

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 1 June 1988****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

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

THE HONOURABLE THE FINANCIAL SECRETARY

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

THE HONOURABLE THE ATTORNEY GENERAL

MR. JEREMY FELL MATHEWS, J.P.

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

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

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

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

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

THE HONOURABLE WONG PO-YAN, C.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, C.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 MARIA TAM WAI-CHU, 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, O.B.E., 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, O.B.E., C.P.M., J.P.

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

SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

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

DR. THE HONOURABLE CHIU HIN-KWONG, J.P.

THE HONOURABLE CHUNG PUI-LAM

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 DESMOND 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, 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, C.B.E., J.P.
SECRETARY FOR LANDS AND WORKS
THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER
THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
SECRETARY FOR TRANSPORT
THE HONOURABLE EDWARD HO SING-TIN, J.P.
THE HONOURABLE GEOFFREY THOMAS BARNES, J.P.
SECRETARY FOR SECURITY
THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

ABSENT

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.
THE HONOURABLE KIM CHAM YAU-SUM, J.P.
THE HONOURABLE CHENG HON-KWAN, J.P.
THE HONOURABLE THOMAS CLYDESDALE, J.P.
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

IN ATTENDANCE

CLERK TO THE LEGISLATIVE COUNCIL
MR. LAW KAM-SANG

Papers

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

Subject *L.N. No.*

Subsidiary Legislation:

Securities Ordinance	
Securities (Miscellaneous) (Amendment) Regulations 1988	148/88
Immigration Ordinance	
Immigration (Places of Detention) (Amendment) Order 1988.....	150/88
Immigration Ordinance	
Immigration (Vietnamese Refugee Centres) (Closed Centres) (Designation) (Amendment) Order 1988.....	151/88
Registration of Persons Ordinance	
Registration of Persons (Application for New Identity Cards) (No.4) Order 1988	152/88
Revised Edition of the Laws Ordinance 1965	
Revised Edition of the Laws (Correction of Error) (No.3) Order 1988	153/88
Merchant Shipping (Safety) Ordinance	
Merchant Shipping (Safety) Ordinance (Exemption) Notice 1988	154/88
Merchant Shipping (Safety) Ordinance	
Merchant Shipping (Safety) Ordinance (Exemption) (No.2) Notice 1988.....	155/88
Pilotage (Amendment) Ordinance 1987	
Pilotage (Amendment) Ordinance 1987 (Commencement) Notice 1988	156/88

Oral answers to questions**Traffic accidents involving light goods vehicles**

1. MRS. FAN asked: *In view of the increasing trend of traffic accidents involving light goods vehicles, some of which are very serious in nature, what measures will the Government take to tighten up licensing requirements in respect of such vehicles and will it consider amending the Road Traffic Ordinance to provide more severe legal penalties for reckless driving?*

SECRETARY FOR TRANSPORT: Sir, Government is concerned about the increasing trend of traffic accidents involving light goods vehicles. Measures to tackle the problem have been drawn up. These were discussed last month with the Transport Advisory Committee and supported for early implementation.

First, drivers of light goods vehicle with less than three years experience have been identified as the target group. Traffic accident statistics show that their involvement rate is three times higher than that of the more experienced drivers. In view of this, it is intended to stop giving new private car driving licence holders automatic approval to drive a light goods vehicle. Instead, such approval will not be given until the driver has obtained a licence for three years.

Government will also tighten up the inspection requirements for light goods vehicles. As a first step, all six-year old light goods vehicles below 1.9 tonnes, which account for over 80 per cent of the light goods vehicle fleet, will be included in the private car inspection scheme for annual inspection. The second step is to inspect all goods vehicles annually when the new Kowloon Bay Vehicle Inspection Centre is fully operational in 1991.

As regards existing penalties for reckless driving under the Road Traffic Ordinance, these are already quite severe and there is no intention at present to amend the law. A person who has committed the offence is liable on conviction on indictment to a fine of \$20,000 and to imprisonment for three years, and on summary conviction to a fine of \$10,000 and to imprisonment for 12 months. Where reckless driving causes the death of another person, the penalties will increase to a fine of \$25,000 and five years imprisonment on conviction on indictment, and on summary conviction to a fine of \$12,500 and to imprisonment for two years.

In addition to these penalties, the offender shall be disqualified in a second or subsequent conviction, and may be disqualified in a first offence in serious cases. Also, under the driving offence-points scheme, a person found guilty of reckless driving will attract the maximum 10 points.

MRS. FAN: *Sir, although the statistics show that inexperienced drivers of less than three years' experience are involved in accidents more frequently than those who have more experience, it does not necessarily follow that drivers who have been holding a licence for a longer period would have better driving skill. So, will the Government consider introducing a separate driving test for light goods vehicles?*

SECRETARY FOR TRANSPORT: Sir, I entirely take Mrs. FAN's point but a start has to be made between the experienced drivers and the inexperienced drivers and from past statistics it does indicate that the first two or three years are rather vulnerable in terms of the driving experience of drivers. So, we want to deal with those with less than three years' experience as a start. We are also considering whether it is possible in terms of both staffing and resources to introduce a separate category of registration for such goods vehicles. This might

take a long time because of the large number of applications to be processed and the significant staff requirement involved but we are considering this matter in the longer term.

DR. LAM (in Cantonese): *Could the Administration inform this Council whether young drivers are more prone to traffic accidents than those who are older. If this is the case, would the Government consider education programmes so as to give young drivers more information on road safety?*

SECRETARY FOR TRANSPORT (in Cantonese): Sir, according to past statistics, offenders are normally young and middle-aged people and therefore, in our road safety campaigns, we do target our publicity towards this particular group. At the same time, we study the way they drive and try to improve the situation.

MR. LIU (in Cantonese): *Sir, accidents involving light goods vehicles are usually caused by poor skills or carelessness of the drivers. Could the Administration inform this Council whether it will raise the standard for driving tests so that the situation can be improved?*

SECRETARY FOR TRANSPORT (in Cantonese): Sir, we have looked into this and, in fact, in our road safety campaigns, we have considered whether we need to educate people with less experience so that their skill can be improved. At present, we do not have plans to raise the standard. However, if the situation deteriorates, we will definitely consider how the standard can be raised in order to make the tests more effective.

MR. JACKIE CHAN (in Cantonese): *Sir, the Secretary said that now under the existing regulations people holding private car driving licences can also drive light goods vehicles. Driving a private car is, in fact, very different from a light goods vehicle; and the differences are similar to those between container trucks and goods vehicles. Therefore, drivers of goods vehicles cannot automatically be allowed to drive container trucks and they will have to pass another test to qualify for driving container trucks. Why is it then that holders of private car driving licences can automatically be permitted to drive light goods vehicles?*

Would the Secretary consider improving the situation so that other motorists and pedestrians will be protected? At the same time, we will also be able to reduce public expenditure because every accident involves huge public funds.

SECRETARY FOR TRANSPORT (in Cantonese): Sir, the Transport Advisory Committee has, in fact, looked into this. There are about 80 000 light goods vehicles now, and we cannot overnight treat the drivers as a separate category or require them to undergo a separate test. But I can assure you that we will definitely look into this and if the skills for driving light goods vehicles are different from those for driving private cars, we will definitely consider separate tests.

MR. TAM (in Cantonese): *Sir, some of these light goods vehicles have installed very powerful audio stereo systems and loud music is played while vehicles are on the move. Would that actually increase the probability of accidents, and does the Government intend to do anything about the situation?*

SECRETARY FOR TRANSPORT (in Cantonese): *Sir, we do not have sufficient evidence at the moment to show that music does interfere with driving. As a matter of fact, accidents involve a number of factors such as the mood of the driver, road conditions, and the condition of the car. So, it is not necessarily just the music that might cause accidents but, of course, we will definitely look into this and see whether music is really interfering with driving, and if so, we will consider possible restrictions.*

MR. CHEONG-LEEN: *Sir, apart from the relatively young age and inexperience of the light goods vehicles drivers, to what extent is the condition of the light goods vehicles concerned a contributing factor of accidents? And, arising out of the supplementaries, I would like the Secretary for Transport to give a more definite indication as to when light goods vehicles will be included in the private car inspection scheme for annual inspection. When will that commence?*

SECRETARY FOR TRANSPORT: *Sir, inspections of light goods vehicles under 1.9 tonnes will start as soon as we have amended the regulations governing the inspection of such vehicles. I take the point that we need to look at the vehicles' standards and their road worthiness in each case. At present, according to police records, the number of light goods vehicles inspected and found to be defective is about 2 000 vehicles per year over the last two years. This number is about 63 per cent of all vehicles inspected by the police and Transport Department on a spot-check basis. We do believe that because of these figures, it is important to require vehicles under 1.9 tonnes to be inspected annually as a start. And as I said earlier, this will be extended to all goods vehicles by 1991.*

MR. POON CHI-FAI (in Cantonese): *I fully agree with what the Secretary has said a moment ago that there are a number of factors leading to traffic accidents. But could the Administration inform this Council whether it has information to show the causes of the accidents involving light goods vehicles? In that way, we will be able to improve the situation because we have a clear idea of the causes.*

SECRETARY FOR TRANSPORT (in Cantonese): *We do not have a breakdown separating light goods vehicles from other vehicles. Usually, accidents are caused by speeding or carelessness of pedestrians. We can believe that these are the most common causes and perhaps we can focus our attention on these two aspects in our publicity and education programmes so that motorists will not speed, and at the same time pedestrians will be more careful.*

Introduction of a 24-hour service at Man Kam To checking point

2. MR. LAI asked (in Cantonese): *Will Government consider introducing a 24-hour service at the Man Kam To crossing point to cope with the increase in cross-border traffic particularly goods vehicles so as to facilitate the growing volume of trade with China?*

SECRETARY FOR SECURITY: Sir, border opening hours and traffic problems are reviewed regularly by a joint working group consisting of Hong Kong and Shenzhen officials and, although there are no plans to introduce a 24-hour service at the Man Kam To crossing point, adjustments are made as necessary, with the agreement of both sides.

The Man Kam To terminal was set up in July 1980 when the opening hours were from 7.30 am to 6 pm. The closing time was extended to 8 pm on 1 October 1984 because of the heavy traffic through the crossing point. Currently, an average of 8 940 vehicles and 2 481 passengers use the crossing point every day although both figures are greater on peak days. The traffic is not constant throughout the day and there are identifiable peaks in the mornings and in the afternoons. Traffic is usually light after 7 pm.

Inevitably there are some delays at the crossing point at peak hours, but congestion is not now as serious as it was in the autumn of last year. There is also a new border crossing point being built at Lok Ma Chau, which will open early next year. This is being built jointly with the Shenzhen authorities and, with a capacity of 40 000 vehicles per day, will solve congestion problems at vehicular border crossing points for the foreseeable future.

