OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 20 July 1988

The Council met at half-past Two o'clock

PRESENT

HIS HONOUR THE DEPUTY TO THE GOVERNOR (*PRESIDENT*)
(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.
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 STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.
THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.
THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.
THE HONOURABLE MARIA TAM WAI-CHU, C.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. 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 JACKIE CHAN CHAI-KEUNG
THE HONOURABLE CHENG HON-KWAN, J.P.
THE HONOURABLE HILTON CHEONG-LEEN, C.B.E., J.P.
DR. THE HONOURABLE CHIU HIN-KWONG, O.B.E., 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 MARTIN LEE CHU-MING, Q.C., J.P.
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
THE HONOURABLE ANDREW WONG WANG-FAT
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.
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
THE HONOURABLE CHARLES ROBERT SAUNDERS, J.P.
SECRETARY FOR LANDS AND WORKS (*Acting*)
THE HONOURABLE DOMINIC WONG SHING-WAH, J.P.
SECRETARY FOR EDUCATION AND MANPOWER (*Acting*)
THE HONOURABLE ADOLF HSU HSUNG, J.P.
SECRETARY FOR HEALTH AND WELFARE (*Acting*)
THE HONOURABLE CANICE MAK CHUN-FONG
SECRETARY FOR TRANSPORT (*Acting*)

ABSENT

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.
THE HONOURABLE ALLEN LEE PENG-FEI, C.B.E., J.P.
THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., Q.C., J.P.
THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, O.B.E., J.P.
THE HONOURABLE KIM CHAM YAU-SUM, J.P.
THE HONOURABLE THOMAS CLYDESDALE, J.P.
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.

IN ATTENDANCE

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

Papers

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

Subject	*L.N. No.*
Subsidiary Legislation:	
Road Traffic Ordinance Road Traffic (Public Service Vehicles) (Amendment) Regulations 1988	185/88
Dogs and Cats Ordinance Dogs and Cats (Fees) Order 1988	186/88
Registration of Persons Ordinance Registration of Persons (Application for New Identity Cards) (No.5) Order 1988	187/88
Copyright Act 1956 Copyright (Hong Kong) Orders 1972 and 1979 Copyright (Performing Right Tribunal) (Amendment) Rules 1988	188/88
Factories and Industrial Undertakings (Dangerous Substances) Regulations 1988 Factories and Industrial Undertakings (Dangerous Substances) Regulations 1988 (Commencement) Notice 1988	189/88
Legislative Council (Electoral Provisions) Ordinance Legislative Council (Electoral Provisions) (Procedure) (Amendment) Regulations 1988	190/88

Sessional Papers 1987-88:

No. 67—J.E. Joseph Trust Fund Report for the period 1 April 1987 to 31 March 1988

No. 68—Kadoorie Agricultural Aid Loan Fund Report for the period 1 April 1987 to 31 March 1988

No. 69—Report by the Trustee of the Police Children's Education Trust and Police Education and Welfare Trust for the period 1 April 1986 to 31 March 1987

No. 70—Sir David Trench Fund for Recreation Trustee's Report 1987-88

No. 71—Sir Robert Black Trust Fund Annual Report for the year 1 April 1987 to 31 March 1988

No. 72—Statement of Accounts and Report on the Administration of the Travel Agents' Reserve Fund with Certificate of the Director of Audit for the year ended 31 March 1987

No. 73—Report of the Public Accounts Committee on Report No.11 of the Director of Audit on the Results of Value for Money Audits—June 1988 P.A.C. Report No.11

No. 74—Report on the Administration of the Immigration Service Welfare Fund prepared by the Director of Immigration for the period from 1 April 1987 to 31 March 1988

Oral answers to questions

Health of workers engaged in compressed air work

1. DR. IP asked: *Will Government inform this Council of the number and nature of decompression sickness cases which have resulted from work in compressed air since 1987; are existing measures adequate to safeguard the health of workers involved in such work?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, since 1987 only the Eastern Harbour Crossing project involves work in compressed air. Between May 1987 when such work began and June this year, 244 decompression sickness cases arising from work in compressed air were reported to the Labour Department. These cases were divided into two types according to the degree of seriousness. Two hundred and thirty-nine were categorised as type I or mild cases, and five were type II or more serious cases.

As regards the nature of sickness, perhaps I should explain that in a compressed air environment more nitrogen dissolves in the blood and body fluids than at normal atmospheric pressure. If the air pressure is suddenly reduced, bubbles of nitrogen will form in the body tissues and in the bloodstream, producing symptoms collectively known as the 'bends'. In type I cases patients suffer from pain in one or more of his limbs but do not feel or look ill. The intensity of the pain varies from slight to agonising. In type II cases patients usually feel and appear ill. In addition to pains in the limbs, their blood circulation system, neurological system, respiratory system or digestive system may be affected.

Turning to the question of adequacy of measures to safeguard the health of workers, I would point out that compressed air operations are governed by the Factories and Industrial Undertakings (Work in Compressed Air) Regulations. Contractors are required to provide adequate medical supervision and treatment facilities for workers. A medical practitioner must be appointed to

supervise all medical matters relating to such work. A new hand can only start work if he has obtained a certificate of fitness not more than three days before employment. Regular workers must also obtain certificates of fitness every four weeks before they can continue to be employed. Even with the fitness certificate, a worker cannot be employed in compressed air work if he is suffering from a cold, chest infection, sore throat or earache. Any worker suffering from these or other illnesses and has been absent from work for more than three days must be re-examined and certified to be fit before he can resume work. In addition, all workers are required to undergo X-ray examinations of their major joints within four weeks of employment and annually thereafter.

The regulations also specify the proper use of compressed air man-locks and their control by trained lock attendants. In addition, a new worker must be accompanied by a person experienced in compressed air work. The employer is required to give an advisory leaflet to the new worker advising him to follow all the rules. A medical lock for immediate treatment purposes must be kept ready on site at all times. Every worker must wear a label giving the address of the treatment facilities to which he should be sent if taken ill after work.

In order to enforce the regulations in the case of the Eastern Harbour Crossing project, the Labour Department has a special unit of three experienced factory inspectors to conduct periodic site inspections, and to provide advice and courses on safety at work in compressed air for site personnel. A booklet entitled 'Lock Attendant's Handbook', in English and Chinese, is made available to compressed air man-lock attendants.

Sir, I am satisfied that the existing provisions in law and enforcement are adequate to safeguard the safety and health of workers engaged in compressed air work.

DR. IP: *Sir, are these cases of decompression sickness the result of negligence on the part of the workers or the employers?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, there are many causes. I think the incidence of negligence is very few but there are situations where the worker himself may be physically unfit and he himself may not be aware. For example, he has a cold but he has not told anybody or he is not quite aware of it. Such causes as these would result in decompression sickness.

MR. POON CHI-FAI (in Cantonese): *Sir, paragraph 1 of the answer says that between May 1987 and June 1988, there were 244 decompression sickness cases. Would the Administration inform this Council whether there is any data showing how many workers are involved in compressed air work and among all these workers, what is the percentage of those who have suffered from the decompression sickness? How does this compare with other industrial accidents?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I must point out that there were 244 cases and not 244 workers involved. In fact, the exact number of workers involved was 152 out of about 400 workers engaged in this type of work. As regards the incidence rate, I would say, generally speaking, this is a very low figure. The figure of 244 cases is in respect of 37 850 man-decompressions over the period and in terms of percentage it is 0.64. Indeed, that is a very low figure.

DR. IP: *Sir, has an analysis been done of the causes of the decompression sickness in order to find out the percentage of decompression sickness that has been due to the lack of physical fitness of the workers involved?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I do not think we have really checked into these figures, but I can confirm that anybody who is known to be unfit will not be allowed to engage in work in compressed air. As regards possible causes of such sicknesses, there can be a few. Sometimes, it can be intentional or unintentional; the worker may have taken wine or spirits after work, and this increases the blood circulation straightaway. It may also be due to the physical condition of the worker himself including any type of minor ailment, of which the worker himself is not aware.

DR. IP: *Sir, would it be fair to say that with the best of health of the workers and accident prevention measures, one does not expect to see decompression sickness?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think no one can really rule out the possibility of sickness but it is certainly true that the incidence rate would be much lower.

Legal services

2. MR. SOHMEN asked: *Would Government inform this Council whether it endorses the restrictions imposed by the Council of the Law Society on locally qualified solicitors being employed by foreign law firms with offices in Hong Kong (even when undertakings would be given that the foreign-qualified lawyers in these law firms will not hold themselves out as being in the practice of law in Hong Kong) and whether Government considers this policy to be in the interests of Hong Kong as a major commercial and financial centre in the region?*

ATTORNEY GENERAL: The Government fully supports any action taken by the legal profession to ensure that the highest possible standards of legal services are provided to the community of Hong Kong.

At the same time, in line with its philosophy in so many other areas, Government does not favour restrictive practices aimed at protecting particular groups against competition.

There is clearly a balance to be struck between these two aims.

On the specific question of the work which foreign law firms should be permitted to undertake and whether they should be allowed to employ or take into partnership locally qualified solicitors, Members are probably aware that a committee under the chairmanship of the former Chief Justice has examined various issues relating to the subject and has submitted a report to the Governor.

Members may also be aware that a number of American law firms in Hong Kong have petitioned the Governor. In their petition they seek to be allowed to employ or to admit as partners, Hong Kong solicitors, who may continue to practise Hong Kong law or such other law as they are qualified to practise in the name of the foreign law firms. They also seek a change in the law to enable admission to practise as a solicitor to be based on motion without examination if reciprocal privileges have been accorded to Hong Kong practitioners in the jurisdiction of the applicant.

The Government is now reviewing current policy in the light of these developments and will be putting recommendations to the Executive Council in due course. All I can say at this stage is that these recommendations will be formulated on the basis of Hong Kong's best interests taking into account the need for high quality legal services commensurate with Hong Kong's position as a major international centre of commerce and finance.

MR. SOHMEN: *Sir, could the Attorney General explain the rationale in allowing local Hong Kong law firms to admit lawyers qualified in other jurisdictions—by whatever name they are called: special advisors, special counsel—but not allowing foreign law firms established in Hong Kong to admit locally qualified solicitors to be employed or come in as partners. Does this not suggest a double standard in the search for the highest possible level of legal services for the community?*

ATTORNEY GENERAL: Sir, the entry into legal practice in Hong Kong as a member of the legal profession here is regulated under the Legal Practitioners Ordinance. I know of no practice under which Hong Kong law firms can bring into qualified practice lawyers who are qualified in foreign jurisdictions unless those lawyers have first qualified as Hong Kong lawyers.

MR. MARTIN LEE: *Sir, will the Administration indicate to this Council (1) whether it will consult the legal profession in Hong Kong before it comes to a decision on the petition by the American law firms; and (2) whether it appreciates that the said petition may impinge on a very important aspect of public policy, namely, the importance of encouraging more graduates of law from the University of Hong Kong to join the legal profession as we need to have many bilingual lawyers both before and after 1997 to maintain the rule of law?*

ATTORNEY GENERAL: Sir, in the review of policy to which I referred, there has already been consultation with the Law Society and the views of the Law Society will, of course, be reflected in the recommendations that will be put to the Executive Council. Included in that review and in those recommendations will be the consideration of the point made by Mr. Martin LEE.

MISS DUNN: *Sir, is it suggested that the standards of the legal profession would be compromised if Hong Kong qualified lawyers employed in foreign firms were permitted to practise? If so, would the Attorney General explain why this would be so?*

ATTORNEY GENERAL: Sir, as I have already indicated, a balance is to be struck. An important part of that balance is the maintenance of the highest possible standard in the provision of legal service in Hong Kong. And I would not wish my reply to be implying any criticism of the prevailing legal standards.

MR. SOHMEN: *Sir, would the Attorney General accept the argument made by the Law Society that the admission of locally qualified solicitors to foreign firms in Hong Kong would mean that the Law Society would lose control over their conduct and professional behaviour?*

ATTORNEY GENERAL: Sir, the Government is very conscious of the fact that the community of Hong Kong is entitled to a reasonable assurance that persons admitted to practise law in Hong Kong are properly qualified and able to provide a high quality of service and Government's recommendations will be formulated with this in mind.

MR. MARTIN LEE: *Sir, does the Administration recognise that in Hong Kong today, a newly qualified solicitor of less than two years' standing is not permitted to be a partner of a firm to make sure that he will be subject to proper supervision by a more senior and experienced solicitor, and that if the suggestion of the American firms were acceded to, then there would be a danger that the newly qualified solicitor from Hong Kong may be employed in such a foreign firm without adequate supervision?*

ATTORNEY GENERAL: Sir, I was of the rule concerning the admission into partnership of newly qualified solicitors. The question of the regulation of foreign law firms, were that to be an issue, would need to be very carefully addressed before any proposals could be implemented.

Central registry for chemicals and pharmaceuticals

3. PROF. POON asked: *Will Government consider the proposal to set up a central registry for chemicals, pharmaceuticals and similar substances to facilitate the rapid retrieval of information which may be required by medical or fire service personnel in case of accidents arising from the use of such substances?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Fire Services Department is presently seeking approval for the acquisition of a central registry system which would provide information to identify chemical products, their inherent hazards and the correct procedures for dealing with them in emergencies. It will be a micro computer system working on a subscribed package data base. Once the system is operational, the department will be able to obtain the relevant information very rapidly and this should greatly assist the department in its fire fighting and rescue operations.

In the interim, arrangements have been made for the Fire Services Department to obtain information on hazardous chemical products from the Environmental Protection Department, which has a limited system containing information on the properties of hazardous chemicals, decontamination and first aid measures, as well as recommendations on protective clothing and fire fighting methods. In addition, the Government Laboratory has a 24-hour standby service whereby officers can be called out to any site where there is a problem or dangerous situation involving chemicals, whether leaking or otherwise.

In the case of pharmaceuticals, an information service on drugs and drug therapy, acute and chronic poisoning from drugs or chemicals and adverse drug reactions, has been provided since January 1988 by the Department of Clinical Pharmacology of the Chinese University of Hong Kong and based at the Prince of Wales Hospital. This service is available to all members of the medical profession and is publicised through the medical associations.

PROF. POON: *Sir, would the Secretary inform this Council when the central registry of chemicals will be established? Will the system be open to the public, in particular medical professionals, who may need information in the case of accidents arising from the misuse of these chemicals?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as regards the first part of the question, assuming the application by the department receives approval in the normal way and allowing for reasonable lead time for procurement and installation, the earliest commissioning date of the system will be mid-1989. As regards the second part of the question, members of the public will have no access to the drug information service or the chemical products systems because it is considered advisable for them to consult their doctors for a proper diagnosis of their problems before seeking any treatment. Patients suffering from burns or poisoning by chemical products are normally referred to the Accident and Emergency Departments of hospitals and the doctors in charge should be able to contact the Fire Services Department to obtain the necessary information if they consider it would help in diagnosing and treating the patient. I shall ensure that the channel of communication is established between the Medical and Health Department and the Fire Services Department.

MR. WONG PO-YAN: *Sir, in the process of the acquisition of the data, will Government consider seeking the help and co-operation from the various Chambers of Commerce or associations?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I shall certainly bring this to the attention of the Fire Services Department.

PROF. POON: *Sir, has the Government considered the possibility of linking the two different systems, that is, the one to be acquired by the Fire Services Department on chemicals and the other one already established in the Prince of Wales Hospital on pharmaceuticals, so that a more powerful and extensive data base could be made available to potential users?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I believe the Fire Services Department would like to have a stand-alone system rather than a centralised one. This is because with a centralised system, unless it is designed to incorporate very costly multiple-access and fail-safe provisions, there is the risk of delays in information retrieval and the possible failure of the main computer would render the entire system non-operational.

Written answers to questions

School Medical Service Scheme

4. DR. LAM asked: *Will Government inform this Council whether there are any deficiencies in the existing system and operation of the School Medical Service Scheme which call for improvements and if so, what are these deficiencies and how would the Government carry out the necessary improvements?*

SECRETARY FOR HEALTH AND WELFARE: The School Medical Service is operated by a statutory School Medical Service Board established under the School Medical Services Board Incorporation Ordinance. As a result of a recent review by the board, deficiencies in the School Medical Service Scheme have been identified, relating both to the quality of service provided by participating doctors and to the administration of the scheme itself.

With regard to the first category, a number of complaints have been received by the School Medical Service Board secretariat over the years from parents of participating students, mainly concerning discriminatory treatment in doctors' clinics, and over the question of whether they should be charged separately for the provision of medicines. In the absence of prescribed rules, these have never been satisfactorily resolved.

