed manual study, I could not provide you with detailed recidivism figures for all the cases we do have records for.

But in 1986 the police did a study of all cases warned under the SDS in the New Territories police region. In 1986, 1 321 cases were dealt with. Of that total, 31 juveniles were involved in further offences during the year, representing 2.35 per cent of the total.

Clearly these statistics are not entirely satisfactory. But with the extension of the period during which records are kept to three years, and with the computerisation of our law and order statistical systems, I hope in future to have more comprehensive data available.

Annex II**Written answer by the Secretary for Education and Manpower to Mr. CHEONG-LEEN's supplementary question to Question 3**

Between the third quarter of 1985 and the same quarter of 1986, the latest period for which figures are available, the number of factories employing less than 20 workers increased by 1.2 per cent and the total number of persons employed increased by 2.9 per cent. These figures appear to be consistent with those which I gave in my main answer for factories employing less than 100 persons, of increases of 'over 1 per cent' and 'some 3 per cent' respectively and confirm that there is no direct evidence that the introduction of the Long Service Payment Scheme has caused manufacturers to set up production outside Hong Kong. I would, however, advise caution in drawing firm conclusions from these figures.

WRITTEN ANSWERS—*Continued*

Annex III

Written answer by the Secretary for Education and Manpower to Mrs. FAN's supplementary question to Question 5

I can now confirm what I said at the meeting. The staff of the Overseas Students and Scholarships Section are made aware of complaints received but they will not, as a matter of principle, indicate to students that complaints have been made about a specific institute in which the student is considering enrolling. What they will do, however, is to tactfully suggest other institutes which might better serve the student's purpose.

Annex IV

Written answer by the Secretary for District Administration to Mr. HUI's supplementary question to Question 6

The information requested is as follows:

<i>Year</i>	<i>Complaints against or newspaper reports on lyrics of songs</i>	<i>Complaints against lyrics published in music magazines</i>	<i>Action taken by TELA</i>
1984	Nil	Nil	
1985	Songs by a group called 'Lady Diana' (H.K. Standard's article)	Nil	AGC considered unlikely to be successful in prosecution.
	Born in the U.S.A. (letter to TELA)		Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.
1986	壞女孩 (LegCo Question)	Nil	Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.
	我要 (Newspapers)		Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.

WRITTEN ANSWERS—Continued

<i>Year</i>	<i>Complaints against or newspaper reports on lyrics of songs</i>	<i>Complaints against lyrics published in music magazines</i>	<i>Action taken by TELA</i>
	朦朧夜雨裏 (one letter to a newspaper)		Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.
	第一次 (newspapers)		Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.
	淚之旅 (newspapers)		Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.
1987	封佢做偶像 (about gay people) (newspaper report about RTHK banning of the song)		Lyrics were considered neither obscene nor indecent nor in breach of TV/radio standards.
		新時代 (Council of Social Service)	AGC considered unlikely to be successful in prosecution but endorsed TELA issuing a warning letter to publisher.
	逆之女 (LegCo question)		Lyrics were considered not in breach of TV/Radio standards.
Total	9 songs	1 magazine	