In the meantime, Sir, the situation at Man Kam To will be kept under review.

MR. LAI (in Cantonese): *Sir, paragraph 2 of the reply says that currently we have an average of 8 717 vehicles passing through the crossing point per day. Could the Administration inform this Council how many of these are goods vehicles? As for the point that after 7 pm traffic is usually light, of course this is a common phenomenon because most drivers know that the crossing point will be closed at 8 pm. So, could the Administration consider extending the opening hours of the Man Kam To crossing point, or to have a 24-hour service, so that it can cater for the traffic situation and we do not have to rely on the new crossing point at Lok Ma Chau which is not to be opened until next year?*

SECRETARY FOR SECURITY: Sir, the figures which I actually gave in my oral reply were 8 940 and 2 481, and I should point out that these differ slightly from the printed version. With regard to the number of goods vehicles going across at Man Kam To, Sir, the total number of container trucks and other goods vehicles for the whole month of April was 259 832. I am sure if my hon. Friend

divides that by 30 he will get the daily rate, which is more than I can do at the moment. Hire-cars and private cars were at 3 563, coaches and light buses at 3 630, and other vehicles at 1 183. A total of 268 208 in the month.

With regard to the second part of the question on the extension of the hours of opening of the border in the evening to cope with the increased traffic, as I have said in my original reply, Sir, this is kept under review by the joint working group on the subject. They last met four weeks ago and they expect to meet every three to four months; if current traffic levels at the time they meet or prior to their meeting are such that some adjustment is required, then of course an adjustment will be made.

I should, however, point out that there are constraints on extending the hours. One of these is, necessarily, staff. And the other, which must not be forgotten, is the capacity, on the Chinese side, to cope with any extension.

MR. ANDREW WONG: *Would the Secretary for Security or the Secretary for Transport inform this Council how long is the queue waiting to cross the border at Man Kam To? A mile, or three miles, or four miles? And what inconvenience has this caused to residents of Sheung Shui?*

SECRETARY FOR SECURITY: Sir, when I was last out at the border which was two weeks ago, at about 11 am which can be regarded as a busy time, the queue on the Hong Kong side was about 150 yards long. I do not think that causes any problems to the inhabitants of Sheung Shui.

DR. LAM (in Cantonese): *Sir, the Secretary says that with the agreement of both sides, adjustments can be made. I wonder under what circumstances and using what guidelines will this be done? Does the number of vehicles going through have to exceed 10 000 or a certain number?*

SECRETARY FOR SECURITY: Yes, Sir, it takes into account the daily capacity of the crossing point which at the moment is 11 500 passengers a day, and 10 800 vehicles a day. It also takes account, as I have said in answer to a previous supplementary, of the staff resources available on both sides. I can assure you that these matters are addressed seriously by both the Hong Kong side and the Chinese side, and every effort is made to reduce the inconvenience to both the users of the crossing point and the residents who live in the area to a minimum.

MR. CHEONG: *Sir, may I ask whether the Administration has examined this particular problem from another angle, and that is whether the extension of the time to 24 hours would be a help in alleviating traffic congestion in Hong Kong along the Tolo Highway and Lion Rock Tunnel?*

SECRETARY FOR SECURITY: No, Sir, the Administration has not examined this particular question. Personally, I doubt whether an extension to 24 hours will

have much effect on the Lion Rock Tunnel or other traffic congestion in the New Territories. I shall be quite happy to refer this view to the joint working group.

MR. CHUNG (in Cantonese): *Sir, the Secretary says that people crossing Man Kam To at peak hours will inevitably experience some delay. Is the delay caused by the Chinese side or by the Hong Kong side? If it is on the Hong Kong side, is it because we do not have sufficient staff?*

SECRETARY FOR SECURITY: No, Sir, this is quite simply the amount of traffic approaching from each side at any given time. Sometimes there is a preponderance of traffic on the Hong Kong side: sometimes on the Chinese side. And at peak hours, inevitably, there is some delay.

HIS EXCELLENCY THE PRESIDENT: I have three more Members' names down to ask supplementaries. I propose to limit it at that otherwise we shall not get on to the rest of the questions in the usual time.

MR. CHEUNG (in Cantonese): *Sir, the queue of the vehicles going through the crossing point at Man Kam To is sometimes several miles long and take up part of the road, and it is fortunate that the other lane of the road is still available for traffic. But, some drivers who want to jump the queue use the spare lane and they have caused traffic congestion. Can the Government send traffic policemen to patrol the area so that such queue jumping will not happen? And will the Secretary consider restricting the number of licences authorising cars to go through the border in order to alleviate the situation?*

SECRETARY FOR SECURITY: Sir, the queues are patrolled by police on a regular basis. I have not had any particular complaints about queue-jumping brought to my attention. I shall, however, mention this to the police and ask that they keep an eye on that sort of thing.

I am not quite sure what my hon. Friend meant by limiting the licences of cars but if he means the number of cars crossing the border, this is not a practice, Sir, which is followed at border crossing points and I see no reason why it should be introduced at Man Kam To.

MR. LAI (in Cantonese): *The congestion at Man Kam To is very often caused by the duplication of procedures on both the Chinese side and Hong Kong side. On Hong Kong side, we look for contraband goods, whereas on the Chinese side, they look at the goods from the duty collection angle. Could the Administration inform this Council whether there are measures in the pipeline to improve the situation?*

SECRETARY FOR SECURITY: Sir, each side must, of course, follow its own procedures for these matters, whether they are customs or whether they are immigration. It might in future years be possible to streamline this somewhat

but at the moment it is not possible. It is a matter which the joint working group does consider to see what can be done to speed things up. And as I have indicated earlier, I shall, of course, be referring this question and the supplementaries that have been raised to the joint working group.

MR. CHEONG: *Sir, I am glad that the Secretary is going to refer this particular matter to the joint working group but in respect of the first supplementary question that I asked, may I respectfully suggest that he should contact the Secretary for Transport, and work out some sort of a study to see whether an extension would alleviate traffic congestion inside Hong Kong?*

SECRETARY FOR SECURITY: I am sure that the Secretary for Transport and I will be able to work something out on that, Sir.

Shortage of trained social workers

3. MR. HUI asked: *In the light of the current shortage of trained social work graduates, will the Government inform this Council whether the Advisory Committee on Social Work Training will take up the responsibility of mapping out a long-term social work manpower policy and in the meantime what measures will Government take to deal with the existing manpower shortage problem?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the responsibility for formulating manpower policies and plans rests with the Director of Social Welfare and myself. The Advisory Committee on Social Work Training is consulted by the director on all aspects of social work training, but is not itself responsible for manpower policy.

I am aware that the voluntary sector is concerned, as we are, about the shortage of trained social workers. The Director of Social Welfare has recently assessed the extent of the shortage and is considering the introduction of a number of long and short-term measures to alleviate the problem. And I understand that the advisory committee discussed the various measures proposed at a meeting yesterday.

In accordance with its terms of reference, the Advisory Committee on Social Work Training advises the Government through the Social Welfare Advisory Committee and I look forward to receiving the advice of both bodies after the next meeting of the Social Welfare Advisory Committee.

MR. HUI: *Sir, according to the information I received from the Social Welfare Department, the shortage of trained social workers will be quite acute in the next few years. Can Government inform this Council whether it will consider advertising overseas in order to attract some Hong Kong social workers living abroad to return to Hong Kong and work for a contracted period of time?*

SECRETARY FOR HEALTH AND WELFARE: Sir, this is a very helpful suggestion and I am sure that the director will consider it carefully.

MR. YEUNG: *Sir, will the Secretary elaborate on the long-term and the short-term measures likely to be introduced in future to alleviate the shortage problem?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I would not really like to anticipate the advice which the two committees are about to give but perhaps I can give some idea of the sort of measures which are being considered. There is a possibility of what are known as 'blisters' added to the existing courses. This means a short-term addition of numbers to the training courses at the training institutions. That is one short-term measure that could be adopted. Another is the continued recruitment of non-social work trained graduates, though this does not always find favour with the profession. In the longer term, of course, the major change would have to be an increase in the numbers of students on the social work courses organised by the two universities and the two polytechnics. But it would be necessary to consider this in the light of the coming triennium and that would be a longer-term measure.

Seafood contamination

4. DR. CHIU asked: *Since, as a result of water pollution, substances which are harmful to the human body if accumulated beyond a certain quantity are sometimes found in the tissues of fish and other seafoods, will Government inform this Council what measures are being taken to ensure that people of Hong Kong are protected from the hazards posed by seafoods containing such substances and whether, for the purpose of enhancing public health, consideration will be given to providing information to the general public as to which kinds of seafoods have been found to be contaminated and whether they are still safe for human consumption?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as a result of pollution of Hong Kong's coastal waters, seafood may be contaminated by three types of harmful substance. First, pathogenic bacteria and viruses which are present in human sewage and livestock waste; secondly, algal toxins produced by certain types of phytoplankton which may bloom and form red tides because of nutrient pollution; and thirdly, heavy metals such as organochlorines and other chemicals originating from industrial waste. About 90 per cent of seafood consumed in Hong Kong is either imported or obtained from deep sea fishing, and therefore should not be affected by local pollution. The remaining 10 per cent consists of locally caught finfish and the products of mariculture zones, which are generally sited as far as possible from densely populated areas and industrial centres.

The greatest potential health risk to the public is the consumption of polluted shellfish such as oysters, mussels and clams, which can accumulate harmful substances due to their filter feeding habits. The collection of shellfish from

polluted waters such as Victoria Harbour, Aberdeen, Kwai Chung and Tsuen Wan is therefore prohibited under the Public Health and Municipal Services Ordinance. In addition, the Government monitors the chemical and bacteriological quality of fish and shellfish and samples are regularly taken from retail outlets for analysis. If any seafood is found to be unsafe for consumption, action is taken under this Ordinance to prevent its sale and, if necessary, to prosecute the vendor.

As regards the monitoring of seafood contaminated by red tides, a special procedure has been developed by which samples of seafood and seawater are taken for testing for toxicity. Fish killed by toxic red tides are seized and destroyed. Special inspections of retail outlets are also conducted to detect any suspected food items.

The risk of contaminated seafood reaching the market is small and the public would be warned immediately if any cases are detected. It has been emphasised in past media campaigns that shellfish should always be properly cooked. As a short-term measure, consideration is being given to the compulsory artificial purification of local shellfish. Longer-term anti-pollution measures such as the provision of further sewage treatment and disposal facilities and controls on the disposal of livestock waste and industrial effluent should also reduce the risk.