Notwithstanding the above, the principal deficiency in the existing scheme is administrative in nature. At present a school principal chooses a number of doctors and circulates their names to parents of his students inviting them to join the scheme. While appealing in terms of administrative convenience, this arrangement has the following defects:

(*a*) since enrollment in the scheme is voluntary, a student's ability or incentive to participate is influenced by the attitude of the school principal. Some principals are not interested in the scheme and refuse participation by their schools, thereby making it very inconvenient for individual students to join even if they wish because they would then have to be registered in person at the board's office, and

(*b*) certain parents may not wish their children to participate because the doctors selected by the school are unknown to them or their clinics are inconveniently located.

The School Medical Service Board, working closely with Government, has drawn up a number of immediate remedies. It has established, since September 1987, a complaints sub-committee to investigate complaints. It has also decided to make administrative changes to the 'school chooses doctor' system and introduce a system with parental choice in doctors starting from the next academic year. Such a system, involving parents choosing from a list of participating doctors drawn up by the board and circulated through the schools, will help to obviate the deficiencies described above. Since it will also enable parents to change their choice of doctors on a year-by-year basis, the quality of service provided could be ensured.

For the longer term, the School Medical Service Board has put forward a number of proposals to Government to improve the existing scheme. They relate mainly to the level of renumeration payable to doctors, the level of enrollment fee payable by parents, procedures relating to the issue of prescriptions and medicines, and the need for an increased element of preventive medicine in the scheme.

The Secretary for Health and Welfare is appointing a working group to examine the board's proposals and to review the School Medical Service Scheme and its future direction, with a view to finding the most appropriate way in delivering medical services to school children.

Private funeral funds for the elderly

5. MRS. NG asked: *Will Government inform this Council whether it has any plan to introduce legislative control over the establishment of private funeral funds for the elderly, and the measures that will be taken to protect participants contributing to these funds?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, a number of funeral funds for the elderly are being operated essentially as private arrangements by traditional organisations such as kaifong and clansmen associations in some districts. Members either pay a small monthly subscription ranging from $1 to $10 for a specified period and the fund pays his family members a funeral subsidy when he passes away, or pay no monthly subscription and when he passes away the other surviving members of the fund all contribute a fixed amount to subsidise his funeral expenses.

The establishment of these funds can be traced to the early 1940s. During recent years, they have rapidly lost their popularity mainly as a result of improved services to the elderly, cheaper funeral services and general acceptance of cremation. Most of the funds being operated are facing declining membership, and some have ceased to recruit new members as a result of diminished support. The funds are, however, generally well managed. No complaints have been received either on their management or operation in the last few years.

In view of the above, the Government has no plan, nor considers it justified. to introduce legislative control over the funds.

Information on China's traffic and customs regulations

6. MR. POON CHI-FAI asked: *Given that there are increasing numbers of Hong Kong residents who frequently travel by car across the border into Mainland China, will Government inform this Council whether it will liaise with the relevant authorities with a view to enhancing the understanding of the traffic and customs regulations which the frequent travellers have to observe during their visits in Mainland China?*

CHIEF SECRETARY: Sir, the Government is not in a position to provide information on China's traffic or customs regulations for Hong Kong residents travelling by car to China. This is a matter for the Chinese authorities, although issues that have arisen are raised during regular border liaison meetings.

To put the question in its context, the number of private cars allowed to cross into China is regulated by quotas agreed by the Hong Kong and Shenzhen authorities. The quotas currently stand at 300 for the Man Kam To border crossing point and 600 for Sha Tau Kok. The higher quota at Sha Tau Kok is to relieve pressure at Man Kam To which is operating close to capacity. The present number of cars making use of this facility is 263 for Man Kam To and 397 for Sha Tau Kok. The quotas are therefore not fully taken up.

All vehicles entering China are subject to Chinese licensing and registration requirements and the drivers are required to pass a Chinese driving test. Drivers are therefore given all necessary instruction on traffic regulations and procedures

by the Chinese authorities before being allowed to drive there. Should any additional information be required, drivers or vehicle owners can make enquiries of the Shenzhen authorities.

On customs regulations, we understand that the Shenzhen authorities issue a 'Customs Handbook for Drivers' when vehicles pass a vehicle inspection, which is a condition for being allowed to drive in Shenzhen. This matter was raised at a regular border liaison meeting on 14 July and the Shenzhen authorities undertook to consider whether more information about customs regulations should be given to Hong Kong drivers crossing into China.

Cavernous marble in Yuen Long district

7. MR. LAU asked: *Will Government inform this Council to what extent the underground caves in Yuen Long would affect the development of the district and whether a full scale survey would be carried out to identify the exact coverage of the caves? If not, what measures will be taken to ensure the safety of the buildings in the district?*

SECRETARY FOR LANDS AND WORKS: Sir, the presence of caverns in the marble under development sites in Yuen Long may cause problems for the design and construction of building foundations. If the presence of caverns is suspected, detailed geotechnical investigations need to be carried out as part of the design process. Design and construction problems can generally be overcome, but foundations of buildings on cavernous marble are likely to be more expensive to construct than normal. However, marble does not occur everywhere in the Yuen Long district and, even where it does occur, it may not contain cavities.

Regarding a survey, a major geological mapping project aimed at locating marble bedrock is now being undertaken by the Geotechnical Control Office. The mapping project involves the drilling of deep boreholes and the assessment of existing borehole data. It will result in a series of detailed geological maps showing the areas of marble known to contain cavities. The maps will be produced over the next 16 months. Priority is being given to the Yuen Long town area and a preliminary map will be available later this month.

In addition to the geological maps, other relevant data such as borehole records and investigation reports are being assembled by the Geotechnical Control Office. These data will provide a valuable source of information for engineers and architects in the design of new developments.

Concerning the safety of buildings, the design for foundations for any private development must be submitted for approval to the Buildings Ordinance Office, who will seek the advice of the Geotechnical Control Office. The intention is to give approval only to foundations which will safely support the buildings to be built on them.

To assist the Geotechnical Control Office in dealing with the problems caused by the cavernous marble in the Yuen Long district, specialist consultants have been employed. The consultants are advising on the mapping of the geology of the area and on suitable design and construction standards.

Lastly, Sir, I would like to reassure members that the Geotechnical Control Office has no reason to believe that there is any danger to existing buildings in the Yuen Long area. The office will continue to monitor the situation.

Effects of the Metroplan on new towns

8. MR. LAU asked: *Will Government inform this Council what effects the Metroplan will have on the overall development of the new towns, particularly the demand on transport capacity, job opportunities and environmental improvements, and how the Administration will ensure that the Metroplan will be consistent with the development of the new towns?*

SECRETARY FOR LANDS AND WORKS: Sir, Metroplan is the name given to the sub-regional planning statement for the metropolitan area, that is to say Hong Kong Island, Kowloon, and Tsuen Wan/Kwai Chung/Tsing Yi. The purpose of the planning statement is to set down the Government's objectives for the future development of this area, and to provide a framework for this. The plan will be complementary to the four sub-regional planning statements already produced for the New Territories; thus, the future development strategy for the metropolitan area will complement, rather than compete with, the development programmes for the new towns. The Metroplan will not affect the overall development of the new towns to which the Government is fully committed.

The demand for transport capacity between the new towns and the metropolitan area is being studied in the context of the Second Comprehensive Transport Study (CTS-2), which will produce an updated plan of transport networks and services to meet predicted territory-wide travel needs up to the year 2001. The metroplan study will take account of the transport framework derived from CTS-2 in recommending land-use patterns for the metropolitan area.

As regards job opportunities, Metroplan will explore the scope for encouraging the decentralisation of jobs in manufacturing industry, particularly from heavily congested and obsolete industrial zones. However, it is inevitable that the metropolitan area will for some years to come remain the centre for major business activities, although 'satellite' developments could occur at certain locations where improved accessibility is likely to occur.

As regards environmental improvements, which are closely related to land use/transport planning, it is the aim of Metroplan to follow as far as possible the standards now applicable to the new towns in the provision of community facilities.

Finally, as regards 'consistency' between Metroplan and the new towns, both the development of the metropolitan area and the continued development of the new towns form part of the strategic framework identified by the Territorial Development Strategy (TDS) study. Indeed, one of the planning assumptions of Metroplan is that population in the metropolitan area will be kept at about the current level of 4.2 million, with any increases in population taken up in the new towns (except Tsuen Wan/Kwai Chung/Tsing Yi). The need for compatibility of developments throughout the territory is kept firmly in mind in future updating of the TDS framework and in the preparation of development programmes.

Display of traffic signs during and after road works

MR. POON CHI-FAI asked: *Very often traffic signs are not clearly and accurately reinstated during or after road maintenance or construction works, with the result that road users may contravene traffic regulations because they have been affected by the outdated or unclear signs, and occasionally accidents may happen. Will Government inform this Council:*

(a) what measures are being taken to prevent such incidents; and

(b) whether, should road users contravene traffic regulations inadvertently under the above circumstances, the police will consider taking action with flexibility in order to ensure that such cases will be handled fairly?

SECRETARY FOR TRANSPORT: Sir, there are well established procedures to ensure that traffic signs are properly displayed during and after road works.

Contractors are not permitted to alter any traffic signs or road markings unless they are physically affected by the road works. For road works involving alternation to traffic signs, Highways Department will work out with Transport Department and the police satisfactory temporary signing arrangements before the works begin. The contractors are required to take every care to maintain temporary signs and subsequently reinstate these signs upon completion of the road works. The Highways Department will conduct inspections to ensure all affected traffic signs are correctly and properly reinstated.

Transport Department staff also inspect regularly existing signs to ensure that they are maintained in good conditions and are compatible with any change to road traffic conditions.

In addition, a code of practice for the lighting, signing and guarding of road works during maintenance or construction work was published in 1984. It provides comprehensive guidance on measures to be taken to minimise inconvenience and potential hazards to road users during road works. The types of temporary traffic signs that should be used and their proper location are illustrated in detail in the code.

Police officers are required to exercise their discretion in enforcing traffic offences. The decision to proceed with a prosecution or otherwise, depends on the circumstances under which the traffic offence is committed. Extenuating circumstances like the poor display of a traffic sign will normally lead to a verbal caution rather than the issue of a fixed penalty ticket. Under normal circumstances, no prosecution will be taken for contravening an outdated traffic sign. When a driver sends a written complaint of unjust issue of a fixed penalty ticket and if it is confirmed that the traffic sign is poorly located or needs improvement, the fixed penalty ticket concerned will be cancelled and Transport Department will be notified to rectify the situation.

Overseas scholarships for orthoptists in optometry

10. MR. EDWARD HO asked: *Will Government inform this Council whether it is offering overseas scholarships to train up orthoptists to provide optometry services at its eye clinics, and if so, what the justification is for continuing with this practice since there is already a steady supply of qualified optometrists from the Hong Kong Polytechnic?*

SECRETARY FOR HEALTH AND WELFARE: Orthoptists are deployed in the ophthalmic service to assist ophthalmologists in dealing with problems associated with binocular functions, including diagnosis and management of certain eye conditions, in particular, squints and lazy eyes. They are not practising optometry.

The offer of government training scholarships in orthoptics is to enable selected candidates from within the Civil Service to receive a three-year training programme, either in the United Kingdom or Australia, so as to attain the requisite qualification for appointment as orthoptist in the Medical and Health Department. The requisite qualification is a Diploma of the British Orthoptic Council, or its equivalent, or a Diploma of Orthoptic Board of Australia. Neither of these is obtainable locally, and there is a shortage in supply of qualified candidates in the local market.

Optometrists, on the other hand, are trained in the Hong Kong Polytechnic at professional diploma level. The scope of practice for optometrists include:

(*a*) testing vision;
(*b*) prescribing optical appliances;
(*c*) fitting optical appliances; or
(*d*) supplying optical appliances on prescription.

They are not qualified to practise orthoptics.

The government training scholarship scheme and the Hong Kong Polytechnic Professional Diploma Course in optometry are for different purposes. A similar situation exists in United Kingdom and Australia where different training programmes for orthoptists and optometrists are provided.

Water supply in Ma Wan

11. MR. LAI asked: *In view of the problem of water shortage faced by the Ma Wan residents due to the recent drying out of local wells, will Government inform this Council of the reasons for the delay in the completion of the water supply system being installed by the Water Supplies Department in the area, and what remedial measures are being taken in the meantime to cope with problem of water shortage?*

SECRETARY FOR LANDS AND WORKS: Sir, the Ma Wan water supply project comprises:

(*a*) a supply main from Yau Kom Tau to Ma Wan, consisting of 5 km of land main along Castle Peak Road from Yau Kom Tau to Sham Tseng, and 1.5 km of submarine main from Sham Tseng to Ma Wan; and
(*b*) a service reservoir and distribution mains on Ma Wan Island.

The land main, and the service reservoir and distribution mains are now substantially complete, as scheduled. The reason for the delay is a dispute between the engineer and the contractor over the submarine main contract.

However, it has been decided that although the dispute will have to be referred to arbitration, the project should be completed as soon as possible. To that end further negotiations with the contractor have just been completed and a supplemental agreement was signed on 30 June 1988. Work on site will recommence immediately following mobilisation of a special barge for constructing the rock bedding and for mainlaying. It is expected that laying of the submarine main will be completed by December 1988 at which time water supply will be available to the residents of Ma Wan Island.

In the interim, the Water Supplies Department is arranging to install some temporary standpipes to enable the water in the reservoir to be used. However, this will only be of limited assistance. The real answer lies in the Water Supplies Department doing everything possible to ensure the timely completion of the entire project by December 1988, when the problem will be solved once and for all.

Control over the MTRC and KCRC

12. DR. LAM asked: *As the recent fare increase introduced by the MTRC and the fare structure to be adopted by the KCRC for the Light Rail Transit System have given rise to significant public concern, and the two corporations together carry about 28 per cent of the total commuters travelling on public transport, will Government inform this Council whether it has any plan to improve control over the two corporations, such as to enable the Transport Advisory Committee to monitor the fare charged by them?*

SECRETARY FOR TRANSPORT: Sir, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) are empowered to determine fares payable by their passengers under sections 6(2) and 4(2) of the Mass Transit Railway Corporation Ordinance and the Kowloon-Canton Railway Corporation Ordinance respectively.

It is the established practice that before fares are introduced or revised, the Governor in Council would be informed beforehand. The Governor in Council was fully informed of both the recent MTR fare increase and the fare structure to be adopted for the Light Rail Transit System. In the latter case, the Kowloon-Canton Railway Corporation has also reassured this Council that it will continue to liaise closely and discuss with the joint monitoring group of the Tuen Mun and Yuen Long District Boards matters relating to services and fares.

There is already sufficient control over the operations of the two corporations to ensure that they operate the railways according to prudent commercial principles and having regard to the reasonable transport requirements of Hong Kong. The two corporations are governed, in their overall operations, by their respective boards whose chairmen and members are appointed by the Governor.

Moreover, the Governor in Council is empowered under the respective Ordinances to give directions to the corporations if he considers the public interest so requires.

The Transport Advisory Committee's terms of reference are to advise the Governor in Council on broad issues of transport policy with a view to improving the movement of both people and freight. There is no restriction on matters to be discussed by the TAC as long as they fall within its terms of reference and relate to the broad issues of transport policy.

The TAC has discussed matters relating to both railways on previous occasions, particularly how they would affect the overall provision of public transport services and their co-ordination. There is no reason why it should not continue to do so in future.

The recent appointment of two additional TAC members, who are also directors of the MTRC and KCRC Boards, will further strengthen communications with the two corporations so that the TAC, as Government's main advisory body on transport matters, can cover the full range of transport matters more effectively.

Fees for visas and entry certificates to the United Kingdom

13. MR. CHEONG-LEEN asked: *In view of the fact that visas for entry into countries such as Australia, Canada and the USA are issued free of charge, will Government inform this Council what the reasons are for charging fees on*

applications for visas and entry certificates to visit United Kingdom, and whether consideration will be given to waiving the fees, currently at $274 for Hong Kong passport and Certificate of Identity holders and $412 for two entries for Certificate of Identity holders?

SECRETARY FOR SECURITY: The charging of fees for visas and entry certificates (collectively known as entry clearances) to the United Kingdom is a matter of law in the United Kingdom. Such fees are levied under the Consular Fees Act 1980 and in accordance with the Consular Fees Order 1987 and amended from time to time by Order in Council.

The fees are uniform worldwide regardless of where the applications are submitted. They are sterling based and the equivalents are charged in the appropriate local currency. They are set at levels with a view to having by the early 1990s arrangements whereby the full costs of the United Kingdom's entry clearance operations worldwide are recovered.

In Hong Kong, as in other British dependent territories, the immigration authorities issue entry clearances on behalf of HMG and charge the same fees in accordance with United Kingdom legislation. The fees collected by the Immigration Department are not remitted to the United Kingdom but are used to cover the cost of the service in Hong Kong. If the fees on applications for entry clearances were to be waived, the cost of the service would fall on the Hong Kong taxpayer.

It is relevant to note that while a visa to visit, study or work in the United Kingdom is mandatory for a holder of Hong Kong Certificate of Identity or other non-national travel documents, an entry certificate for visiting or tran-sitting the United Kingdom is an optional facility available to a holder of a Hong Kong passport who chooses to apply or who may be in doubt about his admissibility to the United Kingdom. The option is well publicised and made known to all likely applicants.

Use of ambulance services

14. MR. CHUNG asked: *Will Government inform this Council:*

(1) whether ambulances are still being used for non-emergency purposes and if so, whether such use has any adverse effect on emergency services;
(2) what is the percentage of non-emergency service as compared with emergency service in the last 12 months; and
(3) whether there is any plan to amend the Fire Services Ordinance to allow a charge to be imposed on use of ambulance services for non-emergency purposes?

SECRETARY FOR SECURITY: Sir, ambulances are used for both emergency and non-emergency purposes. Non-emergency services have no adverse effect on emergency services as the latter are accorded priority over the former.

During the 12 months ending 30 June 1988, the ambulance service responded to a total of 416 122 calls, of which 121 192 calls, that is 29.1 per cent, were for non-emergency services.

The Executive Council has advised that the Ambulance Services Review Steering Group should examine the feasibility of levying a charge for non-emergency services. The steering group is about to finalise its deliberations on the subject and will soon submit its recommendation to the Executive Council. I shall ensure that the Legislative Council is kept informed of the matter.

Radio channel for continuous traffic news

15. MR. EDWARD HO asked: *On 22 June 1988 I asked in this Council whether Government would consider designating one radio channel for continuous traffic news in order to keep the public immediately aware of congested corridors. Will Government inform this Council whether it has given further thought to the above suggestion?*

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, we have indeed given further thought to Mr. HO's suggestion, and I am happy to say that we have found it feasible.

We are at present taking steps to establish an AM channel under Radio Television Hong Kong (RTHK). The channel will normally broadcast news, weather reports, traffic bulletins and music. In the event of serious traffic congestion affecting a large part of Hong Kong caused by an incident, such as a gas leak, the channel will broadcast traffic bulletins continuously until normal traffic is restored. The broadcast on this new channel will be in both Cantonese and English.

RTHK will collect, collate and continuously update information for broadcast on the new channel from all available sources, such as the police, the Transport Department, the Information Services Department, the various emergency services and public transport companies.

Subject to approval by the Finance Committee of funds for staff and transmission facilities, the new channel could come into operation in the first quarter of 1989.

Pollution and the dyeing and finishing industry

16. MR. CHENG asked: *The dyeing and finishing industry has recently proposed to develop a combined industrial complex for the trade with shared pollution prevention equipment in order to significantly reduce the environmental pollution*

associated with the industry. Will Government inform this Council whether it will support this positive initiative from the industry, and if not, what alternative steps it will take to reduce this particular area of pollution?

SECRETARY FOR HEALTH AND WELFARE: Sir, in November 1987, a consortium applied to the Hong Kong Industrial Estates Corporation (HKIEC) for a 10 hectare site at Yuen Long Industrial Estate to build a centralised complex for sale to a number of dyeing and finishing factories.

There are a number of problems associated with this project. The proposed complex would have massive water supply and wastewater effluent requirements (113 million litres per day). The infrastructural provision in the Yuen Long area would therefore need substantial upgrading and it is unlikely, even if this could be afforded that the works could be completed before the Yuen Long Industrial Estate was sold out. Moreover, there are doubts whether the project can meet the HKIEC's legal requirements regarding assignment and subleasing.

The Government recognises that the dyeing and finishing industry plays an important role in supporting garment manufacturing. However, it is also a significant source of pollution. It is our intention that the exemption of existing discharges under the Water pollution Control Ordinance (WPCO) should be reviewed and that the Ordinance should in future be enforced on a territory-wide basis. In this case, a long-term solution to the pollution problem will need to be found.

To this end, additional studies to increase the capacity of various trunk sewers and sewage treatment works are being undertaken to determine whether suitable infrastructure can be provided to meet the future needs of the dyeing and finishing industry.

Government Business

Motion

TELEPHONE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: That Part I of the Schedule to the Telephone Ordinance be amended by adding after item 6—

'7. For a "Centrex" exchange line—

(*a*)	connection—		
	(i)	for the first 20 lines	$600 per line.
	(ii)	for the next 180 lines	$450 per line.
	(iii)	for additional lines	$300 per line.

(*b*) rental—

(i)	for the first 20 lines	$1,260 per line per annum.
(ii)	for the next 30 lines	$1,140 per line per annum.
(iii)	for the next 150 lines	$1,020 per line per annum.
(iv)	for additional lines	$840 per line per annum.'.

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

The Hong Kong Telephone Company proposes to introduce a new service to be known as centrex. This new service will provide subscribers with a range of facilities similar to those provided by Private Automatic Branch Exchanges (PABXs), for example, intercom dialling, speed calling, call hold and so on. At the launch of the service the company intends to provide 28 basic features. Centrex will offer an alternative to investment in a PABX that is expected to be of particular interest to some sectors of the business community.

Under section 26(2) of the Telephone Ordinance, additions to the schedule of charges that the company may charge its subscribers require a resolution of this Council. My motion seeks to add to the schedule charges for the new centrex service. The proposed charges, which are cost related, will give the company a reasonable return and are considered by the Administration to be acceptable.

Sir, I beg to move.

Mr. CHAN Kam-chuen, as a director of the Hong Kong Telephone Company Ltd, declared his interest and abstained from voting.

Question proposed, put and agreed to.

Second Reading of Bills

COMMISSIONER FOR ADMINISTRATIVE COMPLAINTS BILL 1988

Resumption of debate on Second Reading (22 June 1988)

Question proposed.

MRS. CHOW: Sir, the consultation process that led to the Bill before us deserves praise. It more than makes up for the inadequacies of the original consultative document which many regarded as sketchy and lacking in sincerity.

It is fair to say that very little public views have been put forward in response to the publication of the Blue Bill. Perhaps all those who are interested feel they had already spoken during the White Bill stage. It is quite true that almost all the points that surfaced during that phase have been fully gone into by the ad hoc group of the time and the Administration, and most of them were taken on board.

Additional queries that the ad hoc group raised on the Bill before us have all been accepted by the Administration, with one exception that relates to whether the police and the Independent Commissioner Against Corruption ought to come under the jurisdiction of the proposed commissioner.

A few Members feel quite strongly that the handling of complaints against the police has not been and is not seen by the public to be totally unbiased. This gave rise to the suggestion that perhaps the commissioner could be given the power to act as a last resort for complainants who have exhausted the existing channels of Complaints Against Police Office and the Police Complaints Committee, provided the complaints in question fit into the definition of maladministration. Members did not seem insistent on the same arrangement for the Independent Commission Against Corruption.

No doubt the Administration will be outlining its reasons for not acceding to this request. The Administration, however, was of the view that, by appointing the commissioner as an ex officio member of the Police Complaints Committee, he would be able to lend his expertise to the committee and look at cases which he may have questions on, without raising false hopes of those complainants whom he may not be able to satisfy. Suffice it to say that the majority of the Members are prepared to accept the Administration's suggestion as a start. This will no doubt be reviewed in the context of the effectiveness of the jurisdiction contained in the Bill a year or two after the law has been enacted.

Related to this is the scope of the commissioner's jurisdiction as outlined in the first schedule. Since the OMELCO Secretariat is included because it comes into regular contacts with the public, Members feel that for the same reason the two secretariats of the municipal councils should also be included. The Administration has agreed to consult the parties concerned for inclusion at a later stage.

The pros and cons of the Legislative Council referral arrangement have been fully explored during the White Bill stage. Although some Members still prefer the direct approach, the group in general accepts that Legislative Council screening and monitoring do have their merits. What must be resolved are the logistics of the reception of cases and the involvement of Members. The Legislative Council has also to examine how it should monitor and liaise with the commissioner's office. This, no doubt, will be a priority matter for the new session.

I shall move a number of amendments in Committee. They are the results of suggestions put forward by Members and accepted by the Administration.

Sir, after such an extensive period of public discussion, we can now finally proceed with setting up the office of the Commissioner for Administrative Complaints. Let us give it a chance to work. It needs our support as well as our demand in order to succeed.

Sir, I support the motion.

MR. CHEONG-LEEN: Sir, like many pieces of legislation adopted in Hong Kong, the provisions of this Bill, deriving originally from the New Zealand Parliamentary Commissioner (Ombudsman) Act 1962 and the United Kingdom Parliamenary Commissioner Act 1967, represent legislation fashioned to the real needs of Hong Kong.

When public comments were invited, one main comment was that there should be direct access to the Commissioner for Administrative Complaints. At first sight, this seemed to be a good idea. However, since the establishment, of the commissioner's office will commence with only 19 posts, with a small Investigative Division, I believe it would be more practical to start off with complaints being channelled through Members of the Legislative Council. In the light of the commissioner's experience after the first two years, the situation could then be reviewed as to whether complaints could be made by any member of the public direct to the commissioner's office.

Another main comment was that the commissioner must be independent and be seen to be independent. The Administration has promised that as far as practicable, the commissioner's staff will not be civil servants so as to register with the public the independence of the commissioner's office.

The commissioner's appointment will be for five years, and he may be reappointed. In order to uphold his independence, the Governor can only remove the commissioner subject to the approval of the Legislative Council on the ground of inability to discharge the functions of his office, or misbehaviour.

Furthermore, once the commissioner receives a relevant complaint through a Legislative Councillor, he has to inform the complainant direct and advise the legislator concerned the results of his investigations. This is another check-and-balance arrangement whereby a Legislative Councillor is able to follow through on a complaint.

Clause 15 also provides for the commissioner to report serious irregularities to the Governor for tabling in Legislative Council.

The Bill also stipulates that the commissioner shall annually make a report to the Governor on the work of the commissioner, which report shall be laid before the Legislative Council and may be debated on by the Council.

It has been suggested that complainants who are dissatisfied with the findings of the Police Complaints Committee or Independent Commission Against Corruption Complaints Committee may be able to lodge their complaints with the commissioner. As I have pointed out already, the commissioner's office will have a small staff, and during the initial two years, it would be advisable to see how the commissioner performs in respect of the 50 departments and organisations to which the Ordinance applies as listed in the First Schedule.

I support the proposal that the commissioner be appointed an ex officio member of both the Police Complaints Committee and the Independant Commission Against Corruption Complaints Committee. This arrangement

should enable the commissioner to lend his expertise to these two monitoring bodies. It should be noted that complainants will still have the right to appeal direct to the Governor.

Sir, the Commissioner for Administrative Complaints will be no 'Pao Kung' (包公) travelling round the urban areas and the New Territories seeking to unearth injustices.

But we hope that this office will be a refinement and improvement on the existing network of complaints system. It will be taking over about one third of the existing load of the OMELCO Complaints Division, at an additional cost to the public purse of between $6 million to $7 million.

If the new office of the Commissioner for Administrative Complaints proves its worth, we can consider expanding its role and scope after two years.

Sir, I support the Bill subject to the amendments proposed by the ad hoc group.

MR. HUI: Sir, it gives me pleasure to speak on this memorable occasion when this Council witnesses the passing of a Bill designed to uproot maladministration of our Government. However, there is still one grey area in the Bill which mars an otherwise timely move made by the Administration to tackle Hong Kong's long-standing problem of official malfeasance.

The exclusion of complaints against the police and Independent Commission Against Corruption from the jurisdiction of the Commissioner for Administrative Complaints is deemed necessary by the Administration on the ground that established self-investigative, monitoring mechanism already exists for the two quasi-government organisations. No one is skeptical about the integrity of the Police Complaints Committee and the Complaints Against Independent Commission Against Corruption Committee, both chaired by Members of this Council. However, the anger, frustration and helplessness of people who come to me when all doors of our remedial system are closed to them, are as real today as they were in April last year when I addressed this Council on the same topic. The plight of these people, driven to sorrow and despair, has convinced me that our existing redress systems for complaints against the abuse of authority, including the police and Independent Commissioner Against Corruption, are grossly inadequate.

Sir, to illustrate my point, I beg to outline here a pathetic, real-life case of one of my clients whom I shall call Mr. C. Mr. C, aged 35, unemployed and suffering from ill health, came to my attention back in September last year. Having been frequently harassed by the stop-and-search of police constables in Tse Wan Shan district for obvious reasons, Mr. C plucked up his courage to file a complaint against assault and subsequent mishandling of his complaint by police officers in the Tse Wan Shan Police Station. Since September, my repeated enquiries into the case through correspondence with Complaints Against Police Office and Police Complaints Committee failed to elicit any information on the

findings of the investigation conducted by Complaints Against the Police Office. The constant rebuff of attempts to redress his grievances played havoc on Mr. C who was tortured by increasing anxiety, fear and mental stress, culminating in his attempted suicide earlier this year. Nine months had gone past when I finally approached the Police Complaints Committee last month, pressing for the outcome of the investigation. I was then told that all the charges made by Mr. C were found to be unsubstantiated, a conclusion which was endorsed by the Police Complaints Committee.

Sir, the traumatic experience of my client serves to illustrate how personal injustices inflicted by inappropriate actions of the police are often not resolved. Firstly, the unreasonably long time the authorities take to investigate complaints, causing interminable suffering in the punitive sense to the complainants, becomes a deterrant to them in lodging complaints against maladministration. Secondly, official response to enquiries and the secretive manner in which investigation is carried out have forced us to become incredulous of the impartialty of investigatory mechanism manned by civil servants. There is every reason to believe that complaints filed through other redress channels meet with the same fate, since investigating officers have to rely on correspondence with government departments, explanation given by the Administration, and official records prepared by senior officials. Thirdly, appeals made to the monitoring bodies, again left at the mercy of civil servants, often end up with the original decision, without explanation given on the rationale behind. Indeed, when justice is not seen to be done as in Mr. C's case, we cannot be totally satisfied with the existing systems of redress for complaints against the police and Independent Commission Against Corruption.

Sir, while I fully appreciate the need to protect the confidentiality of Independent Commission Against Corruption and Complaints Against Police Office, what worries me is the lack of final appeal against arbitrary rulings imposed by their monitoring bodies, and the possibility of cover-up of malpractices. The argument that the nature of complaints and methods of investigation of these two organisations are somewhat unique and the heavy workload likely to be carried by the Commission for Administrative Complaints is well accepted. Instead of advocating the replacement of the two committees by the commissioner, I would call for some statutory safeguard for the commissioner to serve as a last resort. That is, complaints against the police and Independent Commission Against Corruption should be lodged in the first instance to the existing channels; however, if the complainant is not satisfied with the outcome, he can appeal to the Commissioner for Administrative Complaints. Such built-in safety valve, provided by legislation in other countries where the ombudsman system exists, often increases the credibility of the monitoring bodies by making available a second opinion.

Sir, the Bill, which brings into existence a system designed to protect personal justice, ensure independent enquiries and guarantee impartial investigations of abuse of authority, is fully supported. For the government is entrusted with the

responsibility to see to it that justice for all is done. The Commissioner for Administrative Complaints, promising that the door of our redress system will be open to anyone who knocks at it, must then go all the way to give blanket coverage of all civil servants and employees of quasi-government and public bodies, including the police and Independent Commission Against Corruption. Furthermore, to uphold the principle of justice and fairness, the commissioner should be able to pursue in the interest of the public an investigation which has revealed adequate evidence of maladministration, even if the complainant has withdrawn his case due to the conflicts of interest. I would also suggest that the Commissioner for Administrative Complaints should evaluate complaints regularly and recommend follow-up actions that will prevent the reoccurrance of similar complaints. Without an all-embracing scope of authority and adequate preventive measures to back him up, the Commissioner for Administrative Complaints may easily degrade into another one of our complaint channels for which the allocated HK$6.3 million could be better spent on other more pressing social needs.

Sir, with these reservations. I support the motion.

MR. MARTIN LEE: Sir, on the 10 July 1969 a report was made by the Special Committee of the Hong Kong Branch of Justice relating to the ombudsman system and it made the following conclusions:

‘(*a*) The ombudsman system is flexible and is capable of being established in Hong Kong.

(*b*) There is an urgent need for an ombudsman in Hong Kong and one should be appointed as soon as possible.

(*c*) The system has a strong backing in Chinese history and its introduction can well be explained in terms of the censorial system of Ancient China.