DR. CHIU: *Sir, I am grateful that the Secretary for Health and Welfare has given us a very comprehensive reply. I would like to ask what tests are being conducted on seafoods to test for the three types of harmful substances which the Secretary for Health and Welfare mentioned in his reply. What are the results in general and how often are these tests conducted?*

SECRETARY FOR HEALTH AND WELFARE: *Sir, I am told that during the period between April 1987 and March 1988, 189 samples of fish were taken for examination from various sources, accounting for a total of 485 laboratory determinations and 50 tests for toxicity. Also, 297 samples of shellfish, accounting for 899 laboratory determinations and 81 tests for toxicity were carried out. In addition, 53 samples of fish and 367 samples of shellfish were taken for bacteriological examination. I am not sure of the details of the particular tests applied but I will try and get details of this and let Dr. CHIU have a note.*

PROF. POON: *Sir, the Secretary said that if any seafood was found to be unsafe for consumption, the vendor might be prosecuted. Does this imply that the vendor has a legal responsibility to make sure that his seafood is safe for sale through routine testing and analysis of random samples? If yes, has the Government got any statistics that vendors have failed to abide by this requirement?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I understand that the law does provide for the vendor to be responsible in these circumstances. But as far as I am aware, during the last year at least, there have been no prosecutions for this particular purpose.

MR. SOHMEN: *Sir, as I am not a biologist, my question may be a bit naive, but since there are toxic and non-toxic red tides is there any correlation in the incidence of their occurrence? In other words, do non-toxic red tides occur more frequently than toxic ones, or vice versa?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am not a biologist either but I do understand that most of the red tides that we have had in recent years have been non-toxic, very fortunately. So this problem, in general, does not arise. But whenever there is a red tide, tests are taken of the water to ensure that it is not toxic and if it were, then appropriate action would be taken.

MR. YEUNG: *What sort of measures are being taken by Government to prohibit the public from collecting shellfish from polluted waters such as Aberdeen, Victoria Harbour, Tsuen Wan and Kwai Chung?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I understand that the Public Health and Municipal Services Ordinance provides that it is an offence to take shellfish from these areas. I am sure that the marine police do keep an eye open for this sort of thing happening in those areas.

MR. CHEONG-LEEN: *Sir, in the media campaign concerning polluted shellfish, to what extent can the public be assured that if such polluted shellfish should be properly cooked, it would be safe to consume? Could an explanation be given as to the form the compulsory artificial purification of local shellfish will take place? Will that be done in the harbour, or after collection? And how can it be done after collection when it is illegal to do so?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as far as making shellfish safe by cooking it, I am advised that the correct procedure would be to immerse the shellfish in boiling water for one minute or steaming for about one and a half minutes to raise the internal temperature to about 85 to 90 degrees celsius; and then to keep the shellfish at this temperature for another minute and this would then completely kill Hepatitis-A viruses. and the pathogenic bacteria which are less resistant would almost certainly have expired by that time.

The purification process being considered is to require shellfish to be stored in freshwater for a period before it is allowed to be sold or to be consumed. I understand that is the basis of what is known as the 'de-purification process'.

DR. CHIU: *Sir, I do not think the Secretary for Health and Welfare has answered the second and third parts of my supplementary question which are: What are the results in general and how often are these tests conducted?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not have the details, I must confess, of the frequency of tests. But I will try and find out the information and write to Dr. CHIU. (See Annex I)

PROF. POON: *Sir, is the artificial purification method effective enough to remove most of the harmful substances accumulated in the shellfish? If not, then would the public be misled to believe that the so-called purified shellfish is safe to consume?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think this is a point which will have to be very carefully considered before a decision is taken to require this particular process to be adopted. It is still under consideration.

DR. LAM (in Cantonese): *Sir, how many people were reported to have suffered from adverse effects to their health because of intake of contaminated seafood in the past year?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am told that the statistics kept by the Medical and Health Department are not kept in such a way as to enable this figure to be identified, but the figure is not thought to be large.

DR. CHIU: *Sir, will the Secretary for Health and Welfare please inform this Council when compulsory artificial purification will be introduced? And how can it be enforced?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as I said earlier, this is a method which is under consideration. It has not yet been decided by the Secretary for Municipal Services whether this particular method will be required or not, so it is not possible at this stage to say when it will be introduced.

Control of cooked food from China

5. DR. IP asked: *Will Government inform this Council whether it is satisfied that the existing controls on the bringing in from China of cooked food (particularly cooked meat) are adequate for the protection of the health of the public?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the sale of imported cooked meat is governed by the provisions of the Public Health and Municipal Services Ordinance and the present controls are considered to be adequate for public health purposes.

There are no statutory controls, however, on cooked food items brought into Hong Kong by travellers from China or elsewhere for their own personal consumption. The quantity of cooked food items carried in by individual travellers is usually small and there is no evidence that the items are being

re-sold after entry. Nevertheless, the Municipal Services Branch and the Customs and Excise Department are keeping the situation under surveillance and, in cases of doubt, food items are referred to food inspectors for examination.

Should there be any evidence, in future, that attempts are being made to circumvent proper procedures for the sale of imported cooked meats, the need for tighter controls under the Public Health and Municipal Services Ordinance would of course be considered. There is no reason to believe, however, that such action is warranted at the present time.

DR. IP: *Sir, do I take it that there are no statutory controls on the import of cooked food? If that is so and if control is at the moment confined to sale of cooked food, how does Government then distinguish between imported cooked meat and local cooked meat?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think the answer to that question is that the Public Health and Municipal Services Ordinance and its regulations do provide for all foodstuffs sold in Hong Kong, certainly for cooked meat, to meet the required standards and that the most practical way of ensuring this is to carry this out at the point of sale, or at the wholesale level. I am sure it makes no difference if one eats cooked meat that is off, whether it is imported or not.

MR. DESMOND LEE: *Sir, in the event of an epidemic, such as hepatitis or cholera, will Government take additional measures against food items coming across the Chinese border?*

SECRETARY FOR HEALTH AND WELFARE: Certainly, Sir, if there were such an epidemic and the indications were that it was a result of the consumption of imported meat, I am sure that the authorities concerned would take additional measures to stop the importation of meat likely to cause these problems.

DR. IP: *This is not a second supplementary question. I do not think the Secretary has answered my previous supplementary question. May I also add that local cooked meats are from animals that are slaughtered in the rigid hygienic conditions in local abattoirs.*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am not sure that I quite take Dr. IP's point. As I said in my earlier answer, it seems to me that the important thing is that meat which is sold is subject to proper controls. There are obviously controls on the abattoirs which ensure that animals which are killed in Hong Kong are properly inspected. There are also provisions in the Public Health and Municipal Services Ordinance for ensuring that foodstuffs sold in Hong Kong are also up to standard and I think that the combination of these two procedures should ensure that food sold here is safe.

DR. IP: *I disagree with what the Secretary has said, because I think there is a difference. However, I would like to ask whether there is any difference between cooked food which is prepared from animals slaughtered in the local abattoirs, and cooked meat from animals not slaughtered in local abattoirs? If there is, then how does Government distinguish between these two types of cooked meat at the point of sale?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am afraid on this rather subtle point, I shall have to consult my colleague, the Secretary for Municipal Services, and write to Dr. IP. (See Annex II)

MR. CHAN KAM-CHUEN: *Sir, how do the inspecting officers know that these cooked meats are not dog meat, horse meat or meat from an endangered species?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am sure that if one is an inspector for this purpose, one either by training or experience becomes aware of the different types of meat and how to recognise them.

DR. IP: *This is a more simple question, Sir. Could the relevant Secretary inform this Council of the quantity of cooked food items brought in by individual travellers that would arouse the suspicion of customs officers that they may be for resale and not for personal consumption?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not think there is any maximum weight or size prescribed, but I am sure the officers would use their discretion in determining what appears to be a reasonable amount for personal consumption.

Observation of the codes of aid by aided schools

6. MR. SZETO asked (in Cantonese): *Will Government inform this Council whether aided schools must observe the codes of aid and in cases of contravention by aided schools, what actions will be taken by the Education Department?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the codes of aid set out the conditions on which schools may receive government grants. Their purpose is to ensure that grants are spent as intended, that is, to maintain educational standards.

If the Education Department has reason to believe that a school is not complying with the requirements of a code of aid, it investigates the matter and discusses it with the school authorities. If a school persisted in disregarding the requirements, the department could reduce or withdraw any grant made to that school, but in practice this has never proved necessary.

MR. SZETO (in Cantonese): *Sir, recently the Hong Kong Professional Teachers' Union submitted a copy of a teacher's contract to the Education Department, pointing out that the clauses have contravened the code of aid and the conditions of service, but the Education Department did not conduct any investigation nor take up the matter with the school concerned. It only said it could not investigate so many aided schools and refused to tackle the matter. Actually we were not talking about all schools in the territory but only the school about which a complaint had been made. Will Government inform this Council whether the Education Department's response is in line with what has been said by the Secretary?*

SECRETARY FOR EDUCATION AND MANPOWER: *Sir, I do not know about the case that Mr. SZETO Wah has referred to. I will discuss it with the Director of Education.*

MR. SZETO (in Cantonese): *Sir, I am very pleased to hand the case to the Secretary for Education and Manpower. Will he accept this case?*

SECRETARY FOR EDUCATION AND MANPOWER: *Sir, I will certainly discuss it with the director. I am not sure what 'accept' means but, to the extent of discussing it with the director, I will accept it.*

Student travel subsidy scheme

7. MRS. TAM asked (in Cantonese): *Will Government inform this Council of the nature and extent of the consultation made in revising the student travel subsidy scheme? In particular, were the departments responsible for culture, recreation, civic education, and youth activities consulted before deciding on the revision? If not, why not?*

SECRETARY FOR EDUCATION AND MANPOWER: *Sir, the student travel subsidy scheme has been revised several times. A major review was conducted in 1985 and 86, following criticisms of the scheme by the Finance Committee, the Public Accounts Committee and the Director of Audit, and the question of whether the scheme should include recreational trips was fully considered in that review. The Municipal Services Branch and the City and New Territories Administration were consulted.*

Following this consultation, the OMELCO Education Panel considered the issue on 20 December 1985. The panel agreed that consideration should be given to excluding recreational trips from the subsidy. At this meeting apparently Mrs. TAM was of the view that a transport subsidy was not an effective means of promoting recreational activities among students. She felt that their participation depended more on the nature of the programme than the cost of transport.

Having taken into account the advice of the education panel, the Executive Council decided that, with effect from 1 October 1986, recreational trips should cease to be subsidised. The subsidy was accordingly withdrawn from journeys made on Sundays and in the major school holidays.

During the most recent review of the scheme, we consulted the OMELCO Education Panel, the Board of Education, six secondary school councils and representatives of the Hong Kong Federation of Students. On this occasion, these were felt to be the most appropriate bodies to consult since the purpose of the review was to relate the scheme more closely to strictly educational needs. The decision not to subsidise recreational travel had already been taken in 1986.