(*d*) The existing avenues of voicing grievances are insufficient and ineffective in procuring investigation or obtaining remedies for wrongs.

(*e*) The institution contributes to the well-being of society by tending to strengthen public confidence in the authorities.

(*f*) The institution will supplement and not supersede or supplant the functions of UMELCO, the Urban Council ward system or the city district officers.

(*g*) The ombudsman should have extensive powers to make investigations into grievances alleged by members of the public against any government department or official. and persons giving information to the ombudsman in good faith will not be subject to legal proceedings.’

The Committee of the Hong Kong Branch of Justice fully endorsed the report and considered that ‘the speedy implementation of its recommendations will be of great benefit to the community of Hong Kong.’

For many years, the people of Hong Kong have wanted to have an ombudsman. For it was very much in keeping with the ancient Chinese custom of 'censorial officials' of the emperors ('御史') who could and did criticise even the highest officials of the kingdom. The need to give redress to private citizens against the misconduct of or unfair treatment by government servants has increased with the passage of time. And this was very aptly summarised by Lord SHAWCROSS in a report by Justice, entitled 'The Citizen and the Administration— The redress of grievances' as follows: 'In the ever growing complexity of the modern state, the intervention of central and local government into the lives and affairs of ordinary citizens, inevitably multiply. For the most part, no doubt, these interventions are for beneficent purposes and have beneficent results. But the nature of governmental and local governmental activity is now such that large areas of discretion are created in regard to all sorts of matters affecting the lives and rights of ordinary people in varying degrees and there are inevitable occasions, not insignificant in number, when through errors or indifference injustice is done—or appears to be done. The man of substance can deal with these situations...he knows his way around. But too often the little man, the ordinary humble citizen is incapable of asserting himself... The little man has become too used to being pushed around; it rarely occurs to him that there is any appeal from what "they" have decided.'

Sir, this statement was made in relation to the United Kingdom more than 20 years ago, and it still holds good for Hong Kong today. For although we have on the whole a very efficient Civil Service, there are the occasional black sheep who cause people to suffer. And it would damage the reputation of our Government if our people who have been maltreated by some of our civil servants could not find adequate redress.

Sir, after many years of waiting, this Bill is finally before this Council today. But it is far from being perfect; and there are still a number of important deficiencies in it.

Independence

Sir, it is of fundamental importance that the Commissioner for Administrative Complaints must be seen to be wholly independent of the Government. I, therefore, welcome the assurance given to us by the Administration that the first commissioner will not be a civil servant or a former civil servant.

But it is equally important that the officers assisting him must likewise be and are seen to be independent. And it would be wrong in principle for these officers to be seconded from other government departments. The Administration's response was that there might be practical difficulties in recruiting enough suitable candidates to fill all the posts of the office, bearing in mind that it would be very small office with 19 officers, and therefore without very promising promotion prospects for its staff.

But this is not a good answer. For I am sure that the Finance Committee would be more than happy to pay to the officers of the C for AC more than what their counterparts get in other government departments, so as to attract really good people. It would be very sad indeed if the public should lose confidence in the C for AC because of this reason.

The referral system

My next criticism of this Bill relates to the referral system whereby complaints are only channelled to the C for AC by individual non-government Members of the Executive Council and this Council. For this places an unduly heavy burden on Members, who are not full time politicians. And when the workload of complaints is too heavy, our Members would either have to devote an undue proportion of their time to deal with complaints, thus leaving insufficient time to attend to their other important duties, or they may be forced to become mere rubber stamps, and thus fail to perform their role as supervisors over the C for AC. And in that event, the public image of the C for AC as well as OMELCO as a whole would be tarnished.

Sir, I suggest that a more sensible way is for all complaints to go directly to the C for AC, whose staff will screen them and refer all complaints of policy to the OMELCO Complaints Division while retaining those which relate to maladministration as defined under this Bill.

Sir, screening is a necessity in any event. It is either to be done by the staff of the C for AC or the staff of OMELCO. It does not cost more money if the screening is done by one or the other. I, therefore, believe that it is much better if the screening is not done by OMELCO staff because they are government servants, and are themselves not immune from complaints by our citizens. But if for any reason this system cannot be changed, then we must ensure the independence of the staff of OMELCO by taking them out of the government hierachy; again, by giving them better terms of employment than if they were to remain in government service. For our collective image as OMELCO depends to a large extent on the public's perception of our independence as well as that of our staff.

Police and ICAC

The most fundamental flaw in this Bill is that the police, and to a less extent, the ICAC, are excluded from the jurisdiction of the C for AC. The justification from the Administration is that there are enough complaints avenues relating to these departments. Indeed, Sir, you, as the Chief Secretary said that these 'independent monitored redress systems...are working well, and there is no justification for replacing or duplicating them.' With respect, Sir, I beg to differ. The Complaints Against Police Officers (CAPO) does not enjoy the confidence of the public. Complaint after complaint have been turned down by CAPO after investigation on the ground that the complaints were unsubstantiated. But the investigation is done by police officers who are seen by the public to be taking

sides with the policeman who is the subject of the complaint. And the report is also compiled by police officers. And besides, CAPO is manned by police affairs drawn all over Hong Kong, and after serving at CAPO for some time, these officers will all return to their original or other units within the police force. Therefore justice is manifestly not seen to be done.

Sir, I propose to read a few passages from the Hong Kong Law Journal (1984) on the judgment of the Court of Appeal in Criminal Appeal No.739 of 1983 which concerned an allegation of a serious assault on the appellant by a number of policemen, which resulted in a number of injuries. I shall only read the passages which deal with the alleged assault and the way his complaint was handled by CAPO.

First, the allegation of assault was summarised as follows:

'It was alleged that the applicant was severely beaten the very moment he was turned over to the team of investigating police officers. Then the next day he "was thrown about and against a partition wall between the detective room and the office of the inspector. The force was so great that that partition wall was dented. The violence was sufficient to break a piece of glass in a book case..." (per Mr. Justice Simon LI in the Court of Appeal). On the following day a police sergeant interrupted a meeting between the applicant and his solicitors:

> "The attitude of the sergeant was so fierce that even the solicitor, Mr. LAM, was in fear. No apparent reason was given as to why the sergeant should interrupt that interview. The applicant was arbitrarily taken back to the cell.
>
> On his way to the cell, he was scolded by his escorting officer for having alleged assault by the police officers. That detective constable used a cigarette and burned his arm near the wrist four times" (per Mr. Justice LI again).

The applicant was taken to Princess Margaret Hospital and "upon full physical examination, the doctor found various scratch marks over his chin and upon his arm and further found four blisters, each about 0.25 cm in diameter, over the dorsal aspect of the lower end of his left wrist". The applicant was later examined by another doctor in the Pik Uk institution:

"Allegations of improper behaviour by the police are frequently made in criminal trials in Hong Kong, usually on voir dire as to the admissibility of a confession statement. But it is rare for such complaints to be substantiated by credible medical evidence as in these cases, and rarer still for police behaviour to be the subject of comment in the Court of Appeal. Therein lies the importance of these judgments. Sir, the author referred to 'judgments' because in the article in the Law Journal, he actually set out two judgments."

In CHAN Keung-lee Mr. Justice Simon LI said:

> "It is also pertinent to observe that the conduct of this particular team and the conduct of CAPO left a lot to be desired. I say this quite apart from any truth or falsehood in the alleged general misconduct. While the applicant was

having his second interview with his solicitor, Mr. LAM, the sergeant arbitrarily interrupted that interview between a solicitor and his client without apparent reason.

There was a fierce argument between Mr. LAM and the sergeant. By this time Mr. LAM had already known of the assault in the afternoon of the day before. He had telephoned to CAPO making the complaint and asking that they merely go to the police station in order to preserve evidence by seeking a dent in the wall which the applicant alleged he was thrown against and seeking a piece of glass missing from the book cabinet. CAPO declined the invitation on the ground that the case was still under investigation. We do not consider that an adequate explanation for failing to take steps to preserve evidence of misconduct by the investigating officers if such existed." '

This completes the quotation from the judgment. The author goes on:

'The explanation given by CAPO for declining the invitation to preserve evidence is extraordinary. To say that it declines to preserve evidence of a matter under investigation because it is under investigation is to say that it declines to investigate a matter because it is under investigation. It has been said that,

"Police resistance to fully independent investigation and review is understandable. Complaints are often instigated by miscreants or persons with political axes to grind, and many police officers naturally prefer the examination to be carried out by one who is sympathetically aware of their own problems" (de Smith, Constitutional and Administrative Law (fourth Edition 1981) 389).

Sentiment of this ilk seems to have carried the day in Hong Kong in the past, and indeed the same is true of the United Kingdom where there is no completely independent system of investigation of complaints against police. But when a distinguished justice of the Court of Appeal is moved to make an obiter comment highly critical of the existing investigative body, a reassessment is called for.'

Here the quote from the Hong Kong Law Journal ends, Sir.

There is a sequel to this case, because another complaint was made to me last year by the same complainant, arising out of the same incident and the matter is being dealt with by the Police Complaints Committee ('PCC').

Sir, it has been said that the Commission for Administrative Complaints would not have enough expertise to investigate the complaints against both the police and the ICAC. But I do not think there is merit in this argument because investigators have to be engaged and trained as well as in the case of the ICAC in the early days.

But I am impressed with another argument, namely, that it would greatly delay the setting up of the Commission for Administrative Complaints if its jurisdiction were to be increased to include complaints against the police and the ICAC, as there are so many complaints against the police from our citizens.

Sir, CAPO is monitored by the PCC consisting of some Members of this Council and other Justices of the Peace. But according to the Chief Secretary, there are about 400 complaints against the police every month to be scrutinised by the PCC. I understand that members of the PCC have now agreed to divide their labour by separating the complaints into two parts. Half of the members of the PCC will deal with one part and while the other half of the members will deal with the other part. But even then, how do we expect the good people, sitting on the PCC, to go through these many files every month in order to check whether these complaints have been substantiated or not. Indeed even if one were to pick any file at random, one would invariably see two conflicting versions of statements: one from the complainant, alleging misconduct or maltreatment, and the other from the policeman concerned, denying the allegation. And unless the PCC were to call both persons to appear before it so that their testimonies can be tested by cross-examination, I completely fail to see how anybody can conscientiously form a judgment as to who is telling the truth. So there will always be a reasonable doubt, and the policeman will go unpunished, unless, of course, there happen to be really independent witnesses who are prepared to testify against the policeman concerned. And, unfortunately these are, by their nature, rare.

Sir, as the police are in constant contact with the public, it is only natural that the police force receives the greatest number of complaints from the public. It is, therefore, essential to ensure that we have a very effective system dealing with complaints, so that the public of Hong Kong can have confidence in the police and co-operate with them in our fight against crime. And even from the policemen's point of view they should welcome it. For a good policeman should prefer and would prefer any complaints against him to be dealt with by a clearly independent body. So, when he is cleared by this independent body, it would mean much more to him than if he had been cleared by his own colleagues in the police force.

Further, I do not think that the C for AC can do much as a member of the PCC as proposed by the Chief Secretary. For his 'expertise' cannot assist him to ensure that CAPO will do a good job in relation to, for example, the taking of statements from policemen complained of or that CAPO has carried out its duties conscientiously.

For these reasons I have strong reservations about this Bill. But because I do not want to delay the passage of this Bill any further I have decided to support it today with great reluctance. but I urge most strongly the Administration to undertake a complete review of the present system involving CAPO and the PCC as a matter of urgency.

MR. SOHMEN: Sir, this has undoubtedly been one of the more difficult Bills to draft. The ad hoc group under the able convenership of Mrs. Selina CHOW, and the Administration led by the Deputy Chief Secretary, have made great efforts to discuss the underlying philosophy and to try and reach agreement on the many technical and drafting issues that have emerged during our deliberations. And good progress was made as a result on many of the outstanding questions, to the point where most of my colleagues in the ad hoc group now consider that they can support the Bill. Some like Mr. Martin LEE only do so with reservations or conditions. I am sorry to have to differ from them in opposing this Bill, particularly since today I would have very much liked to finish my work in this Council on a more positive note.

Sir, as legislators we are entrusted with the task of making good laws: laws that address the problems adequately, are most likely to achieve the desired results, and have the support of a majority of the community. We should not make laws that are simply palliatives, band-aids, or fig leaves. We should also not make laws that are based on muddled policies, uncertain ambitions, or ill-fitting models borrowed from other places.

While some of the reservations of other members and of outside commentators have indeed been taken into account, such as the agreed amendments to the important definition of 'maladministration', the Bill in my view is still deficient in its basic approach and will not achieve the aims which it has set out to produce—or at least will not achieve them very effectively. I only hope this Council will not in future have to spend the amount of time to improve the 'ombudsman' that we needed this year to sort out the problems created by the original Travel Agents Ordinance, which in retrospect also proved to be rather shortsighted legislation and did the very opposite of what it was meant to accomplish.

My observations and objections can be summarised under four headings:

(1) The requirement that complaints to the commissioner have to be filtered through Members of Legislative Council are in my view unnecessarily and unduly complicating. The flow chart we needed in the ad hoc group to help us see our way through the procedures is very illustrative. To use such a referral procedure does damage to the image of the commissioner in the public mind, which expects easy accessability, independence from other governmental organs to ensure neutrality, and speedy processing of complaints.

The justifications given for the referral procedure by you, Sir, when you introduced the Bill in this Council in your position as Chief Secretary are not at all convincing. The commissioner himself will have discretion to accept or decline investigations reports on his work can easily be made to the full Council for proper monitoring, not necessarily just to individual members who have referred complaints. Duplication will in any event occur as I shall mention later.

(2) The exclusion of the police and the ICAC from the jurisdiction of the commissioner will again be seen by the public as a sign that the establishment of this new institution is not really a serious effort to provide an effective channel for these complaints, which are not surprisingly more numerous than most other categories. Contrary to the statements in the introductory speech, Sir, the existing complaints procedures are not seen by the public as all that satisfactory. To make the commissioner an ex officio member of the Police Complaints Committee and the ICAC Complaints Committee is not the solution; indeed in the public eye it could lower the status of the commissioner as a supposedly impartial review organ of the grievances of private citizens. It will disappoint the expectations of those in the community—and there are quite a few—who see an 'ombudsman' as someone really outside the formalised and institutionalised complaints or appeals channels which already exist. Otherwise there would not have been a strong call for the creation of this office in the first place.

(3) My third objection relates to the duplication—if not triplication—of the channels handling complaints. My original suggestion, in the debate on the 'Consultative Document: Redress of Grievances' on 8 April 1987 in fact was that the commissioner's office should replace, not be established in addition to, the existing structures.

Your introductory speech, Sir, clearly reflected the Administration's dilemma: on the one hand OMELCO is described as 'the apex of the existing channels for complaints,' and as 'a well-developed and comprehensive system for the redress of grievances'. If that was so, then why actually do we need an 'ombudsman'? Only as a sop to public opinion, or perhaps because some other countries have him and we want to keep up with the Joneses?

On the other hand, if there are genuine doubts about the efficacy of existing procedures—and there must be some or there would not have been so much support for the 'ombudsman' concept when we first discussed it—why not abolish the present structures and replace them with something better? Why go for a mish-mash of institutions that may end up competing with each other, may ultimately cost the taxpayer more, and not achieve more satisfactory results?

And why should only the—now rejected—direct access to the commissioner result in a 'considerable duplication of resources' as argued by the Administration, but not the parallel existence of a multitude of complaints units as is now envisaged? Statements were made in the introductory speech, in connection with the comments on the powers of the commissioner, to the effect that overlapping should be avoided; but why these concerns in that context when the overall effect of the Bill produces exactly this result?

(4) I still also believe that the appointment of the commissioner by the Governor should have the approval of at least a specified number of Legislative Councillors. No doubt the Governor will always act wisely and on the best recommendations available to him; but we are now in a transition period for Hong Kong and are creating an institution whose powers of investigation could let it assume an influence over the conduct of government affairs which goes beyond the original context or design: so we may well ask 'quis custodiet custodes' or in plain English 'who guards the guardians'? I actually see less of a problem of 'politicalisation' through the involvement of the Legislative Council in the appointment of the commissioner that I do in the proposed referral procedure—and also much less work for future generations of councillors!

Sir, what is required is not just an institution that is characterised by independence, impartiality, and integrity, but one that is readily seen to have these attributes even among the least-endowed and least-educated members of our community. Easy accessability and informality are other essential ingredients so that, to paraphrase John MILTON 'complaints are freely heard, deeply considered, and speedily reformed.' We may not be wise men but at least we should be practical; in passing this Bill in its present form we face the risk of being judged to have been neither. If we promise a relief valve but it does not work, dissatisfaction will be greater than if we had not done anything at all.