Nevertheless, we do recognise the importance of extra-curricular activities in the education of our young people, and the new scheme will include in the subsidy a provision for four additional trips each week to assist students to take part in such activities.

This level of provision for additional trips was considered reasonable by the six secondary schools councils that we consulted. Many extra-curricular activities do, of course, take place after school hours on school premises, and in such cases no additional travel is involved.

MRS. TAM (in Cantonese): *Sir, in 1986 when the student travel subsidy scheme was reviewed, the subsidy for recreational trips was not included but in this latest review it was decided that four additional trips each week will be subsidised. Can the Government clarify whether extra-curricular activities also include recreational activities? If so, will it not contravene the spirit of the decision made in 1986?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I do not myself see any contradiction here. Extra-curricular activities may overlap with recreational activities but the purpose is to limit journeys to those which have an extracurricular content related to education. These may happen to be recreational but I do not think it contradicts the spirit of excluding recreational travel in general.

MR. DESMOND LEE: *Sir, the present scheme is completely financed through public revenue. Has Government considered the possibility of asking transport companies to share part of the cost?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, this possibility was considered. The effect would be to increase the cost of travel for all passengers and this was felt to be unfair.

MRS. NG (in Cantonese): *Sir, at present there are school liaison committees in many districts. Were these committees consulted? I know that the new scheme will cause some inconvenience to parents; has the Government consulted the parents' association, so that the views of parents can be made known?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as far as I know, these bodies were not consulted as local bodies would normally be consulted about local interests as opposed to central ones. The schools' councils are the bodies normally consulted on these sort of proposals and we conformed with that normal practice.

DR. TSE (in Cantonese): *Sir, in the past two years, the Government has been promoting extra-curricular and civic educational activities and a Civic Education Committee has been set up to encourage schools and local organisations to organise activities on Sundays, public holidays, and even during the summer holidays, so that more students and citizens will participate in these activities. On many occasions, students will have to take public transport to join these activities. Will the Government, when appropriate, revise the scheme again, so that we will be able to better promote civic education?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think we have already met Dr. TSE's point, because the previous scheme did in fact exclude travel on Sundays and during school holidays because, with that scheme, the only way we could exclude recreational travel was in this rather crude way. With the new scheme, we are able to permit travel during holidays and on Sundays.

MRS. TAM (in Cantonese): *Sir, the Government has conducted this review but no public consultation has been conducted. I would like to understand why no public consultation has been conducted and, if there is going to be any revision to the scheme, will it be the case again that no public consultation will be held?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the consultation was fairly wide, as I have already described. I do not understand what Mrs. TAM means by 'no public consultation'. As explained, on the point of recreational travel, there was consultation with the bodies concerned. I do not quite understand what her point is.

MR. ANDREW WONG (in Cantonese): *Sir, in reply to Mr. Desmond LEE's question, the Secretary said that it would be unfair to ask other commuters to share part of the subsidy. But is the Early Bird Monthly Pass scheme operated by the MTRC not one that requires other commuters to subsidise those benefiting from the scheme. Also the KCRC and the bus companies have been charging children and pupils half fares; would that mean that it is also unfair to the other commuters?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, this question does seem to me to be slightly outside the scope of the original question, which was about consultation on the student travel subsidy scheme. I suggest, if Mr. WONG wishes to ask about the MTR, he should ask a separate question.

MRS. NG (in Cantonese): *Sir, I do not agree with the answer provided by the Secretary. If the principle is correct, then we will not need to consult all the 19 district boards on the Vietnamese refugees question.*

As I said, this scheme would cause inconvenience to the parents because they will have to be means-tested and some parents have irregular incomes. So have you consulted the parents?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the proposal for a means-test has been dropped and is not included in the present scheme.

Review of administrative appeals

8. MR. SOHMEN asked: *Would Government advise this Council what progress has been made on the review of the general question of administrative appeals, which the Financial Secretary promised would receive early attention when he last commented on the issue in the debate on the Second Reading of the Banking Bill 1986 on 28 May 1986?*

CHIEF SECRETARY: Sir, we expect to complete the review within the next two months.

The review has been a task of some magnitude. It has been necessary to examine over 200 appeal provisions in more than 90 separate Ordinances. We have also had to analyse, in consultation with many different branches and departments, the diverse experience of appeals made under these provision. In each case, the review has sought to establish whether the procedures are adequate and, if not, whether there are grounds for change. It has looked not just at appeals to the Governor in Council, but also at appeals to the Governor, to specialist tribunals and to government officials.

Sir, although general conclusions have yet to be drawn, it is clear that, in most cases, the existing appeals procedures are working well. I think it unlikely, therefore, that any root and branch change is immediately necessary. However, Sir, some areas have been identified where, subject to the advice of the Executive Council, new appeals procedures may be warranted.

MR. SOHMEN: *Sir, the ad hoc group on the Banking Bill was assured in 1986 that its concerns about appeals from the decisions of one part of the executive branch to another were unnecessary, since the question of administrative appeals was already being addressed, and recommendations for appeals to judicial or quasi-judicial tribunals would be made soon. After two years of deliberation, the Chief Secretary now seems to be saying that the existing procedure will unlikely see much change. Does this mean, Sir, that as far as the appeals procedure under the Banking Ordinance is concerned, the present procedure will be retained? And if so, was the ad hoc group not being misled when it accepted the Financial Secretary's assurances that its views would be fully considered?*

CHIEF SECRETARY: Sir, may I defer to my friend the Financial Secretary.

FINANCIAL SECRETARY: Certainly, Sir, we had considered transferring appeals to the Governor in Council to an alternative body but, after we had studied the position, we concluded that this would present a number of difficulties. Under the Banking Ordinance some decisions are made to the Governor in Council so, if we were to set up an alternative body, it is likely that that body would be concerned with only some of the decisions under the Banking Ordinance. If an appellant body were established, it would normally be empowered to hear an appeal de novo; in other words, it would be empowered to take fresh evidence, and it would take decisions open to the administrator whose decision is under an appeal. Therefore, Sir, the tribunal could, in theory, reverse a decision based on the general policy of the administration of the Government and that policy would be a policy which had been accepted by institutions generally. It was felt, Sir, when we studied this matter, that it would be undesirable if the whole policy had to be reversed in an appeal before a new tribunal. It is unlikely, Sir, that such a tribunal would possess the full background to the policy on which the original policy decision had been made. It might also not be in a position to perceive all the wider implications of its decision. So, after study, Sir, it was considered that the best thing to do would be to leave these appeals with the Governor in Council as the principle policy-making body.

I accept, Sir, that some appeals under the Banking Ordinance could lie to an alternative body but there might be a number of technical issues to be resolved. Furthermore, Sir, it would not seem sensible, in our view, if we were to allocate some appeals to one body and others to remain with the Governor in Council.

MR. LI: *Sir, in view of the likelihood of major disagreements between the banking institutions and the Commissioner of Banking over the imposition of specific capital adequacy ratio on local institutions, would the Financial Secretary not agree that the establishment of an independent appeal committee under the Banking Ordinance, as promised by his former predecessor and as suggested by me in this Chamber as long ago as 28 May 1986, has become a matter of extreme urgency?*

FINANCIAL SECRETARY: I think, Sir, that the sort of matters that Mr. David LI has mentioned would in general be matters of policy, which would be better dealt with, as I have said in my answer, by the Governor in Council.

MR. SOHMEN: *Sir, in light of the Financial Secretary's answers, could I ask why these explanations were not provided at the time when we were analysing and debating that particular Bill?*

FINANCIAL SECRETARY: Sir, I am afraid it was my predecessor who was involved in that debate. I cannot answer this afternoon why those points were not mentioned at the time.

Written answers to questions**Effectiveness of the neighbourhood police offices scheme**

9. MR. POON CHI-FAI asked: *In June 1984, neighbourhood police units (NPU) were redesignated as neighbourhood police offices (NPO) which were no longer staffed on a 24-hour basis. Will Government inform this Council:*

- (a) how the NPO scheme works;*
- (b) whether the Government is satisfied that the NPO scheme is well received by local residents; and*
- (c) whether any review on the NPO scheme has been conducted and, if so, what the findings are; and whether there are any plans to further develop the scheme in the light of such findings?*

SECRETARY FOR SECURITY: Sir, although the neighbourhood policing scheme has been revised since it began in 1974, its aim remains to foster closer ties between the police and the community in the fight against crime. The scheme was strengthened in 1984 when neighbourhood police co-ordinators, police sergeants trained in public relations, were introduced.

The NPO scheme works through the police co-ordinators, who are normally based at neighbourhood police offices and are available for consultation with local residents at set times. There are 144 NPO: 57 in the New Territories, 41 in Kowloon, 36 on Hong Kong Island and 10 in the Outlying Islands. A further 19 are either planned or under construction. All NPO are included in the beats of their particular police division and are manned regularly by a patrolling constable, usually for about 15 minutes in every hour. The NPO will be closed when the constable is away on patrol but most have a public telephone for 999 calls. Manning of NPO may vary. For example, the NPO at the Star Ferry concourse on Hong Kong Island is open as long as the Star Ferry is operating.

There is no doubt that the old neighbourhood police units were popular with local residents and many had misgivings when the new scheme was introduced. But there are now more NPO than in 1984 and the neighbourhood police co-ordinators have established very good relations with the communities which they serve. The Commissioner of Police considers that the public have accepted the changes and appreciate that the new scheme allows police resources to be deployed more equitably and effectively.

The NPO scheme was reviewed at the end of 1984 and again in late 1987. In 1984 the conclusion was that the reorganisation had allowed better use of police resources; general criticism by the public had been minor; and that external telephones should be fitted for the public to call 999 when the NPO was closed.

The 1987 review confirmed that the NPO scheme is a more effective use of police manpower, putting more officers on the streets and giving more even police coverage throughout Hong Kong. The number of crimes reported has

levelled and there has been a slight increase in those detected. Fewer reports have been made to NPO but more have been made to patrolling officers. Since 1984 slightly more arrests have been made by members of the public.

There are no plans to revise the NPO scheme although it is intended that it should expand to keep pace with the needs of the community.

Environmental and ecological impacts of landfill sites

10. MR. LAU WONG-FAT asked: *In view of the extensive coverage of the controlled tip to be set up in the western New Territories, which will be one of the largest of its kind in the world, will Government inform this Council what specific measures are now being taken to minimise the environmental and ecological impact caused by controlled tips on their surrounding areas and the residents there? In particular, as refuse trucks will inevitably pass through residential areas as they travel to and from the controlled tips, will Government also inform this Council whether an anti-pollution code of practice will be introduced to govern such undertakings and whether more advanced and better equipped transport facilities will be used?*

SECRETARY FOR HEALTH AND WELFARE: Sir, Hong Kong's long-term strategy for waste disposal includes the establishment of three regional landfills in the west (WENT), north-east (NENT) and south-east (SENT) New Territories, which will be among the largest and most technically advanced of their kind in the world.

In common with all major public works projects, preliminary environmental reviews were carried out on both WENT and NENT before any commitment was made to detailed feasibility studies. Subsequently, rigorous environmental impact assessments were undertaken to define development and operation strategies which meet environmental criteria. The major environmental concerns of landfill projects are the containment, treatment and disposal of leachates, the control of gas emissions and noise nuisance.

A well engineered leachate containment system will be provided at WENT, comprising an impermeable liner and drainage layers on both sides of the liner. This system will prevent leachate from seeping through to the groundwater and into Deep Bay. The leachate thus collected will eventually be pumped to the north-west New Territories submarine outfall for disposal into the Urmston Road. In the interim, before this project is commissioned, the leachate will be transferred to the pillar point sewage treatment works for disposal.

In order to avoid the odour problems and hazard of gas migration, a series of landfill gas collection wells will be provided to pump gas, initially for flaring and later for utilisation. In addition, the daily covering of refuse and the filling-in of

contained cells will minimise potential nuisance from dust and vermin. Wheel washing and vehicle cleansing facilities will help to keep roads clean and reduce odour from delivery vehicles.

All practicable steps will be taken to control noise caused by vehicles travelling to and from the facilities. New access roads with noise barriers will be built to service the landfills and restrictions will be placed on hours of operation. With the exception of some local waste coming direct in refuse collection vehicles, all waste will be containerised. Moreover, half of the daily intake of WENT will be barged in by sea, thus reducing overall vehicle movements.

It is not proposed at this stage to introduce a special code of practice for landfill sites, although provision exists under the Waste Disposal Ordinance to publish codes of practice on all aspects of waste management. Environmental requirements will, of course, be enforced through contract conditions. Also, consideration is being given to the future carrying out of landfill operations by specialised contractors, which would allow even greater control to be exercised through performance contract.

Extension of the light rail transit

11. MR. TAI asked: *Will Government inform this Council whether the Kowloon-Canton Railway Corporation has submitted any recommendations on extending the Light Rail Transit so as to link up the north-western New Territories with the urban area? If not, what is the progress of the Light Rail Transit Extensions Study commissioned by the corporation and when is the corporation expected to make a definite decision on the recommendations contained in the study?*

SECRETARY FOR TRANSPORT: Sir, following acceptance by its Managing Board of the Consultant's report on possible rail links between the north-west New Territories and the urban area, the Kowloon-Canton Railway Corporation submitted the report to Government in March 1987. In their submission, the corporation have indicated that none of the three links examined, namely, Tuen Mun to Tsuen Wan, Yuen Long to Tsuen Wan, and Yuen Long to Tai Wo (in Tai Po), is viable on a stand-alone basis. It is only when the likely enhancement to the heavy and light rail systems are taken into account that the Yuen Long to Tai Wo link would be a viable option, adding as it might more than 50 000 passengers to the system per day in the mid-1990s. The corporation have also recognised that there are many factors which could affect the final choice of a rail link and have stressed that they have not eliminated further consideration of alternative routes.

Given that the corporation's study conclusions are based mainly on the engineering and financial viability of the various links, Government has to

consider the alternatives proposed in the light of overall transport infrastructure and development strategy, as explained in April 1987 to the corporation. Evaluation is now being done in the context of the Second Comprehensive Transport Study which examines all relevant factors, including the present and future travel patterns, benefits to the community, distribution of existing development, the potential for development along various alignments, the strategic transport network and related social aspects. Progress has been satisfactory so far and we hope to receive preliminary results in August this year.

Under section 20 of the Kowloon-Canton Railway Corporation Ordinance, any extension to the KCR or the light rail transit (LRT) will have to be approved by the Governor in Council. But until we have the findings of the Second Comprehensive Transport Study, Government will not be in a position to take a firm view as to whether any extension of the LRT to the urban area will be viable or which would be the preferred alignment.

Government Business

Motions

AIR PASSENGER DEPARTURE TAX ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: That with effect from 1 April 1988 the First Schedule to the Ordinance be amended as follows—

(a) in item 1 by deleting '120' and substituting the following—

'100';

(b) in item 2 by deleting '60' and substituting the following—

'50'.

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

The purpose of this motion is to reduce the tax payable under the Air Passenger Departure Tax Ordinance from \$120 to \$100 for an adult, and from \$60 to \$50 for a child, as proposed in the 1988 Budget.

The cost to General Revenue arising from the passage of the resolution is \$120 million a year. There are no staffing implications.

Sir, I beg to move.

Question proposed, put and agreed to.

DUTIABLE COMMODITIES ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: That with effect from 2.30 pm on 2 March 1988 the Schedule to the Ordinance be amended as follows—

(a) in Part I—

(i) by deleting paragraph 1 and substituting the following—

‘1. Duty shall be payable on the following types of Europeantype liquor at the rate of 30% of the value of the liquor (in accordance with section 26A of the Ordinance) and, in addition, at the rate specified against that type of liquor, per litre measured at a temperature of 20° Celsius—

<i>Type of Liquor</i>	\$
Brandy	55.00
Liqueurs, Whisky, Gin, Rum, Vodka and other spirituous liquors	48.00
Intoxicating liquors in this Part above the strength of 45% alcohol by volume, for every 1% above such strength in addition to the duties specified above.....	1.40

1A. Duty shall be payable on the following types of European-type liquor at the rate of 20% of the value of the liquor (in accordance with section 26A of the Ordinance) and, in addition, at the rate specified against that type of liquor, per litre measured at a temperature of 20° Celsius—

<i>Type of Liquor</i>	\$
Champagne and other sparkling wines.....	30.00
Still wines above 15% alcohol be volume	20.00
Still wines not more than 15% alcohol by volume.....	17.00’.

(ii) in paragraph 2 by deleting ‘128.00’ and substituting the following—

‘136.00’;

(iii) in paragraph 3—

(A) by deleting ‘128.00’ and substituting the following—
‘136.00’; and

(B) by deleting ‘4.30’ and substituting the following—

‘4.55’;

-
- (iv) in paragraph 4—
 - (A) by deleting ‘830.00’ and substituting the following—
‘880.00’;
 - (B) by deleting ‘430.00’ and substituting the following—
‘455.00’; and
 - (C) by deleting ‘14.30’ and substituting the following—
‘15.15’;
 - (v) in paragraph 5—
 - (A) by deleting ‘430.00’ and substituting the following—
‘455.00’; and
 - (B) by deleting ‘14.30’ and substituting the following—
‘15.15’;
 - (b) in Part II—
 - (i) in paragraph 1(a) by deleting ‘\$165’ and substituting the following—
‘\$175.00’;
 - (ii) in paragraph 1(b) by deleting ‘\$220/kg’ and substituting the following—
‘\$233.00/kg’;
 - (iii) in paragraph 1(c) by deleting ‘\$43/kg’ and substituting the following—
‘\$45.50/kg’; and
 - (iv) in paragraph 1(d) by deleting ‘\$200/kg’ and substituting the following—
‘\$212.00/kg’;
 - (c) in Part III—
 - (i) in paragraph 1(a) by deleting ‘\$2.40’ and substituting the following—
‘\$2.55’; and
 - (ii) in paragraph 1(b) by deleting ‘\$1.20’ and substituting the following—
‘\$1.27’; and

- (d) in Part IV in paragraph 1—
- (I) by deleting ‘\$430.00’ and substituting the following—
‘\$455.00’; and
- (ii) by deleting ‘\$14.30’ and substituting the following—
‘\$15.15’.

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

The purpose of this motion is to increase by 6 per cent the rate of duty payable under the Dutiable Commodities Ordinance on liquor, tobacco, hydrocarbon oils and methyl alcohol to restore the real value of the yield to 1987 levels, as proposed in the 1988 Budget.

Additional revenue is estimated to be \$207 million a year. There are no staffing implications.

Sir, I beg to move.

Question proposed, put and agreed to.

First Reading of Bills

JURY (AMENDMENT) BILL 1988

COMPLEX COMMERCIAL CRIMES BILL 1988

EMERGENCY RELIEF FUND (AMENDMENT) BILL 1988

HONG KONG POLYTECHNIC (AMENDMENT) BILL 1988

HONG KONG BAPTIST COLLEGE (AMENDMENT) BILL 1988

PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1988

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

Second Reading of Bills

JURY (AMENDMENT) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: ‘A Bill to amend the Jury Ordinance’.

He said: Sir, I move that the Jury (Amendment) Bill 1988 be read a Second time.

The Bill addresses four problems.

The first problem is concerned with exemptions from jury service. Section 5 of the Ordinance exempts certain categories of person from jury service. The provision to exempt urban councillors from jury service was made in 1971 when it was considered that the councillors' duties should take precedence over their duty to render jury service. Furthermore, as certain duties of the Urban Councillors are of a judicial nature, such as the granting or refusal of hawker licences, there could be potential conflicts of interest if they were not exempted from jury service. Members of the Regional Council, having similar duties, should be afforded the same treatment and be exempted. The opportunity is also taken to delete the word 'ordinary' from the term 'ordinary member', which was originally used to describe members who were not government officials, as there are now no longer 'official' members on the Urban and Regional Councils.

It is also desirable to exempt from jury service probation officers and social workers working in correctional institutions run by the Social Welfare Department, as the duties of these officers are directly concerned with the administration of justice. This is also in line with the current exemptions for officers working in the correctional services field.

The second problem arises from the fact that lists of jurors are available for purchase by the public. Sir, complaints have been received from members of the public that commercial firms are using these lists as mailing lists for potential customers. It is, therefore, proposed to discontinue publication. By virtue of this Bill, the right to purchase juror lists is removed but the lists may be inspected by the public at the office of the Registrar, Supreme Court.

The third problem relates to the need to update the Ordinance in line with the recent computerisation of juror listing. For example, with the computerisation of jury lists, in the selection of jurors for the purpose of forming a panel, potential jurors are no longer referred to by names but by numbers corresponding to their names, and ballot cards would no longer be written but printed with numbers corresponding to the names of the jurors summoned to form a panel. Certain provisions in the Ordinance will require amendment as a result.

Finally, Sir, the existing provision for the procedure whereby application for exemption from jury service is made to the court is not satisfactory as it does not prescribe the means of doing so. The Bill creates a new subsection that sets out the procedure to be adopted on application to the court for exemption from jury service.

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

Question on adjournment proposed, put and agreed to.

COMPLEX COMMERCIAL CRIMES BILL 1988

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to make provision for the trial of complex commercial crimes'.

He said: Sir, I move that the Complex Commercial Crimes Bill 1988 be read a Second time.