MR. ANDREW WONG: Sir, I support the motion that the Commissioner for Administrative Complaints Bill 1988 be read the Second time. I spoke in the adjournment debate in this Council on 8 April 1987 making public that my support for the idea of a Commissioner for Administrative Complaints had not changed since I last spoke on this subject at the 1985 policy debate. My support can still be depended upon. As usual, I wish, Sir, to simply make three points.

I have to put on record that I am in support of the referral system. Through Members of the Legislative Council, I believe that the system as envisaged and is provided for in the Bill aims at primarily redressing administrative grievances and damages which are the results of entirely lawful actions on the part of the Administration. Therefore the Government cannot normally be taken to courts and are not obliged legally to reverse decisions or to pay compensation. It is therefore important that such courses should be entrusted to legislators who are in the best position to pressurise the Government to ratify wrongs which are or could be legally right.

Second, I wish to put on record that I strongly disagree with Government's insistence on excluding actions of the police from the jurisdiction of the commissioner. Unlike the United Kingdom where police is not the function of the central Government, hence outside the purview of the Parliamentary Commissioner for Administration, the police in Hong Kong is a function of the central Government. I therefore believe it should be included. No part of the

central Administration ought to be above the scheme, or better still above the law, particularly the police. However, I can agree to the present Bill and the present scheme for one simple reason, and this is my third and final point.

I said in the 1987 adjournment debate to the effect that it was important that we ought to first implement the system as it was long overdue. To put one foot inside the door first, so to speak, the other foot, probably the right foot I imagine, will necessarily follow.

Sir, we have been procrastinating for more than 25 years over this matter. Let us take this very first step.

Sir, I beg to support this motion.

ATTORNEY GENERAL: Sir, I have listened carefully to the comments made by Members in this short but important debate.

The ad hoc group which studied the Bill, under the convenorship of Mrs. Selina CHOW, has made a very thorough examination of the Bill. It held a number of internal meetings to agree on proposals for amending the Bill, wrote a number of times to the Administration and met the Administration to discuss queries and possible amendments. The Committee stage amendments to be moved by Mrs. CHOW represent the outcome of very careful consideration and the Administration fully accepts those amendments.

Mr. HUI and Mr. Martin LEE were concerned about the exclusion of the police and the ICAC from the jurisdiction of the Commissioner for Administrative Complaints. Mr. HUI suggested that whilst complaints should first be lodged with the existing channels, the complainants should be allowed to lodge their complaints with the commissioner if they are dissatisfied with the findings of the former. The Government has considered this suggestion very carefully and has come to the conclusion that such an arrangement would not be appropriate. As started by you, Sir, in this Council when moving the Second Reading of the Bill on 22 June, complaints against the police and the ICAC are, for the most part, of a fundamentally different nature to maladministration complaints. Experience shows that only a very small proportion of complaints against the police and the ICAC involve alleged maladministration. If the Commissioner for Administrative Complaints were to act as a further avenue of appeal from the police and the ICAC Complaints Committees, he could only deal with this very small proportion of cases. Sir, the Government does not believe that it would be reasonable for an avenue of appeal to be available to a small minority, but not to the majority, of complainants whose complaints are dealt with by the two committees.

However, again as stated by you, Sir, in this Council when moving the Second Reading of the Bill, it is the Government's intention to appoint the commissioner as an ex officio member of both the Police Complaints Committee and the ICAC Complaints Committee. This will enable him to lend his expertise

to these organisations and bolster their operation. Moreover, complainants who are dissatisfied with the results of their complaints will continue to have the right, as at present, to petition the Governor to seek review of their cases. The Government believes that all these measures taken together should be sufficient for the redress of grievances arising from the police and ICAC actions.

Mr. CHEONG-LEEN and Mr. Martin LEE mentioned the public concern about the independent image of the commissioner and his staff. The Administration agrees in principle that the commissioner and his senior and investigatory staff should be non-civil servants. Appropriate arrangements will be made to ensure that this is implemented as far as possible. However, at the initial stage, it may be difficult to avoid seconding civil servants to the commissioner's organisation so that it may start operation as soon as possible.

Sir, I have noted the grave remarks by Mr. SOHMEN. Let me first of all say that the Bill now in front of this Council has gone through a very detailed process of public consultation, including two months' consultation in the form of a White Bill published on 30 October of last year; subsequent detailed study by this Council's ad hoc group, which not only formulated its own ideas but also commented on the suggestions contained in the public submissions; and, furthermore, very careful consideration by the Government of the comments made by members of the public and the ad hoc group. The Government has given serious consideration to all proposals for amendments and have accepted many of them. The overall effect of these changes has been to broaden somewhat the jurisdiction of the commissioner. The Committee stage amendments to be moved by Mrs. Selina CHOW will further improve the existing provisions of the Bill.

There obviously can be other approaches as Mr. SOHMEN has suggested. However, it is important to build on existing machinery and channels. We already have a well developed and comprehensive system for redressing the grievances felt by the public arising from the acts of the Government, based on an independent judiciary, a partially elected legislature and a range of other channels. It is clearly desirable to avoid disrupting the operation of these existing channels. After all. grievances could arise from government decisions even where no maladministration is involved—and questions of policy are outside the Commissioner for Administrative Complaints' jurisdiction.

Secondly, as the matter has important implications and has, quite rightly, attracted substantial public interest, the Administration will undertake a review after the commissioner has operated for a reasonable period of time to see whether changes are required to his role, scope of jurisdiction, interface with this Council and operating machinery and so on. All the points which have been made today by the ad hoc group and by Members will be borne in mind for review. I note that Mrs. CHOW and Mr. CHEONG-LEEN both support the idea of the review in the light of operational experience of the commissioner.

Mr. HUI and Mr. Martin LEE have commented on the deficiencies in the present system for dealing with complaints against the police and have cited specific cases to illustrate their points. I cannot comment on these individual cases today. I would merely want to say that the Government does not consider the system to be perfect, but all the evidence is that it is working well. For example, out of more than 4 000 complainants in 1987, only 10 were dissatisfied with the findings of the Complaints Against Police Office and the Police Complaints Committee and appealed against them to the Governor. There is, of course, room for even further improvement in the operation of these bodies. The Administration will keep their operation under review to see whether changes can be introduced to make them more effective and to ensure that they are seen to be effective.

Sir, I strongly believe that we should now proceed to enact the Bill and then to set up the Commission for Administrative Complaints and to seek to improve the Bill's provisions as necessary in the light of experience rather than delay it further in the hope of searching for an even better model.

Finally, I would like to thank the ad hoc group for their effort in scrutinising the Bill. A lot of work has been put into it and the outcome is, in Government's view, a good and workable piece of legislation.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

BANKING (AMENDMENT) (NO.2) BILL 1988

Resumption of debate on Second Reading (22 June 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).

MONEY LENDERS (AMENDMENT) BILL 1988

Resumption of debate on Second Reading (22 June 1988)

Question proposed.

MR. LI: Sir, section 33C which will be removed from the Bill by the Administration today provides that where a person, exempted under the Ordinance, ceases to be an exempted person after having made a loan, that loan would nevertheless remain valid. This has always in fact been the case. The problem with the new section 33C is that whilst it states what has already been the case in respect of exempted persons, it fails to additionally state that where a loan has been an exempted loan and then subsequently falls outside the definition, that too would nevertheless be considered to remain an exempted loan. By not stating that position fully the new section serves to confuse more than to clarify.

I am glad to note that the Administration has now seen fit to remove section 33C.

Sir, the financial community is basically in agreement with the amendments as proposed in this Bill. It has been suggested that there should have been a blanket exemption contained in the Bill for loans over a certain monetary limit. This has not been taken on board and it remains to be seen whether the recommendation which came from a number of parties should have been incorporated. I suspect that this may well prove, in the fullness of time, to be the case.

Sir, with these comments I support the Bill.

FINANCIAL SECRETARY: Sir, I am grateful to Mr. David LI for his support for this Bill. It has been the subject of quite detailed consideration by the financial community and we feel that what we have before us is certainly a vast improvement on the present position. Mr. David LI has mentioned this new section 33(C) and I shall be dealing with this point in Committee.

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).

TRAVEL AGENTS (AMENDMENT) BILL 1988

Resumption of debate on Second Reading (15 June 1988)

Question proposed.

DR. IP: Sir, the Travel Agents (Amendment) Bill 1988 respresents the culmination of a long series of efforts that have been made in the past year to work out ways to resolve the problems faced by the travel industry. The Bill forms part of a package of proposals for the self-regulation of the outbound travel industry and it would certainly be out of place for me to dwell on the subject without mentioning the considerable amount of work which the Administration, in particular the Economic Services Branch, has put into this package scheme.

As Members may recall, a number of travel agents including the Austravel, PC Travel Service and the Choicest collapsed in early 1987. Great concern was then expressed over the adequacy of the provisions in the Travel Agents Ordinance particularly the Travel Agents' Reserve Fund which was found virtually depleted. Accordingly the Administration initiated a review of the Ordinance and at the same time a Legislative Council ad hoc group has also been set up focussing on the compensation arrangement for the customers and the future for the outbound travel industry.

After extensive consultations, the Administration has finally come to the view last December that the best way forward for the industry would be to promote self-regulation with a minimum degree of government involvement and to provide a reasonable degree of protection for consumers of its services. The plan then announced, which had the support of the ad hoc group, has both dealt with the issue regarding the claims of customers of Austravel and PC Travel Service and provided a full package of proposals for the self-regulation of the outbound travel industry. The key features of this package are:

(*a*) all licensed travel agents should in future become members of the Travel Industry Council (TIC) through joining one of its association members;
(*b*) the TIC should establish a non-statutory compensation scheme to replace the Travel Agents' Reserve Fund by collecting a 1 per cent levy on the sale of all outbound package tours; and
(*c*) the clients of a defaulting travel agent will in future receive ex gratia compensation equivalent to 70 per cent of the unsatisfied claim.

As part of the package, TIC has also undertaken to replenish the Travel Agents' Reserve Fund for the purposes of compensating the former clients of Austravel and PC Travel Service and to compensate the clients of any travel agents who might default during the interim period prior to the implemention of the self-regulation scheme. In the event the former clients of Austravel and PC Travel Service have been able either to receive 70 per cent compensation straight away or to exercise an alternative option, on a one-off basis, to have 100 per cent compensation but spread over a period of two to three years.

Sir, the main purpose of the Bill before us is:

(*a*) to make membership of the TIC a statutory licensing condition for all travel agents;

(*b*) to empower the Registrar of Travel Agents to consider appeals on refusal, suspension and revocation of TIC membership; and

(*c*) to abolish the Travel Agents' Reserve Fund when outstanding claims have been dealt with.

On the face of it, the Bill may give the impression that it has not borne out all the hard work that has gone on behind the scene but I am afraid this is a misconstrued conception. To be sure the Bill does provide the broad framework and the essential statutory provisions necessary for the implementation of the full package; I do not propose to repeat what the Financial Secretary has already said on the package, but at this juncture I think it would be appropriate for me to mention the important element related to the Bill in the package, for example the constitutions of the Travel Industry Council (TIC) and the TIC Reserve Fund (TICRF), a subsidiary to be formed to administer separately the future reserve fund.

The constitution of TIC and TICRF are where most of the details of the future package scheme will be documented. The ad hoc group has enquired as to whether provisions laid down in such non-statutory documents could be less than effective and we have been advised that the two constitutions would be legally binding contract documents and if a party feels aggrieved he is entitled to approach the court for the necessary remedy. Moreover we have been assured by the Administration that approval from the Financial Secretary will be required before amendments to the constitutions can be made in the following specified and important areas: changes to the TIC membership criteria; rules to be made for the management of the TICRF; scale of entrance fees and annual subscriptions for the TIC; alterations to the appeals mechanism, composition of the TIC/TICRF Board of Directors; and any proposals to dissolve TIC/ TICRF. In particular the ad hoc group has been very pleased to note the following:

(*a*) The criteria for becoming members of TIC (that is ordinary members/ affiliate members) will be clearly laid down in the TIC constitution. There will be an elaborate appeals system to ensure that the membership criteria are administered fairly and impartially: a sufficiently independent appeal board will also be set up to consider appeals and thereafter there can be further appeals to the registrar if an applicant is not satisfied with the decision of the appeal board. As to the applications for association members of TIC, the criteria for membership will also be laid down in the constitution and applicants can similarly appeal to the appeal board if they are not satisfied with the decisions of the the TIC.

(*b*) The levy will provide a reliable basis on which the TIC Reserve Fund is to be established and this will enhance consumer protection.

The new scheme, I believe, is worked out with the best of all intentions to resolve the problems of the travel industry but it is by no means a guarantee against defaults in future. I have no doubt that the Administration and TIC will in due course make suitable arrangements to publicise the details of the package to members of the public, but members of the public in choosing their agent, should bear in mind the following:

(*a*) The future compensation, just as it is at present, will still be discretionary in nature. According to TIC, the intention is that the future TIC Reserve Fund should provide the same coverage as the existing Travel Agents' Reserve Fund and we have been advised that the Board of TICRF will in future be able to exercise its discretion in suitable cases to approve ex gratia payments without requiring the applicants to exhaust judicial proceedings, just as the registrar does at the present time.

(*b*) The compensation for clients of defaulting agents will be fixed at 70 per cent. This has to be seen against the background of the present Travel Agents' Reserve Fund where the compensation could well vary from nil to 100 per cent and to fix the level of compensation at 70 per cent can therefore be regarded as an improvement. Although this may not be ideal we think that it does provide a good starting point and the arrangement can always be looked into to see if it is feasible to secure further improvements when the scheme comes up for review in two years' time.

Sir, in the course of the scrutiny of the Bill, the ad hoc group has held separate meetings with the following bodies: the Consumer Council, Hong Kong Association of Tourists' Rights; Association of Asia General Travel Industry Ltd. and the Travel Industry Council of Hong Kong. We have identified certain problem areas and has accordingly made a number of suggestions for the consideration of the Administration and TIC. These include:

(*a*) To enhance the independence of the TICRF Board, the four professional members should be appointed by the Financial Secretary after consultation with TIC. The present proposal of nomination through TIC should be dispensed with.

(*b*) The quorum necessary for transaction of business by the TICRF Board is fixed at five. The ad hoc group's view is that arrangements should be made to counteract the possibility that the quorum may be made up of a majority of TIC or TIC-nominated members.

(*c*) A reasonable time limit should be prescribed for the following: consideration of applications for TIC membership and processing of compensation claim which now takes a long time.

(*d*) Lastly, the TIC and TICRF should be made 'public bodies' under the Prevention of Bribery Ordinance to ensure that the operations of the two bodies are carried out in a proper manner.

We are very delighted that all these points have been accepted by the Administration and TIC, and we are particularly grateful for their prompt response and the considerate attention they have given to our suggestions.

During the discussion, the ad hoc group's attention has also been drawn to other possible options including the creation of a trust fund to look after the 1 per cent levy, the custodial account method, the possibility of insurance policies, bank guarantees, bonding and paid-up capital as a source of compensation. The ad hoc group has been advised that it would not be feasible for TICRF to be registered as a trust fund because trusts for non-charitable purposes are not currently registrable in law. As regards the other options, the Administration's view is that they all require considerable government intervention and are not therefore in keeping with the spirit of self-regulation. The ad hoc group has carefully examined the pros and cons and agrees that it is not the right time to pursue these options. The group considers that at this point of time the self-regulation scheme should provide the best possible approach and with the acceptance by the Administration and TIC of the points mentioned in the foregoing paragraph, the TIC and TICRF should be able to function in an effective and impartial manner.

Finally, a word on the implementation. The ad hoc group and the Administration have now agreed that in order to tie in with the current cycle for licence renewal, the new scheme will come into force on 31 July rather than 15 July as originally proposed. We have been given to understand that most large-scale tour operators are already members of TIC and there would be only a few who have yet to join TIC. We do recognise that some small operators may have to upgrade themselves financially before they can join TIC but surely this will provide a further safeguard from the consumers' point of view. Notwithstanding, we note from the Administration that there are at present adequate channels open to the non-TIC operators to apply for TIC membership. We have also considered whether there is any merit in allowing more time for the non-TIC licensees to become TIC members but in view of the relatively small number of non-TIC operators and the need to put it into effect the new compensation scheme early enough to cover this year's summer holidays, the ad hoc group feels that the commencement date should not be further deferred. At any event they can still carry on their business in the meantime and it will only be upon expiry of their current licences that they have to apply for TIC membership.

As regards the application by the Association of Asia General Travel Industries Limited (AAGT) to become an association member of TIC, the ad hoc group has been given to understand that TIC will consider the application in accordance with the membership criteria laid down and that the TIC's decision, if challenged, will be subject to review by the appeal board I mentioned earlier. In this respect, the group has noted that the application of the AAGT will be dealt with as an issue separate from the Bill. Notwithstanding we hope that the application by AAGT could be dealt with expeditiously and impartially by TIC.

Overall, we have found the package an acceptable one. With the acceptance by the Administration and TIC of the points put forth by the ad hoc group, we feel that TIC and TICRF are now being put on a proper basis on which they could operate effectively. Although TICRF is a subsidiary of TIC, we are convinced that the Board of Directors of TICRF will not be under the control of TIC and its independence is guaranteed by the Administration's acceptance of the ad hoc group's point on the appointment of the four professionals to the board. Under the revised arrangement, seven out of 11 directors of the TICRF Board (for example, the four professionals, the government representative, the Member of the Legislative Council, and the Consumer Council representative) will be appointed from outside the trade and the authority for appointing the majority of the board members will rest with the Government, OMELCO and Consumer Council. This is a very important safeguard which will in turn ensure that the levy to be collected in the reserve fund will not be abused. In a similar vein, we have also been advised in the course of the discussion with the Administration that if the TICRF is going to accumulate an unduly large amount of money the levy arrangement can be reviewed.

Sir, the present scheme no doubt represents a very significant step in moving towards self-regulation. Under the package, the Government is being allowed a reasonable degree of transparency over the activities of TIC and this will ensure that the consumers will be afforded a certain degree of protection. Government involvement may be justifiable as an interim measure but at the end of the day self-regulation must be the goal that we should aim to achieve. Compensation is only a negative way of dealing with problems and I always believe in prevention rather than cure. Self-regulation will be the best positive way to achieve this and I am sure that TIC together with the Administration will continue, as in their present co-operative manner, to maintain the dialogue and to help steer the travel industry to develop in a healthy and constructive direction.

Sir, with these remarks, I support the motion.

MR. CHAN KAM-CHUEN: Sir, as I am not a member of the ad hoc group and have only joined some of the meetings on this Bill, I shall only comment on the philosophy and make some suggestions which may hopefully be useful for this issue in future.

Bone of contention

(*a*) 100 per cent compensation demanded by consumers, backed by the Consumer Council and even some travel agents and by the Legislative Council in-house meeting on the Travel Agents Reserve Fund (TARF) in the Austravel, PC Travel Service and Choicest cases; and

(*b*) 70 per cent compensation advocated by the policy makers and TIC for the Travel Industry Council Reserve Fund (TICRF). How would one like, after paying life insurance premium, to find that one's widow or widower could only receive 70 per cent of the sum insured? Anyway, it will be too late to turn in the grave by then.

Self-regulation is a means used by self interest groups to delay or avoid controlling legislation. If self-regulation is so successful, we do not have to bail out so many banks, financial institutions and even insurance companies and so on. In these cases, the depositors and customers (or victims of bankruptcy) got their money back 100 per cent regardless of what methods or terms the Government used.

Failure of the TARF

SUEN Wu's 'The Art of War' written around 510 BC stated that 'careful deliberations and planning will lead to victory, careless planning will lead to defeat. How much more certain is defeat when there is no planning at all (多算勝,小算不勝,而況於無算乎)'.

If my memory is correct, someone mentioned in this Chamber that the now depleted TARF was in line with the spirit of the Protection of Wages on Insolvency Fund (PWIF). PWIF still has spirit but the TARF is listless and lifeless, and apart from the word 'fund' they are not alike.

The PWIF planners knew that it has to cater for 2.6 million to 2.7 million employees; it knew the average annual total amount of bankruptcies in the past 10 years; it sets a ceiling for payment for each case; it has accumulated six months' levy in reserve before commencing operation; it has a simple way to collect a continuous monthly income and it knows that it can meet a one-off payment of 1 per cent unemployment of Hong Kong's workforce.

If one checks these items against the TARF one knows the reasons for its failure.

Lessons for TICRF

It is the good employers who pay the levy in PWIF and not the employees (or victims of bankruptcy). The public would not take too kindly that the levy of $2,500 per licencee in the TARF is now shifted onto the consumer (or victim of bankruptcy) in a form of a 1 per cent levy on top of their cost of tour.

Perhaps, in the next review, one of the following improvements should be considered:

(*a*) change to 100 per cent compensation by increasing the levy, pro rata, to 1.43 per cent which means an increase of $8.60 for a $3,000 tour. The public feels 100 per cent compensation is fair; or

(*b*) set a ceiling of say $5,000 per claim or lower and pay 100 per cent compensation which protects the absolute majority of those who could afford less. This also discourages the following type of fraud.

Prevention of fraud and corruption

Where large sums of money are accumulated, there are always clever and evil minds trying to pocket them.

Someday, someone would open a plush travel agent office with just a small capital of $500,000 and organise phoney six-figure per head round-the-world tours for his gang, with receipts and procedures all legal and proper. Then the travel agent becomes a travelling agent to somewhere 'Ningpo—more far' as in pre war pidgin English terms, and his gang starts filing piles of claims.

Last speech

As this is my last speech before retirement, I wish to take this opportunity to thank my colleagues and the Legislative Council staff for their guidance and assistance.

To set the records straight and pacify misled public feelings against the Government, I had set my maximum of service in the Legislative Council to eight years in my speech on 15 July 1987 and I had voluntarily applied for retirement in April 1988 and this was approved by the Governor on 16 April 1988.

This Government can tolerate constructive criticisms and this helps to make Hong Kong so unique and prosperous. With the feeling of mission accomplished, I can now look back to 1947 when I joined public service with absolutely no regret.

MRS. CHOW: Sir, I am glad to note that the Administration has accepted the Consumer Council's proposals to bring both the TIC and the TIC Reserve Fund Ltd. under the aegis of the Prevention of Bribery Ordinance and for the Financial Secretary to directly appoint four members from the banking, insurance, accountancy and legal professions to the TIC Reserve Fund Board, instead of their being nominated by the trade.

The Consumer Council considers the above arrangements of utmost importance in order to ensure the complete impartiality and accountability of the board of the TIC Reserve Fund, which must be seen to exercise its duties in the broad public interest.

The proposed amendment Bill will repeal sections 43 and 44 in the existing Ordinance which provides for the right of consumers to apply for payment from the reserve fund and the registrar to make an ex gratia payment. Speaking in the interest of consumers, the Consumer Council would have preferred to retain this right of the consumer in the legislation. A simple amendment to the existing clauses making reference to the TIC Reserve Fund will suffice without taking away this legal backing to consumers as provided for in the existing law. I am, however, aware of the thinking behind the Administration's amendment, which is to move towards self-regulation by the trade itself, and in principle we have nothing against this, so long as the right of the travelling public is protected.

Whilst the Administration is guided by its belief in self-regulation, I can still see a vital need for continued government participation and indeed an element of this is evident in the proposed package, in the changes in certain rules of the

constitutions of TIC and TIC Reserve Fund need to be approved by the Financial Secretary. The link is there. What the Consumer Council is uneasy about is whether this link is sufficient for the Administration to exert influence, and whether the Administration has a will to exert such influence when it is necessary to do so. The Consumer Council will closely monitor the situation to ensure the interest of consumers is safeguarded at all times.

Sir, the Consumer Council wishes me to raise serious objection to the 70 per cent formula proposed for the future. The trade's argument for the discounted compensation was based on the consumers' responsibility in exercising their choice. With the new arrangements, only members of TIC will be licensed to do business, and the authority and responsibility lie squarely in the hands of the TIC to vet and regulate its own members. The levy comes from the consumer, and there is no valid reason to discount that by 30 per cent whatsoever. This is a retrogressive step from the present position, where the law states that compensation is based on proof of debt, and not subject to any discount. The argument that the future position is an improvement because there is guaranteed payment due to the secured money and the reserve fund may serve to point to an inadequacy in the existing legislation for which the consumer was not responsible but is hardly reasonable justification for discounted compensation in the future. We should be looking towards the United Kingdom where there is self-regulation within the trade, and where compensation is 100 per cent. I urge the Government and the trade to adopt an open attitude towards this issue, and to be prepared to review this as soon as the fund reaches a substantial level. This is not a matter for bargaining. It should be a matter for the future TIC Reserve Fund to decide. After all, it would strengthen the relationship between the trade and the consumer, and enhance the image of the trade if the parties concerned were to acknowledge the fact that the fund belongs to the travelling public, who, having paid for it, should be able to obtain full redress from it when a member of the trade lets them down in case of failure or abscondence.

Sir, the proposed amendment Bill and the entire self-regulatory measure, in spite of our reservation, is none the less a good start. In order to ensure its eventual success, it will be in the public interest to safeguard, at all times, the independence of the TIC Reserve Fund in view of the huge amount of monies to be held in its trust in the future. These monies must of course be devoted to the sole purpose of compensating consumers of default travel agents, who are the ultimate beneficiary of the trust fund.

Sir, I support the Bill and the motion.

MR. CHEONG-LEEN: Sir, just a few words in support of the Bill.

A major problem of the Travel Agents Ordinance enacted in 1985 was that the Travel Agents' Reserve Fund set up under the Ordinance had no funds to compensate aggrieved customers of Austravel and PC Travel Service.

The replacement of the Travel Agents' Reserve Fund by a new Travel Industry Council Reserve Fund under the Bill before us will ensure that these aggrieved customers will be compensated.

A 1 per cent levy on outbound package tour prices will fund the new Travel Industry Council Reserve Fund. Clients of any future defaulting travel agents may receive compensation equal to 70 per cent of their unsatisfied claims.

Some argue that since all travel agents will in future have to be a member of the Travel Industry Council through an affiliated organisation, clients should be entitled to 100 per cent compensation instead of only 70 per cent. As the new compensation arrangements require some time to settle down, I think the question of 100 per cent compensation could be reviewed by Government two years from now.

As there is a large number of travel agents in Hong Kong it still behooves anyone wishing to purchase travel tickets to join a tour for himself or his family to follow the principle of 'caveat emptor' (let the buyer beware) and ensure that he gets good value for money and not necessarily buy the cheapest priced ticket that is offered.

I understand that the 'Rules for Administering the Travel Industry Council Reserve Fund' will have to be approved by the Financial Secretary and that provision will be made for claims by clients of defaulting agents to be processed within a certain period of time after the court ruling/winding-up decision has been obtained. This represents added protection for the consumer.

To ensure that the Travel Industry Council Reserve Fund will operate impartially, one Member of the Legislative Council, one Consumer Council representative and one government representative will be included in the 11 directors on the reserve fund board.

I support the Government's objective of limited government involvement in order to introduce self-regulation of the outbound travel industry, and at the same time ensure that there is a reasonable degree of protection for the consumer. I would hope that this Bill is the first phase in the evolution towards complete self-regulation.

To ensure that the industry develops on a sound basis, I support the view that the Travel Industry Council and the Travel Industry Council Reserve Fund should be made 'public bodies' under the Prevention of Bribery Ordinance.

To ensure fair play within the industry itself, provision will be incorporated into the Travel Industry Council's constitution to stipulate a time limit for the processing of membership applications which will bind both parties.

Sir, this Bill represents many months of protracted discussions between Government and the travel industry, and its adoption today at the last meeting of the current legislative session will give a measure of compensation protection

to the outbound travelling public as of next month. As more and more Hong Kong residents are travelling these days, this improved legislation is to be welcomed.

Sir, I support the motion.

FINANCIAL SECRETARY: Sir, I am grateful to Dr. IP, Mr. K. C. CHAN, Mrs. Selina CHOW and Mr. Hilton CHEONG-LEEN for speaking in support of this Bill.

Over the last 18 months the policy proposals on the outbound travel industry have been discussed in great depth and have been the subject of extensive consultation. Dr. IP has described in some detail the discussions and the scheme itself and so I shall try and keep my remarks fairly brief and deal with just a number of points.

After the Bill was published, the Registrar of Travel Agents held a series of meetings with licensed travel agents to advise them of the new requirements of the Travel Agents (Amendment) Bill—principally the statutory requirement that new licensees should become members of the Travel Industry Council. This requirement will also be applied upon renewal of licences. About half of the 1 000 licensed travel agents are already members of the Travel Industry Council (the TIC). So far, some 300 travel agents, who were not members of the TIC previously, have applied to join. The remainder are expected to join the TIC in the next few months as their current licences expire. I am happy to be able to inform this Council that the response from individual agents confirms that the new measures have wide support from the trade.

We are satisfied that the membership criteria adopted by the TIC are not onerous and bona fide operators should have no difficulty in complying. There is also provision for the admission of new association members.

Sir, any applicant who has been refused TIC membership may apply to an appeal board, established under the TIC constitution, for the case to be reviewed. Every effort has been made to ensure that the trade remains open to newcomers so that consumers will continue to have a wide choice of travel agents.

The statutory licensing requirement of TIC membership will bring all travel agents within one recognised trade body for the first time, and this will facilitate the industry in raising professional standards and introducing a code of conduct for members to follow in serving the travelling public.

Sir, an important element of the new scheme is the establishment of a non-statutory compensation scheme or fund to replace the Travel Agents' Reserve Fund. This new fund is expected to provide a better cushion for customers of any travel agent who might default. In Dr. IP's speech this afternoon, she suggested that the new arrangements should prevent the possibility of the TIC Reserve Fund Board being dominated by a majority of TIC Directors. The TIC

Reserve Fund constitution provides for seven of the 11 board members to be appointed from outside the trade and for alternate directors to be appointed to stand in when necessary. I believe the arrangements will meet Dr. IP's point.

Mrs. Selina CHOW, Mr. K. C. CHAN, Mr. Hilton CHEONG-LEEN have all spoken of the level of compensation and desirability of awarding 100 per cent. As matter now stands, the policy of the fund will be to provide 70 per cent ex gratia compensation to customers of defaulting travel agents. Full compensation, as Members have noted, will not be provided mainly because we feel that customers should bear some responsibility for their choice of a travel agent; a responsibility which anyone entering into a normal and commercial contract of any sort would normally have to accept. I know that the Consumer Council has been concerned about this point. But I might add that in most liquidation or bankruptcy proceedings, there is little likelihood that an ordinary creditor would recover all the money owing to him. What we have proposed is, I suggest, a reasonable balance between the various interests involved.

Mr. K. C. CHAN made the point that what we have proposed can be distinguished from the position in relation to the protection of wages, life insurance companies, and so on. I think, Sir, that one can draw a valid distinction between the protection of a man's livelihood and the protection of someone's saving and protection of money which has been spent for recreational or pleasure purposes. But nevertheless I conceive that there is strong public feeling on this point, and of course we will look at it again when we have a little more experience. But as I have said, what we have tried to do at this stage is to maintain a reasonable balance between the interests involved.

Members of the ad hoc group also proposed that a time limit should be stipulated for the future processing of applications for ex gratia compensation, so that customers of defaulting agents will be given an answer within a finite time. This suggestion will be followed up when detailed rules and procedures for administering the new compensation scheme are established by the TIC Reserve Fund Board.

Sir, the Bill provides a broad framework for the policy of self-regulation to be introduced. Many of the detailed measures are contained in the constitutions of the Travel Industry Council and the TIC Reserve Fund. These documents have been prepared by the Travel Industry Council in close co-operation with the Administration. They have also been studied by the ad hoc group of this Council. Whilst the constitutions do not, in themselves, have statutory force, certain safeguards have been built in to require the prior approval of the Government in respect of future amendments to key features of the self-regulation system. The controls on future amendments cover mainly changes to the TIC membership criteria, the appeals mechanism for reviewing rejection of applications for TIC membership and the arrangements for administering the TIC Reserve Fund. These safeguards will give the Government an adequate degree of control to ensure that self-regulation does not lead to restrictive trade practices.

It has also been proposed that the Travel Industry Council and the TIC Reserve Fund should be made 'public bodies' under the Prevention of Bribery Ordinance. The Administration supports this proposal in principle. The TIC also recognises the importance of accountability in this regard and sees this proposal as a means of ensuring that these two governing bodies operate in a proper manner. As a first step, the TIC with the assistance of ICAC, will develop a code of conduct for the TIC and TIC Reserve Fund Directors to follow. When the necessary ground work has been done, steps will then taken to designate the TIC and the TIC Reserve Fund as 'public bodies'. Sir, I feel the co-operation of the Travel Industry Council in relation to this aspect is, particularly commendable.

Sir, we have come a long way since the introduction of the Travel Agents Ordinance in 1986. Experience has shown that the Ordinance as it stands is not perfect, but it has provided the right framework in which further steps towards self-regulation can be pursued.