Sir, this Bill is an excellent example of the success of the Hong Kong consultative process. It is a Bill seeking to reform an area of criminal procedure by making sure that not only the desired end is achieved but that it accords with the interests and wishes of the community. The object of the Bill is to establish a procedure under which the real matters at issue in a complex commercial crime trial are identified at an early stage. Thereafter the jury will be able to decide disputed questions of fact and perform their task of establishing guilt or innocence more effectively.

In July 1984, the Attorney General's Chambers issued a proposal for reform of the method of trial of complex commercial crimes. It was suggested that a judge assisted by two commercial adjudicators, rather than a judge and jury, try such cases. On 13 March 1985, the Trial of Commercial Crimes Bill, which incorporated a slightly modified form of that proposal, was introduced to this Council. It is history that the 1985 Bill met with a storm of criticism. The opposition focused primarily on the abolition of jury trial for these cases and the perceived difficulties in finding impartial adjudicators.

An ad hoc group of members under the chairmanship of Mr. Peter C. WONG considered the 1985 Bill and recommended: that a Select Committee be established; and that the Bill be adjourned indefinitely to allow more discussion and to take into consideration the findings of the United Kingdom Fraud Trials Committee, more commonly known as the Roskill Committee. On 1 May 1985, a Select Committee was appointed, with Mr. Peter C. WONG as its chairman, but the committee was unable to complete its work before the end of that session. On 20 November 1985, a new Select Committee, again under Mr. Peter C. WONG's chairmanship was appointed to examine the problems involved in the prosecution and trial of complex commercial crimes. Sir, that Select Committee met a total of 19 times and received a large amount of oral and written evidence. It is testimony to its work that the minutes of evidence alone run to some 1 094 pages.

On 30 July 1986, the Select Committee published a comprehensive report making some 57 recommendations. The report is a clearly drafted and well considered document which is a credit to Mr. WONG and those involved in its compilation. The recommendations of the Select Committee were then the subject of extensive examination and consultation within the Administration. Work was then commenced on a Bill directed to those recommendations designed to improve the manner in which trials of complex commercial crimes are conducted.

Sir, the major areas of reform recommended by the Select Committee were the introduction of compulsory preparatory hearings and the abolition of committal proceedings in these cases. It was proposed that disclosure requirements of varying degree be placed on the prosecutor and on the accused. The preparatory hearing, while part of the trial, was to take place before the jury was empanelled. Under the scheme proposed, the purposes of the preparatory hearing included the identification of issues likely to be material to the verdict of the jury; aid to the jury's understanding of such issues; expedition of the proceedings before the jury and the assistance to the judge's management of the proceedings. The judge was to be able to determine questions of law during the preparatory hearing, including questions on the admissibility of evidence.

The Select Committee also recommended that the decision should be taken on the Trial of Commercial Crimes Bill 1985 in the light of its conclusion that the mode of trial for complex commercial crimes should remain unchanged. The Administration agrees that the trial by jury should remain, and so I intend later today formally to withdraw the 1985 Bill under Standing Order 52.

Sir, on 15 May 1987, the United Kingdom Criminal Justice Act received Royal Assent. That Act represents that part of the British Government's response to the Roskill Committee's work concerned with complex fraud. The drafting of the proposed Hong Kong legislation took account of the English Act while recognising that the paramount consideration was the implementation of the Hong Kong Select Committee report.

On 11 December 1987, the Complex Commercial Crimes Bill was published as a White Bill. While the Administration was firmly behind the Select Committee's proposals, it was felt to be appropriate to allow a further opportunity for public consultation on this very important measure. As the White Bill sought to implement Select Committee recommendations, public comments were received by OMELCO rather than the Administration. An ad hoc group, once again with Mr. Peter C. WONG, and then later with Mr. John SWAINE, as its chairman, was formed to consider the White Bill and to consider comments and representations on it.

Comments were received from the Judiciary, the Bar Association, the Law Society, the Director of Legal Aid, the Hong Kong General Chamber of Commerce, the Hong Kong Society of Accountants, the Hong Kong Management Association, the Association of Building Management and the Hong Kong Association of Banks.

Sir, there was broad support for the abolition of committals and the need for some sort of preparatory hearing procedure. Comparisons were made with the Criminal Justice Act which gives a much greater element of judicial discretion in the application of the special procedures than did the Hong Kong White Bill. It was felt that in Hong Kong too, a judge, rather than the Attorney General, should be empowered to decide when a preparatory hearing should take place.

Concern was also expressed about the definition of complex commercial crime and the extent of the obligations on the defence to disclose its case.

Many constructive suggestions were made and improvements to the proposed legislation were discussed. As a result of those discussions amendments to cater for the areas of concern were made to the White Bill.

The Bill before the Council today introduces a new form of court procedure for dealing with complex commercial crime cases.

As is now the case a person charged with an indictable offence will be brought before a magistrate. The magistrate will deal with preliminary matters such as bail or remand in custody, and the appointment of a day when the matter must come back before the court again. This is known as the return day. At present, on the return day the accused is given the option of having a preliminary enquiry, or committal, before the magistrate. The purpose of a preliminary enquiry is to determine whether the evidence establishes a prima facie case. If so the accused will be committed for trial.

Under clause 3 of the Bill, the Attorney General is empowered to apply to the magistrate for an order transferring the proceedings to the High Court. Such an application may not be made if the accused has already elected to have the charge against him heard at a preliminary enquiry. Before making an application for transfer, the Attorney General must be of the opinion that the evidence of the offence would be sufficient for the accused to be committed for trial, and reveals a case of fraud, or dishonesty in a commercial context, of such seriousness and complexity that it is appropriate that it be so transferred. Sir, this provision meets the concern that the White Bill did not adequately limit the ambit of the legislation to commercial crime.

Under clause 4, the magistrate must order that the proceedings be transferred where the Attorney General has applied. Within seven days of making the order it must be delivered to the Registrar of the High Court.

Appeal against the decision of the Attorney General to apply for an order of transfer or the order itself is prohibited under clause 5.

An obligation is placed on the Attorney General under clauses 6 and 8 to deliver a summary of evidence and an indictment to the registrar, also within seven days of the date of the order of transfer. This means that the High Court will have before it documents to enable it to decide what procedure should be adopted to deal with the transferred case.

Clause 9 introduces the element of judicial discretion in the application of the new procedures. Under the White Bill, the preparatory hearing would have been compulsory. Now, where it appears to a judge that the indictment and the summary of evidence reveal a case of fraud, or dishonesty in a commercial context, of such seriousness and complexity that substantial benefits are likely

to accrue from a preparatory hearing, he may order such a hearing. In other words, a judge needs to be satisfied that it is a case of the type and seriousness that requires the application of special procedures.

And the objects of the preparatory hearing set out in clause 9 reproduce those proposed by the Select Committee which I have already explained.

Where a judge decides to hold a preparatory hearing the trial commences with that hearing. His decision is not subject to appeal. The accused may plead to the indictment at the commencement of the preparatory hearing or defer his plea so long as he pleads before the jury is empanelled. And those provisions are set out in clauses 10, 11 and 12.

If the judge does not order a preparatory hearing, the trial will proceed in the usual way. The judge also has a discretion to decide what steps should be taken and how much of the new procedure should be adopted in a particular preparatory hearing.

Under clause 13, he may order the prosecutor to prepare a prosecution case statement, which is a concise account of the facts on which the prosecution case is based. He may also require the prosecutor to provide copies of witness statements, documentary exhibits, a list of exhibits and any other explanatory documents he considers appropriate.

The judge may order the accused, under clause 14 of the Bill, to state any objection he has to the prosecution case statement on the basis that it does not disclose the prosecution case with sufficient particularity to enable him to present his defence. The judge may order that the prosecution case statement be amended if it appears to him to be appropriate.

Clause 15 enables the judge to order the accused to state any objections he has to the admissibility of the proposed prosecution evidence. The judge can also determine questions of admissibility at this stage.

Where all objections to the prosecution case statement and the evidence have been dealt with, the judge may order the accused, under clause 16 of the Bill, to submit a defence response indicating the facts on which he takes issue with the prosecution. He may also order the accused to provide a statement of all the reasonably foreseeable propositions of law on which the defence may wish to rely and copies of the statements of any expert witnesses he intends to call.

The removal of the White Bill requirement for a defence case outline and the substitution of a defence response to the prosecution case, recognises that the object of identifying those aspects of the case in issue can be achieved without encroaching on principle.

Once the accused has indicated what part of the case he takes issue with, the next logical step is for the prosecutor to ask the accused to admit facts which have not been disputed. Under clause 17, the judge may order the prosecutor

to serve notice of those documents which ought, in the prosecutor's view, be admitted and any other matters which ought to be agreed. The judge may then order the accused to reply stating what he admits or agrees and the reasons for any refusal to admit or agree. The accused may give, as a reason for refusing to admit or agree, any matter, that it is central to a fact on which he takes issue with the prosecution, as indicated in his defence response.

Clause 18 of the Bill gives the judge a discretion to allow a witness to give his evidence before the jury is empanelled. This power can only be exercised where it would be unreasonable because of expense or inconvenience to require attendance before the jury and the nature of the evidence makes such attendance unnecessary. Witnesses who are to give purely technical or procedural evidence could come into this category. For example, a bank clerk, who was about to leave Hong Kong and was merely to testify that a cheque was deposited and recorded on a particular day, could be permitted to give his evidence under this provision.

Restrictions are placed on the reporting of preparatory hearings by clause 19 of the Bill. These merely reflect the current reporting restrictions on committals.

When the preparatory hearing is concluded, the judge will order, under clause 20, that the jury be empanelled. And the trial will then proceed in the usual way.

Clause 22 contains an important safeguard for the accused. He may apply at any time before the jury is empanelled for his discharge on the ground that the evidence disclosed is insufficient to establish a *prima facie* case against him. Thus, while the pre-existing right to a committal will be lost, the accused may still avoid a full trial before the jury if the prosecution case does not stand up.

Clause 23 enables the accused to file a balancing defence case statement to the prosecution case statement. But this is a purely optional document which will indicate the main lines of his defence.

Under the preparatory hearing procedure, many explanatory documents may be prepared to assist the jury. Under clause 25, these and other aids to their understanding, such as transcripts, the speeches of counsel and the judges summing up, may be given to the jury.

The sanction for unnecessary or improper acts or admissions by any party (including the prosecutor) during the proceedings is costs. The party at fault may be ordered under clause 26 to pay costs at any time during the proceedings. Costs may be awarded on a solicitor and own client basis, in other words to reimburse the costs actually being paid by the client.

The Bill enables rules to be made if necessary to regulate practice and procedure and also makes a number of consequential amendments to other Ordinances.