During the past 18 months, a great deal of work has been done by a lot of people. I would like to record my appreciation of the contributions made by the Travel Industry Council, the Advisory Committee on Travel Agents, the Consumer Council and of course not least, Members of the Legislative Council ad hoc group under the able leadership of Dr. Henrietta IP. Without their understanding and support, we would not have been able to bring before this Council the present Bill which, as Dr. IP has said, represents a significant step forward for the outbound travel industry and the travelling public.

Question put and agreed to.

4.33 pm

HIS HONOUR THE PRESIDENT: Members may choose at this stage to take a short break.

4.51 pm

HIS HONOUR THE PRESIDENT: Council will resume.

Bill read the Second time.

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

SOCIETIES (AMENDMENT) (NO.3) BILL 1988

Resumption of debate on Second Reading (6 July 1988)

Question proposed.

MR. MARTIN LEE: Sir, while I support this Bill, I wish to say a few words in relation to the retrospective effect of its provisions.

As legislators, we must be on guard against legislation of this kind. For it is a cardinal principle of the common law that the rights of the citizen must not be adversely affected by subsequent legislation.

In moving the Second Reading of this Bill on 6 July 1988, the Attorney General made it perfectly plain that the intention behind the Societies Ordinance was 'to prohibit triad societies and other groups which threaten the peace, welfare or good order of Hong Kong;' and that it was due to a drafting oversight that partnerships of solicitors, accountants and others consisting of more than 20 persons have not been exempted from item (6) of the Schedule to the Societies Ordinance.

But as the Bill will have retrospective effect if it is passed into law, we must satisfy ourselves that anyone who has had dealings with these large partnerships will suffer unjustly by reason of the amendment being made retrospective effect. Let us start by asking ourselves what would happen if the amendment were not to be retrospective. In that case, it might encourage persons who have had work done for them by large and respectable firms of solicitors, accountants, or stock brokers to evade payment of such professional fees or charges by taking the point that the partnership in question was illegal, with a possible result that the claim for such fees or charges might not be entertained by a court of law. Sir, I submit that in these circumstances it would not be unjust or unfair to these would be non-payers if the Bill were given retrospective effect. Indeed, it would most certainly be unjust to these large and respectable firms if the amendment were not to be retrospective, for that might prevent them from recovering what is rightfully theirs, but for an unfortunate oversight made many years ago.

Sir, subclause (3) of clause 1 of this Bill provides that the amendment shall not 'affect any legal proceedings commenced on or before 21 June 1988 in respect of which any non-compliance with the Societies Ordinance by a partnership has been expressedly put in issue on or before that date.'

That means that if a defendant in a legal action has already pleaded in his defence on or before 21 June 1988 the point of illegality on the ground that the plaintiff partnership consisting of more than 20 partners have not registered themselves under the Societies Ordinance, then the issue will be determined by a court, and the amendment contained in the Bill will not affect the defendant's pleaded case. But the Bill will not enable other defendants to other legal actions to take the same point after 21 June 1988.

In the circumstances, Sir, I am satisfied that the retrospective aspect of the Bill is not unreasonable as it does not encrouch upon the independence of our Judiciary or the rule of law or cause injustice to anybody.

To conclude, may I appeal to all my colleagues to continue to be vigilant in making sure that retrospective legislation will only be passed as a matter of absolute necessity, and in wholly exceptional circumstances, and above all only when we are fully satisfied that it will not do injustice to anyone who may be affected by it.

Sir, with these remarks, I support this Bill.

ATTORNEY GENERAL: Sir, I would like to thank Mr. Martin LEE for his support for the Bill. I agree with Mr. LEE that retrospectivity should be exercised with great care. It was with the cardinal principle that he has described firmly in mind that the Government considered long and hard as to whether the Bill should, indeed, have retrospective effect. In the end, the Government concluded for the reasons given when I moved the Second Reading of the Bill, and elegantly restated today by Mr. Martin LEE that it should, indeed be retrospective. And I am glad Mr. Martin LEE has found this proposition agreeable.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

TELEVISION (AMENDMENT) BILL 1988

Resumption of debate on Second Reading (29 June 1988)

Question proposed.

MR. CHEONG: Sir, I rise to support the Television (Amendment) Bill 1988. Since the date of this Bill of gazetting the Legislative Council ad hoc group under the convenership of Dr. HO Kam-fai has received representations from the two incumbent licensees over various provisions in the Bill. By the way, Sir, Dr. HO sends his apologies. He is now travelling with a group who is trying to enter England via Dover. The group has considered their views in great detail and concluded that although the representation is well prepared, many of its suggested solutions to the perceived problems are at odds with most of the basic principles considered at length by the Broadcasting Authority. Such important issues as company structure, foreign ownership and so on have indeed been fully deliberated by the Broadcasting Authority and their recommendations have been reflected in the provisions of this Bill. Save for some minor amendments which I will elaborate briefly later, the group lent its full support to this Bill

and has commended it to other Members at the in-house meeting on 15 July. I am pleased to report, Sir, that all Members present at that in-house meeting indicated their full support.

One minor amendment relates to the ad hoc group recognising that provisions in the Bill relating to the prohibition of nominee shareholding unintentionally carries a side effect which is preventing a shareholder of the licensees from using his or her shares as collateral to secure loans or credit facilities from licensed financial institutions. The group understands that it is a common business practice for the creditor bank to demand for prior transfer of the borrower's shares to its associated nominee company. The prohibition of nominee shareholding for the purpose of credit generation would thus adversely affect the normal flexibility enjoyed by the shareholders as well as the marketability of the licensees' shares especially if the licensees were to seek public listing in the stock market. I will propose an amendment in Committee to remove this anomaly.

The licensees are also concerned that the Bill would deprive them the opportunity of minority participation in joint ventures with overseas partners even if these projects could be beneficial to the development of the broadcasting industry in Hong Kong. We sympathise with this concern and have discussed at length with the Administration on this issue. We have been reassured by the Administration that they are keeping an open mind on this issue. Should the licensees come up with actual projects and justifications, we are confident that it will be sympathetically considered by the Broadcasting Authority and the Administration. If by then it warrants any change to the existing legislation to accommodate the projects, we are sure that with the recommendation from the Broadcasting Authority this Council will also consider it sympathetically. The principle we have adopted is that no amendment to the legislation is needed now in order to cater for hypothetical situations that might never have materialised.

One final point which merits further clarification is the ability of licensees to form 'second tier' subsidiaries. The principle, as set down by the Broadcasting Authority, is that the licensees should not involve in operations not directly connected with television broadcasting, nor should they own shares in a company which do not have overall management control. The Bill as drafted prohibits a licensee from holding interests in companies that is indirectly involved with broadcasting business with less than 51 per cent of voting shares registered in the name of the licensee. This would be tantamount to a total ban on 'second tier' subsidiaries and could interfere unnecessarily with some normal offshore commercial operations of the licensees. I understand that the Administration will propose an amendment in Committee allowing the licensees to set up subsidiaries with 51 per cent of voting shares registered in the name either of the licensee or its other subsidiaries.

Sir, businesses engaged in broadcasting cannot be treated like any other businesses. Possible adverse effects on our community can be far reaching if

no clear rules, regulations and guidelines are set down. These rules, regulations and guidelines should aim to balance the interest of shareholders of the business and those of the overall public. The Broadcasting Authority had performed an admirable job in reviewing and deliberating on all the thorny issues. This Bill is the result of these efforts and the passage of the Bill will enable Hong Kong's broadcasting industry to be better placed to continue to serve the community well on the one hand and to have meaningful return for their efforts on the other. Together with some minor and technical amendments, I have no hesitation, Sir, in commending it to my hon. Colleagues.

MRS. TAM: Sir, the Television (Amendment) Bill 1988 on which debate is resumed today is the outcome of over two years of careful deliberation by a number of official bodies such as the Broadcasting Review Board and the Broadcasting Authority after extensive public consultation. One of the main principles of the Bill is to uphold the independence of the television broadcasting industry in Hong Kong.

As we all know, there has been rapid development in the television broadcasting industry in Hong Kong. Television has become a part of life for most people, providing them with information and entertainment. In view of the pervasiveness and powerful influence of television it is vital to uphold the independent status of the television broadcasting industry. On the basis of this fundamental principle, the Bill prohibits any television licensee from becoming a subsidiary of another company, in order to avoid, in the next 12 years, the situation of a licensee being controlled by companies not directly connected with the television broadcasting industry. In my view, the Television (Amendment) Bill 1988, which gives effect to upholding the independence of the television broadcasting industry in Hong Kong, is in line with public interest and people's aspirations and is also worthy of my support.

Apart from the question of independence, there is still room for improvement in certain areas of the television broadcasting industry. However, some of the issues have not been addressed by the Bill. The standard of television programmes is a case in point. All along, there have been repeated complaints about the standard of television programmes from members of the public. These complaints are not only related to the protrayal of violence and sex but also about undersirable moral values and distortion of historical facts. It is my opinion that as television is a powerful medium that pervades into the homes of every stratum, the message to be conveyed through its programmes must be carefully considered and the authorities concerned should effectively monitor the standard of television programmes in future. As the existing code of practice, which includes rules governing the standard of television programmes, is currently under review, I earnestly hope that the outcome of the review will help improve the standard of television programmes. I also hope that the television broadcasting industry will exercise self-discipline by paying more attention to the message contained in its programmes.

Sir, with these remarks, I support the motion.

MR. EDWARD HO: Sir, while we are conducting our business in this Chamber, the television cameras have been trained on us, taking in what we say, how we look, what we do and what we do not do. These images will be edited and beamed right into the homes of many people in Hong Kong.

In a recent survey, it has been found that nearly 1.5 million households own a television set; and in terms of the total number of households in Hong Kong other than those living on the outlying islands, this means that the penetration of television into all households is now at 96 per cent.

In every country, the first signs of rising living standards are the television antennae on the roofs, and Hong Kong is no exception.

Television can penetrate into the homes as no other means of mass madia can. It reaches people of all ages. In Hong Kong, the young viewers make up a large part of the television audience. A survey carried out in connection with the report on youth policy indicated that our youth spent most of their spare time watching television than in any other leisure activities.

Television serves the public well as a medium for entertainment, transmission of news and information, and can be an effective educational tool. On the other hand, because of the considerable power of influence that television has on the community, its influence must not be left unchecked. Community interest dictates that licensees who are granted franchises for off-air television broadcasting are controlled with respect to their programme, advertising and technical standards.

In addition, in order that the powerful influence of television will not be exploited by foreign interests, it is the practice of all countries that we know of that the controlling interest of television licensees is restricted to local ownerships. To a large extent, such types of restrictions and controls have already been practised in Hong Kong in the provisions of the Television Ordinance. The Television (Amendment) Bill 1988 on the other hand is aimed at enacting amendments to the principal legislation that will provide a more effective means of ensuring that these controls are not circumvented.

A company that operates a television broadcasting station on behalf of a community has a heavy responsibility towards the community, and its activities as a company cannot simply be considered as those undertaken by a normal commercial business. I believe that the Bill before us when enacted will not only safeguard the interest of our community but will also provide use with better quality programmes and therefore it deserves our full support.

Sir, I support the Bill.

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, I am most grateful to Mr. Stephen CHEONG, Mr. Edward HO and Mrs. Rosanna TAM for their support and I am also grateful to all the members of the ad hoc group for the consideration they have given to what is a complex and technical Bill.

Sir, I would also like to join Mr. Stephen CHEONG in wishing Dr. HO Kam-fai the best of Hong Kong luck in his attempt to cross the English Channel. I must apologise once again to Members for the limited time there has been to examine this Bill. As I pointed out when introducing the amendment Bill, it is essential that legislation be enacted to provide the statutory framework for the imposition of some of the new conditions attaching to the new television licences, which will be effective from 1 December 1988.

The law drafters, to whom I would like to pay particular tribute, were faced with a formidable task to meet this very tight deadline, and a high priority was given to this work. The ad hoc group then took up the unenviable job of scrutinising this complex and lengthy piece of legislation.

I am grateful for the constructive comments made by members of the ad hoc group. The amendments to be moved by Mr. Stephen CHEONG are much appreciated by the Administration. I agree with the sentiments behind Mr. Stephen CHEONG's amendment, which would remove any legal impediment to financial arrangements by which shares are used as security for loans, and are transferred for this purpose to a nominee company of a financial institution.

I would endorse whole-heartedly the comments of Mrs. Rosanna TAM and Mr. Edward HO that we must maintain, and indeed seek to improve the standard of television broadcasting. It is of course not appropriate to deal with all of the terms and the conditions relating to the new licences by means of legislation. As Mrs. TAM correctly pointed out, we are also in the process of reviewing the Codes of Practice on Programme, Advertising and Technical Standards. In addition, some of the more detailed programmes and other requirements will be included as conditions in the new licences. The Bill essentially deals with ownership and control of licensees, the prohibition on licensees being held by holding companies and controls on interests licensees may have in other companies, and finally the calculation of royalty. Clauses 4, 14 and 20 therefore form the heart of the proposed legislation. The Bill amends and adds to the existing provisions and includes more detailed mechanisms to ensure that the legislation will be effective and more effective than the existing legislation.

Mr. CHEONG has indicated, in our discussions with the ad hoc group, the group expressed some concern that section 17A under clause 14 of the Bill might be unduly restrictive on a licensee, by preventing its participation as a minority shareholder in, for example, international consortia which might be set up in the future for regional broadcasting or other similar purposes. As it stands, this provision requires that the licensee may only hold a majority interest in other companies, and requires, in effect, the licensee to have control over the management of such subsidiary companies as it may be permitted to acquire. The purpose of this is to ensure that a licensee is fully responsible for any other business in which it has an interest and is not subject to any undue external pressure as a result of its outside investments. Nevertheless, I should like to

confirm Mr. Stephen CHEONG's statement that the door is not forever closed in this respect. If, in the future, the opportunity for such participation arises, and a licensee can make a case that participation in other companies would benefit television broadcasting in Hong Kong, then the issue may be reconsidered by the Broadcasting Authority and the relevant provisions of the legislation may be reviewed.

The ad hoc group was also concerned, that the Bill appears to prevent the formation by a licensee of 'second-tier' subsidiaries, a point, made by Mr. Stephen CHEONG. Second-tier subsidiaries means subsidiaries of subsidiaries. This was not our intention and I shall be moving a Committee stage amendment to section 17A of clause 14 to remove any doubt.

The fact that the legislation is of a technical nature should not unduly concern the small shareholder, the small investor, because, as I had previously pointed out, it affects primarily those non-local shareholders with large shareholdings in a licensee company. Such shareholders will have access to expert professional advice. Nevertheless, it has emerged during consideration of the Bill that certain technical amendments would enhance clarity and remove possible ambiguities. I shall, therefore, be proposing several drafting amendments in the Committee stage. These amendments would not affect the substance of the Bill.

Sir, I move that the Bill be read the Second time.

Mrs. Selina CHOW, as the Director and Chief Executive of one of the television companies, declared an interest. She said she would abstain from voting.

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).

OCCUPATIONAL SAFETY AND HEALTH COUNCIL BILL 1988

Resumption of debate on Second Reading (29 June 1988)

Question proposed.

PROF. POON (in Cantonese): Sir, the concept of setting up an Occupational Safety and Health Council to foster safer and healthier working conditions in Hong Kong dated back as early as 1976. After 12 years of careful consideration and examination, the Bill before this Council today is indeed a welcome piece of legislation which should be supported by all who are concerned with the safety of our workers.

The Legislative Council ad hoc group set up to study the Bill also welcomes the establishment of the council. The council's role in enhancing industrial safety is unquestionable. Nevertheless, Members feel that the purposes of the council as stipulated in the present provisions of the Bill do not fully reflect the range of responsibilities it should be able to cover. We are also disappointed that the functions of the council appear to confine publicity, education and consultancy services and no provisions are made to define the council's connection with the Government. Although we have been assured by the Administration that the purposes of the council as stipulated in the Bill were drafted in such a way as to allow flexibility and that its power and duties was sufficiently wide to enable it to carry out its functions in promoting and enhancing industrial safety, Members of the group felt that the relationship between the council and the Government should be more clearly spelt out. This not only ensures that the council could perform its duties efficiently with the co-operation of the Government, but would also satisfy the aspiration of the labour sector which has all long placed high hopes on the council.

Two labour organisations have sent representations to the ad hoc group to express their view that the terms of reference of the council should be enlarged particularly with regard to its functions in advising the Administration on policies and amendments to legislation relating to industrial safety, and its power to monitor the enforcement action taken by the Labour Department to ensure compliance with provisions in relevant legislation governing industrial safety. The group has requested the Administration to conduct a review of the overall operation of the council one year after its formation, including the possible extension of its preview and responsibilities. I will also move a Committee stage amendment later on which will improve the existing limitation of the purposes of the council.