Sir, the length and complexity of some modern commercial crime cases and the problems encountered in their trial are a matter of concern to the whole community. This was recognised as long ago as 1984 when the original proposal for reform was made. Since then much has been learnt through the collective wisdom of the Hong Kong Select Committees, the ad hoc groups, the Roskill Committee and the legislation implementing its recommendations.

The initiatives contained in this Bill will not solve all the problems but they do go a long way towards ensuring a more logical manner of trial. The Bill reflects the wishes of the community. In any criminal trial, it must be remembered that the community too are a party. The accused and the community both have the right to expect fair, impartial and efficient justice. All of us involved in the process of criminal trial must continue to keep in mind that the interests of both parties are important. Sir, if that attitude is maintained then this Bill will be successful in reducing the length and cost of complex commercial crime trials without any encroachment on the rights of the accused, and the collective good of the people of Hong Kong will thereby be protected.

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

Question on adjournment proposed, put and agreed to.

EMERGENCY RELIEF FUND (AMENDMENT) BILL 1988

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: 'A Bill to amend the Emergency Relief Fund Ordinance'.

He said: Sir, I move that the Emergency Relief Fund (Amendment) Bill 1988 be read the Second time.

The primary purpose of this Bill is to change the date by which the audited statement of accounts and annual report of the Emergency Relief Fund should be tabled in this Council. At present, the Emergency Relief Fund Ordinance requires this to be done by 30 September each year; this has proved to be impractical because this date always falls within the annual recess. To avoid specific approval having to be sought each year for late tabling, the Bill proposes to change the date to 31 December.

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

Question on adjournment proposed, put and agreed to.

HONG KONG POLYTECHNIC (AMENDMENT) BILL 1988

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: 'A Bill to amend the Hong Kong Polytechnic Ordinance'.

He said: Sir, I move that the Hong Kong Polytechnic (Amendment) Bill 1988 be read the Second time.

As Members know, it is a common practice for institutions of higher education to confer honorary degrees. The purpose is to give public recognition to individuals for their contribution to the institution or to the community.

The University of Hong Kong and the Chinese University of Hong Kong are specifically authorised in their respective Ordinances to confer honorary degrees, and they have done so over the years to many eminent academics and prominent community leaders. The City Polytechnic also has this authority in its Ordinance although it has not yet made use of it. However, there is not yet any such provision in the Hong Kong Polytechnic Ordinance or the Hong Kong Baptist College Ordinance. The main purpose of this Bill is therefore to put right this omission by giving the Hong Kong Polytechnic specific authority to confer honorary degrees. In a few minutes I shall be introducing another similar Bill in respect of the Baptist College.

Sir, the Ordinance already authorises the polytechnic to confer 'academic awards' and 'honorary awards' but it has been suggested that it is not clear whether the term 'awards' includes 'degrees'. The Bill is therefore intended to clear up any uncertainty there may be on this point.

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

Question on adjournment proposed, put and agreed to.

HONG KONG BAPTIST COLLEGE (AMENDMENT) BILL 1988

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: 'A Bill to amend the Hong Kong Baptist College Ordinance'.

He said: Sir, I move that the Hong Kong Baptist College (Amendment) Bill 1988 be read the Second time.

I explained the reasons for this Bill just now when moving the Second Reading of the Hong Kong Polytechnic (Amendment) Bill 1988.

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

Question on adjournment proposed, put and agreed to.

PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1988

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: 'A Bill to amend the Protection of Wages on Insolvency Ordinance'.

He said: Sir, I move that the Protection of Wages on Insolvency (Amendment) Bill 1988 be read a Second time.

Members will remember that in reply to a question from Mr. TAM Yiu-chung in this Council on 18 May 1988, I said that I would soon be proposing an amendment to the Protection of Wages on Insolvency Ordinance to enable ex gratia payments to be made from the Protection of Wages on Insolvency Fund in cases where total claims against the employer are \$5,000 or less. This is the purpose of the present Bill.

Section 16 of the Ordinance provides that the Commissioner for Labour may make ex gratia payments from the fund to an applicant whose wages or wages in lieu of notice, or both, are due and unpaid, provided that either a bankruptcy or winding up petition has been presented against the employer. However, section 6(1)(a) of the Bankruptcy Ordinance does not allow the presentation of a bankruptcy petition if a debt or the total sum of debts is \$5,000 or less.

Since April 1985, when the fund came into operation, eight applications involving 16 employees have had to be refused by the Commissioner for Labour because of this restriction. If claims of \$5,000 or less are accepted, it is estimated that there will be about 30 such claims a year, involving a payment of about \$150,000 from the fund. This represents less than 1 per cent of annual payments from the fund.

Clause 2 of the Bill seeks to amend section 16 of the Ordinance to enable the Commissioner for Labour to make ex gratia payments from the fund to employees who are prevented from presenting a bankruptcy petition because of the restriction in section 6(1)(a) of the Bankruptcy Ordinance.

Sir, this seems to me to be a very worthwhile improvement to the Ordinance and it has the support of both the Labour Advisory Board and of the fund board.

I move that the debate on this motion be adjourned.

Question on adjournment proposed, put and agreed to.

TRIAL OF COMMERCIAL CRIMES BILL 1985

Resumption of debate on Second Reading (30 March 1985)

ATTORNEY GENERAL: For reasons given, Sir, in my speech introducing the Complex Commercial Crimes Bill 1988 and in accordance with Standing Order 52, I now withdraw the Trial of Commercial Crimes Bill 1985 from this Council.

Bill withdrawn pursuant to Standing Order 52.

CONVEYANCING AND PROPERTY (AMENDMENT) BILL 1987**Resumption of debate on Second Reading (28 October 1987)**

Question proposed.

MR. PETER C. WONG: Sir, when the principal Ordinance was enacted in 1984, it was warmly welcomed by the legal profession.

At the resumed debate of the Conveyancing and Property Bill 1984, I said:

‘The law relating to immovable property and conveyancing in Hong Kong has remained virtually unchanged since 1844. It is mainly based on English legislation of the 16th century and later which apply by virtue of the Application of English Law Ordinance...

After 143 years, we have now before us a fairly comprehensive piece of legislation of our own dealing with conveyancing and property, both movable and immovable. The Bill attempts to embody the best of modern English law and local practice and is designed to meet our own particular needs. To this end, it is, in my view, a typical Hong Kong compromise, one that will preserve continuity while at the same time incorporating useful and practical improvements. This Bill assumes greater importance if it is viewed in the light of the rapid development of Hong Kong as a modern financial and investment centre. In view of 1997, it is essential that we should have our own independent legislation which is not dependent upon English law and practice ...

While every effort has been made to ensure that the Bill is free from deficiencies, it is inevitable that it would be necessary to introduce refinements and improvements in the light of experience. It would not be possible to consolidate and up-date law which has existed for 143 years in one attempt without error or omission...

The Registrar General has agreed to monitor and review the new legislation after it has been enacted...’

Sir, experience has shown that indeed there is scope for expansion, improvement and refinement. The Bill, which incorporates a number of useful proposals, will further improve the law in this area.

The ad hoc group formed to study the provisions of the Bill met seven times, and had extensive discussions with the Administration. As a result, a number of useful and practical amendments have been agreed. Both the Bill and the agreed amendments are highly technical in nature. I shall therefore only highlight some of the more important provisions of the Bill and proposed amendments to it.

A vendor is usually required to produce, in order to prove his title to the land being sold, the Crown lease and all other relevant documents for a period of at least 25 years before the contract for sale. Clause 5(a) of the Bill reduces this period to 15 years because the longer period causes practical problems. In England, the period is 12 years. Members of the ad hoc group as well as practising conveyancers therefore welcome this reduction.

In considering the reduced period of 15 years, my group noted that for actions to recover land, the statutory limitation period is 20 years. In practical terms, this means that a purchaser who relies on the reduced period of 15 years may not be fully protected. We therefore recommend that the limitation period in respect of recovery for land be reduced to 12 years. The Administration is receptive to our suggestion and is considering amending the Limitation Ordinance as a matter of priority. We look forward to the early removal of this inconsistency.

Vendors have at times found it difficult to produce an original power of attorney where the power was given some considerable time before the conveyancing transaction. Clause 5(c) amends the law so that, unless the contrary intention is expressed, the vendor is only obliged to produce the original power of attorney where it was executed less than 15 years before the contract for sale.

My group noted that clause 5(c) as presently drafted may not achieve the desired effect. This subclause will therefore be amended so that the presumption that a power of attorney was validly executed is conclusive.

Clause 9 amends section 20 of the principal Ordinance which deals, inter alia, with the execution of deeds. My group takes the view that witnessing the signing of a document should not be a legal requirement and that a deed may be signed either in the name of a corporation or its authorised agent. Amendments to this effect have been agreed.

Lastly, the definition of floating charges in clause 18 is not exhaustive and may even create confusion. It has therefore been agreed that the proposed definition be deleted. Similar amendments should also be made to section 2A(1) of the Land Registration Ordinance.

We are grateful to the Registrar General, the Law Draftsman and the Legal Department for their assistance and valuable comments, and to the Law Society for its unqualified support.

Sir, the extensive consultation by the Registrar General and the support given to the Bill and the agreed amendments by the Law Society augur well for this important piece of legislation.

Sir, I support the motion.

ATTORNEY GENERAL: Sir, I would like to thank the members of the ad hoc group and in particular the convenor of the group, Mr. Peter C. WONG, for the lengthy and detailed consideration they have given to this Bill.

Sir, as we have heard, this subject is extremely technical. The Bill will cure several minor defects in the principal Ordinance but other changes to our land law may still be needed. Mr. WONG has proposed two such changes, namely to the statutory limitation period for actions to recover land and to the provision in the Land Registration Ordinance dealing with floating charges. I thank him for these proposals and assure him that they will be carefully considered by the Administration.

Sir, with these remarks, I support the amendments tabled today.

Question put and agreed to.

Bill read the Second time.

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

GUARDIANSHIP OF MINORS (AMENDMENT) BILL 1988

Resumption of debate on Second Reading (18 May 1988)

Question proposed, put and agreed to.

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

CONVEYANCING AND PROPERTY (AMENDMENT) BILL 1987

Clauses 2,4,8,11,13 to 17 and 19 to 29 were agreed to.

Clauses 1,3,5 to 7,9,10,12 and 18

MR. PETER C. WONG: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members.

*Proposed amendments***Clause 1**

That clause 1 be amended by deleting '1987' and substituting the following—

'1988'.

Clause 3

That clause 3 be amended by deleting the new section 8 and substituting the following—

Severance of
joint tenancy.

8. (1) A joint tenancy of an estate or interest in land may be severed at law only by—

- (a) a notice served by a joint tenant on the other joint tenants; or
- (b) an instrument.

(2) A joint tenancy of an estate or interest in land may be severed in equity by a notice served by a joint tenant on the other joint tenants or by any other method that is effective in equity or that would, but for subsection (1), be effective at law.'.

Clause 5

That clause 5 be amended—

- (a) by deleting 'extending at least 15 years' and substituting the following—
'extending not less than 15 years';
- (b) by deleting 'on sale';
- (c) by deleting the new subsection (4A) and substituting the following—

'(4A)Where any document is or has been produced by a vendor as proof of title to any land and that document purports to have been executed, not less than 15 years before the contract of sale of that land, under a power of attorney, it shall for the purposes of any question as to the title to that land be conclusively presumed—

- (a) as between the parties to that contract; and
- (b) in favour of the purchaser under that contract as against any other person,

that the power of attorney—

- (i) was validly executed;
- (ii) was in force at the time of the execution of that document; and
- (iii) validly authorized the execution of that document.'.

Clause 6

That clause 6 be amended in the new section 14(4)—

- (a) by deleting ‘without compliance with’ and substituting the following—
‘and that right is not subject to’;
- (b) by deleting ‘1987’ and substituting the following—
‘1988’.

Clause 7

That clause 7 be amended by deleting ‘1987’ and substituting the following—

‘1988’.

Clause 9

That clause 9 be amended—

- (a) in paragraph (a), by inserting, immediately after ‘under or through him’, the following—
‘or them’;
- (b) by deleting paragraph (b) and substituting the following—
 - ‘(b) in subsection (2), by deleting “in the presence of at least one witness” and substituting the following—
“or his own name and by affixing his own seal”.’.

Clause 10

That clause 10 be amended—

- (a) by deleting paragraph (a) and substituting the following—
 - ‘(a) in subsection (1)(a), by deleting “, or in the whole or part of an undivided share in land,”; and’;
- (b) in the new subsection (1B), by deleting ‘or’ in the first place where it occurs and substituting the following—
‘land’.

Clause 12

That clause 12 be amended in the new section 41—

- (a) in subsection (2)(c), by deleting ‘or’ in the first place where it occurs and substituting the following—
‘and’;

- (b) in subsection (3), by deleting ‘or’ in the second and fifth places where it occurs and substituting the following—
- ‘and’;
- (c) by deleting the new subsection (5) and substituting the following—
- ‘(5) A positive covenant shall not, by virtue only of this section, be enforceable against—
- (a) a lessee from the covenantor or from a successor in title of the covenantor or from any person deriving title under or through the covenantor or a successor in title of the covenantor; or
- (b) any person deriving title under or through such a lessee; or
- (c) any person merely because he is an occupier of land.’;
- (d) in subsection (9)—
- (i) by inserting, immediately after ‘Ordinance’, the following—
- ‘against the land affected by the covenant’;
- (ii) by deleting ‘or’ in the first place where it occurs and substituting the following—
- ‘and’;
- (iii) by inserting, immediately after ‘under or through him’, the following—
- ‘or them’;
- (e) in subsection (10)—
- (i) by deleting ‘entered into both before and after’ and substituting the following—
- ‘whether entered into before or after’;
- (ii) by deleting ‘1987’ and substituting the following—
- ‘1988’.

Clause 18

That clause 18 be amended by deleting the new section 56A(1) and substituting the following—

- ‘(1) A floating charge over property (whether or not it purports to restrict the chargor’s right to alienate the property) shall not affect any estate or interest in any land, being part of the property, acquired by any other person before crystallisation of the floating charge, whether or not the other person had actual or constructive notice of the floating charge or of any such purported restriction.’.

Question on the amendments proposed, put and agreed to.

Question on clauses 1,3,5 to 7,9,10,12 and 18, as amended, proposed, put and agreed to.

New clause 1A. Amendment of section 2.

New clause 8A. Amendment of section 19.

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

MR. PETER C. WONG: In accordance with Standing Order 46(6) I move that new clauses 1A and 8A as set out in the paper circulated to Members be read a Second time.

Question proposed, put and agreed to.

Clauses read the Second time.

MR. PETER C. WONG: Sir, I move that the new clauses 1A and 8A be added to the Bill.

Proposed addition

New clause 1A

That the Bill be amended by inserting, immediately after clause 1, the following—

‘Amendment of section 2.

1A. Section 2 of the principal Ordinance is amended—

- (a) in the definition of “assignment”, in paragraph (a) by deleting “, or in the whole or part of an undivided share in land,”; and
- (b) in the definition of “land”, by deleting “and” at the end of paragraph (b) and by inserting, immediately after paragraph (b), the following—

“(bb) the whole or part of an undivided share in land and any estate, right, interest or easement in or over the whole or part of an undivided share in land; and”.’.

New clause 8A

That the Bill be amended by inserting, immediately after clause 8, the following—

‘Amendment of section 19.

8A. Section 19 of the principal Ordinance is amended by inserting, immediately after subsection (4), the following—

“(5) This section does not affect any other law by which an individual may authorize another person to sign a deed on his behalf.”’.

Question on the addition of the new clauses proposed, put and agreed to.

GUARDIANSHIP OF MINORS (AMENDMENT) BILL 1988

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

GUARDIANSHIP OF MINORS (AMENDMENT) BILL 1988

had passed through Committee without amendment and the

CONVEYANCING AND PROPERTY (AMENDMENT) BILL 1987

had passed through Committee with amendments. He moved the Third Reading of the Bills.

Question on the Bills proposed, put and agreed to.

Bills read the Third time and passed.

Private Bills

First Reading of Bills

**THE SPIRITUAL ASSEMBLY OF THE BAHÁ'IS OF HONG KONG
INCORPORATION BILL 1988**

**HONG KONG TUBERCULOSIS, CHEST AND HEART DISEASES ASSOCIATION
INCORPORATION (AMENDMENT) BILL 1988**

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

Second Reading of Bills**THE SPIRITUAL ASSEMBLY OF THE BAHA'IS OF HONG KONG INCORPORATION BILL 1988**

MR. CHEONG-LEEN moved the Second Reading of: 'A Bill to provide for the incorporation of the Spiritual Assembly of the Baha'is of Hong Kong and to provide for matters incidental thereto or connected therewith'.

He said: Sir, I move that the Spiritual Assembly of the Baha'is of Hong Kong Incorporation Bill 1988 be read a Second time.

The Bill provides for the incorporation of the Spiritual Assembly of the Baha'is of Hong Kong and for the transfer of property and assets vested in the existing National Spiritual Assembly of Baha'is of Hong Kong to the newly incorporated assembly.

According to the assembly, the Baha'is faith began in Persia in 1863 and is now an independent religion with approximately 4.5 million members throughout the world. It has existed in Hong Kong for about 40 years with the first local spiritual assembly formed in 1952 and registered under the Societies Ordinance. The local Bahai'i community is currently administered by the 'National Spiritual Assembly' with a membership of about 800, all but a small handful being local people. In 1969, the assembly was incorporated under the Companies Ordinance. The inland revenue has recognised it as a charitable body.

This Bill follows the standard pattern of an Ordinance for the incorporation of a charity, club or private institution. It provides for the establishment and incorporation of the assembly, the administrative arrangements of the assembly including its objects and powers, transfers of the assets and liabilities of the existing assembly, including the employment of its staff to the new assembly. It also provides for the dissolution of the existing assembly on the commencement of the Bill.

Sir, I commend the Bill to hon. Members and move that the debate on this motion be adjourned.

Question on adjournment proposed, put and agreed to.

HONG KONG TUBERCULOSIS, CHEST AND HEART DISEASES ASSOCIATION INCORPORATION (AMENDMENT) BILL 1988

DR. CHIU moved the Second Reading of: 'A Bill to amend the Hong Kong Tuberculosis, Chest and Heart Diseases Association Incorporation Ordinance'.

He said: Sir, I move that the Hong Kong Tuberculosis, Chest and Heart Diseases Association Incorporation (Amendment) Bill 1988 be read a Second time.

The Hong Kong Tuberculosis, Chest and Heart Diseases Association was incorporated by Ordinance in 1948 with the main purpose of combating tuberculosis in Hong Kong. In 1980, when tuberculosis was under control, the Ordinance was amended to enable the association to extend its activities to cover all diseases of chest and heart.

Today, the association, in order to meet the demands of a changing society and to serve the community better, has decided to extend its activities to a wider spectrum of medical services. The services it plans to embrace include rehabilitation and convalescent services as well as medical treatment for patients in general, surgical and geriatric institutions. In keeping with its long-term development plans, the association is also preparing to build up and maintain its international linkage and to extend its activities to overseas countries.

In order to enable the association to extend its services, it is necessary for the Ordinance to be amended. The effect of this Bill, if enacted, will be to amend section 4 to widen the scope of the association's statutory objects to include the activities which I have just described.

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

Question on adjournment proposed, 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, 8 June 1988.

Adjourned accordingly at twenty-five minutes past Four o'clock.

(*Note: The short titles of the motions/Bills listed in the Hansard 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 Health and Welfare to Dr. CHIU's supplementary question to Question 4**

Fish and shellfish are sampled for analysis of microorganisms, chemicals and biotoxins. For the examination of pathogenic bacteria and heavy metals, samples of fish and shellfish are forwarded to the Pathological Institute of the Medical and Health Department bi-weekly for investigation of total bacterial count, faecal coliform and food poisoning organisms. The Government Laboratory is responsible for the analysis of heavy metals, pesticide residues, polychlorinated biphenyls and other contaminants as necessary. As for the examination of fish toxins, fish and shellfish are sampled at monthly intervals for examination at the Zoology Department of the University of Hong Kong.

Of all the samples analysed between April 1987 and March 1988, nine samples of fish and 39 samples of shellfish were found to contain either heavy metals above the permitted levels or non-permitted additives. Thirteen samples of fish and five samples of shellfish were found to be unsatisfactory after bacteriological examination due to high total bacterial counts or faecal coliform counts. However, all samples for toxicity testing were found to be satisfactory.

Annex II**Written answer by the Secretary for Health and Welfare to Dr. IP's supplementary question to Question 5**

With regard to the latter I am informed by the Secretary for Municipal Services that it is not possible to make such a differentiation. Concerning any difference in quality I am advised that China is an approved source for the export of fresh or frozen meat to Hong Kong and the standard of meat production was fully assessed by the Hong Kong Government before such approval was given. Therefore, the quality of cooked meat prepared from animals slaughtered in China is not considered to be inferior to that locally produced.

Furthermore, for the protection of public health, the Food Section of the Municipal Services Branch monitors the import of cooked meat intended for sale in Hong Kong transported across the border at Man Kam To. These consignments consist of roast meat, beef balls and ham and are imported from the Shenzhen Food Products Company. The cooked meat items are delivered directly to licensed food factories in Hong Kong for re-processing before being retailed. Results of samples of these meat products taken for chemical analysis and bacteriological examination are satisfactory.