With regard to the membership of the council, I am glad to know that tripartite or co-operation by the employers, employees and the Government is emphasised. However, in order to fulfil its functions as a bridge between the Government and the community in promoting industrial safety, the council should have its chairman appointed from Members of this Council. In the long run, I also support the suggestion that consideration be given to the formation of a commission which will be responsible for formulating industrial safety policies and legislation and have actual executive powers.

The Bill also provides for the imposition of a levy on employers taking out employees' compensation insurance policies in order to fund the council. We are given to understand that following the publication of the Bill in the Gazette, the insurance industry has made a representation to the Administration concerning the collection of the levy for the council. As a result of discussion, the Administration will now propose a new levy collection mechanism which we were told was agreed upon by the insurance industry. Therefore, the ad hoc group accordingly gives us its support to the amendments to be moved by the Administration.

Finally, I would like to clarify one point concerning the explanatory notes of the amendment Bill. It says that $5.5 million will be applied to the Finance Committee for the setting up of the council. Some people have already pointed out that this is inappropriate. The Government has already explained that this is not a loan, this is an allocation and the council will not have to pay back the Government.

With such remarks, Sir, I support the Bill.

MR. CHEONG-LEEN: Sir, in speaking to this Bill, may I declare an interest as a director in a reinsurance company.

I fully support the formation of an Occupational Safety and Health Council and the objectives for which it is to be set up.

I understand that the Insurance Council of Hong Kong did make representations to the Administration objecting in principle to any levy on insurance premium being used, for financing statutory bodies such as the Occupational Safety and Health Council.

The industry is concerned that once a precedent was set, the industry could be required to collect funds for other bodies for purposes such as traffic safety, fire or crime prevention.

In the United Kingdom and Australia, organisations such as the Occupational Safety and Health Council are subvented by the Government.

However, it has now been decided to go ahead and make the insurance industry reponsible for collecting the required levy on insurance premium to be used for financing the activities of the Occupational Safety and Health Council.

The industry would like to have a firm assurance coming from Government that the adoption of this Bill will not be the thin edge of the wedge and that later on the Government will not want the industry to collect other levies for other bodies for purposes such as traffic safety, fire or crime prevention.

Sir, although I have declared an interest, I presume it would be normal for me to support the Bill.

MR. PANG (in Cantonese): Sir, the Occupational Safety and Health Council long proposed by the public will be set up immediately after the Third Reading and passing of this Bill. The labour sector generally welcomes the setting up of the council which will contribute to the promotion of education and publicity in occupational safety.

In recent years, the problem of occupational safety has aroused public concern. Those in the trade believe that there is a need to set up a monitoring organisation to make recommendation and to push ahead with related work. Therefore, the labour sector has high expectations on the Occupational Safety and Health Council since it was on the drawing board. They hope that the

OSHC can totally resolve the problem of industrial accidents. However, after the publication of the Bill, most of the labour organisations have shown their disappointment about the objectives stated in the Bill. They feel that it is not adequate for OSHC to concentrate only on education and publicity and not monitoring and legislating work. We must realise that an organisation short of power will not have the free hand to instruct employers and employees to abide by the related industrial safety laws and policies. This will greatly affect the success of that council in promoting its objectives and functions. Therefore, I support some organisations' call, as reported in the newspaper, to expand the OSHC's terms of reference to include the proposal of legislation and monitoring work. Nevertheless, I do understand that the objectives and authority of the council now prescribed in the Bill were drawn up by the working group and were fully considered by the Governor in Council. Any redrafting may delay the setting up of OSHC. Therefore, I hope that the authorities will, based on the operational experience of the OSHC, as well as on public opinion, review the situation one year after the setting up of the council and to expand the terms of reference of the OSHC.

Sir, with these remarks, I support the motion.

MR. TAM (in Cantonese): Sir, the Occupational Safety and Health Council Bill 1988, which is submitted to this Council for resumption debate today, has taken 13 years to materialise from the conceptional stage through the drafting stage to the vetting stage by this Council. This can be considered as a record. In the past few years, the labour sector looked forward to the early formation of the Occupational Safety and Health Council. Today, our friends in the labour sector feel pleased because the long-awaited Occupational Safety and Health Council after passing through various hurdles will at last come into being. From now on, Hong Kong has a specialised organisation to be responsible for promoting occupational safety, bringing the development of occupational safety work in Hong Kong to a new era. However, the labour sector still have worries and disappointment about the authority, terms of reference, financial arrangement and operation of the Occupational Safety and Health Council. They are worried that the Occupational Safety and Health Council due to its inherent inadequacies and the lack of material support cannot grow up and become strong, not to mention playing an active part in promoting occupational safety in Hong Kong. I will detail below the worries of the labour sector which also stand for my reservation about the Bill.

First, I will analyse the problems related to the objectives and terms of reference of the council which is one of its inherent weaknesses. Obviously, the Bill only empowers the Occupational Safety and Health Council to concentrate on publicity and educational work by encouraging the public to pay attention during work, to amend laws and to raise the standards. The Bill does not clearly stipulate whether the Occupational Safety and Health Council has the power to propose and to amend legislation. Although the authorities may claim that

clauses 4(*e*) as well as 4(*f*) have given the Occupational Safety and Health Council comprehensive, adequate and flexible objectives and powers to carry out the abovementioned authority and duties, I cannot agree because the description of the council's objectives are too vague. I would like also to query the authorities. They say that giving advice and making recommendations on legislative measures to improve occupational safety and health standards is a function of the Occupational Safety and Health Council. If this is so, why does the Bill not clearly stipulate that the council has such a power? If this is clearly described in the Ordinance, what adverse effects will it generate?

In fact, the Occupational Safety and Health Council will comprise representatives of employees, employers, professionals and academics. They are prominent people in occupational safety work and are familiar with the scenario and problems of occupational safety work in Hong Kong. They really possess the knowledge, capability and experience to propose legislation and legislative amendments.

Concerning the council's purposes and functions, apart from the lack of power to propose and to amend the laws, the council does not have the power to monitor the occupational safety work by government departments. It also lacks the authority to inspect factories, construction sites and other work premises. The council must possess these powers, otherwise it will find it difficult to promote occupational safety and to build up a recognised foundation to make recommendations to improve occupational safety in Hong Kong.

I hope that when the Bill is due for review next time, the authorities will make clear provisions in the light of the above-mentioned aspect so as to rectify the inherent shortcomings.

My second reservation is related to the financial aspect of that council. And this is an area where the council does not have sufficient material support. Obviously, upon the setting up of the council, the authorities will allocate $5.5 million for the council to meet its immediate needs. Apparently, this is the Government's basic commitment to the council. Thereafter, the Government will only pay a levy to the Council which is based on the proportion of civil servants to the total number of employees in Hong Kong. By so doing, during the council's first year of operation, the Government will only need to provide $500,000 to the council but will be able to save $2 million annually spent by the Labour Department on industrial safety owing to the setting up of the council. From this angle, the Government only contributes financially as an employer to the Occupational Safety and Health Council but cuts back its expediture on occupational safety work. I think this measure is not appropriate. It is not adequate for the Government to base merely on clause 18(2) of the Bill to allocate funds to the council. According to the proposed funding arrangement which is mainly a levy on the employers, Occupational Safety and Health Council has an annual income of $7 million only and can only employ 12 staff to implement its programme. With so little financial and manpower resources, it is

very difficult for the Occupational Safety and Health Council to carry out its promotion, monitoring and research work. The council may have to face the problem of 'preparing meals without rice'.

Based on this analysis, I think to ensure the council's effective functioning, the Government should not just make the employer's contribution, but also act as the management authority, and, through the annual budgetting exercise, to allocate an additional provision to support the Occupational Safety and Health Council's operation and development. By doing so, we can really practise the Government's proclaimed principle of tripartite participation by the employee, the employer and the Government. In other words, the Government should not cut back its spending on industrial safety. On the contrary, it should provide more for the Occupational Safety and Health Council.

These are the biggest worries of labour sector. In addition, concerning the membership of the council, I support that the representatives should be elected.

Sir, the Bill has quite a number of loopholes. I support the passing of the Bill today merely because we hope to see the early establishment of the Occupational Safety and Health Council. We are confident that the Government is sincere in rectifying the existing loopholes and to amend the provisions. In this regard, I support the ad hoc group's proposal that there should be a review one year after the setting up of the Occupational Safety and Health Council.

Sir, with these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am grateful to Members for their support, and wish to place on record my appreciation of the special efforts made by the ad hoc group, under the convenorship of Prof. POON, in scrutinising this Bill.

Members have commented on the role and purposes of the proposed Occupational Safety and Health Council. I would like to emphasise that the council will be an independent body and will enjoy the advantages of such independence in respect of those matters specified in the Bill. We believe that the ultimate objective of higher standards of safety and health for people at work will be much better achieved if there is division of labour between promotion and encouragement on the one hand, and inspection and enforcement on the other. The existing double identity of the Labour Department as both promoter and policeman is unsatisfactory. The main object of setting up the council is to overcome this problem. It would not therefore be appropriate to hand all these functions over to the new council.

Members are particularly concerned that the council should be able to advise the Government on policies and legislative proposals relating to industrial safety, and to monitor the Labour Department's enforcement action. As I said in this Council when moving the Second Reading of the Bill on 29 June, one of the major functions of the council is to 'advise the Government on any

legislative measures necessary to improve the standards of health and safety at work'. Naturally we would also welcome other constructive suggestions from the council, whether they relate to policy or other areas. We find it difficult, however, to accept the suggestion that the council should monitor the Labour Department's statutory functions. It would be more appropriate for the department to be accountable to the Government. In any case there is no doubt in my mind that the department will co-operate with the council in promoting safety and health at work.

Sir, Members have also suggested that there should be a review of the council's operations after one year to see if its responsibility should be expanded. It is obvious that one year will be a little too short, but in view of Members' keen interest in this matter, I agree that such a review should take place.

I have noted Prof. POON's suggestion regarding the appointment of the chairman. It will be taken into consideration before the council is set up.

As regards Mr. TAM's suggestion of elected membership, it is a matter which will require more careful consideration. It will not be possible, however, to consider this in the first round of appointments.

Mr. CHEONG-LEEN refers to the objection in principle of the Insurance Council of Hong Kong to any levy on insurance premium being used to finance statutory bodies. This matter has been discussed before with representatives of the insurance industry. I also note Mr. TAM's point on funding for the council. Our conclusion remains, however, that it is entirely appropriate to fund the council by a levy on employees' compensation insurance premium as the work of the council will help to reduce the number of accidents in employment, which in turn has a direct bearing on insurance premium paid.

Sir, in response to Prof. POON, I can also confirm that the Finance Committee's approval of a setting-up grant of $5.5 million, and not a loan, will be sought later today.

I commend the Bill to this Council for approval.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

QUEEN ELIZABETH FOUNDATION FOR THE MENTALLY HANDICAPPED BILL 1988

Resumption of debate on Second Reading (29 June 1988)

Question proposed.

DR. IP: Sir, it is gratifying to see that the income from the net proceed of the sale of gold coins to commemorate the Royal Visit in 1986 is put to a most worthwhile cause. I fully agree with the Secretary for Education and Manpower with regard to the need and rationale for setting up the Queen Elizabeth Foundation for the Mentally Handicapped.

During the Budget debate in April this year, I voiced concern for enhancing the employment opportunities of handicapped adults. This has also been the concern of the Rehabilitation Development Co-ordinating Committee, which suggested, when consulted on the draft Bill, that the purpose of the foundation should specifically include the promotion of the employment prospects of the mentally handicapped, in addition to the furtherance of their welfare, education and training. I am glad that this advice of the RDCC has been taken on board, which is now reflected in clause 3(2).

Sir, the Secretary for Education and Manpower has rightly said that the foundation, when established, will complement the Government's programme and will provide additional resources to improve the well-being of the mentally handciapped. To fulfil this, I need to stress that the foundation should liaise closely with the RDCC to ensure that there is no overlap between what is being funded from general revenue in implementing the rehabilitation programme plan and the activities of the foundation.

As chairman of the RDCC, I feel incumbent upon me to put forward certain views of the committee. To enable the council of the foundation to fulfil competently its functions, may I suggest that its representation should include people closely involved with the mentally handicapped, the multiply handicapped, as well as a parent of a mentally handicapped. On the other hand, the use of the resources of the foundation should be kept under constant review so that in the long-term future, when supply exceeds demand, the scope of the foundation could be expanded to cover the needs of other disability groups.

Sir, with these remarks, I support the motion.

MR. HUI: Sir, the establishment of the Queen Elizabeth Foundation for the Mentally Handicapped answers a long-felt need for more resources allocated to developing welfare, education and training services for the mentally handicapped in Hong Kong. The purpose of the foundation, as stipulated in the Bill, gains full support from the voluntary welfare sector which provides the bulk of rehabilitation services to Hong Kong's disabled population including the

mentally handicapped. It is the exclusion of other disabled groups from the fund's provision that is somewhat disappointing. For example, the mentally ill have equally pressing need for the furtherance of rehabilitation services and promotion of their employment prospects and their demands are far from being met. Therefore, could the Government inform this Council whether there are funding sources from which assistance for the mentally ill can be obtained, and if not, whether it will consider extending the scope of coverage of the Queen Elizabeth Fund?

In connection with the application of the foundation's assets, we are pleased to note that the council bearing the name of the foundation consists of five to nine appointed members. I wish to emphasise that voluntary agencies, being the pioneer of Hong Kong's rehabilitation services and having long years of working experience behind them, could make invaluable contribution towards using the foundation for the benefit of the mentally handicapped. We are therefore, Sir, most anxious to be involved in the work of the council.

Lastly, Sir, a word on the Chinese name of the foundation —援助弱智人士基金會 which tends to be misleading. The Chinese name, as it now stands, conveys the idea of helping the mentally handicapped. In line with social concept that rehabilitation aims at helping the disabled to help themselves, the Chinese name should read 促進弱智人士福利基金會, meaning a foundation for the promotion of the well-being of the mentally handicapped.

Sir, with these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am grateful to Dr. IP and Mr. HUI for their support.

I take Mr. HUI's comment that the scope of the foundation is limited to the mentally handicapped. To extend the scope to cover other disability groups will mean scattering and diluting the limited resources of the foundation and will probably achieve much less than if it concentrates on a particular disability. I would reiterate that there are about 110 000 mentally handicapped people in Hong Kong, making it the largest group among all disabilities. Despite the wide range of services offered to them, there are still significant shortfalls. As regards other disability groups, including the mentally ill, there are various charitable funds and organisations to which they can turn, if necessary, to complement the Government's Rehabilitation Programme Plan. I agree therefore with Dr. IP that the resources of the foundation should be kept under regular review. In the event that the foundation has accumulated a surplus of income which it cannot meaningfully spend, consideration may then be given to expanding the scope of the foundation to cover other disability groups.

Sir, both Dr. IP and Mr. HUI have offered suggestions on the composition of the council of the foundation. These suggestions will be taken into consideration before the council is set up.

I must compliment Mr. HUI on his interesting proposal for the Chinese name of the foundation. Let me point out that the name has not yet been finalised. I shall, with pleasure, pass on Mr. HUI's proposal to the new council for consideration.

As pointed out by Dr. IP, it is indeed the intention that the foundation should liaise closely with the Rehabilitation Development Co-ordinating Committee to ensure that there will be no overlap between what is funded from general revenue and the activities of the foundation. I commend the Bill to this Council for approval.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

NOISE CONTROL BILL 1988

Resumption of debate on Second Reading (8 June 1988)

Question proposed.

MR. HU: Sir, the Noise Control Bill 1988 is a piece of legislation which is long over due. A lot of time and energy had been devoted to shaping this Bill into its present form after it was first published last March, 1987, for public comment.

As there is a growing consciousness among the local community over their environment and the legislative controls on water and air pollution and the waste management have already been enforced, there is no reason for any further delay for this Bill, which aims to improve the environment with regard to noise pollution. Some parts of this Bill are modelled on similar legislations in other countries. But there are also features which are unique to Hong Kong's situation, such as provisions on the control of noise from construction sites.

The ad hoc group set up by this Council to study the White Bill has held eight meetings since last March 1987. The group has met a wide cross-section of the public to hear their views, a majority of them came from community groups and the construction and industrial sectors. A total of 69 submissions were examined including those received by the Administration.

Public views in regard to the Bill were not only considerable in volume, they were not only considerable in volume, they were also very diverse and

conflicting. This is particularly significant over the provisions of acceptable noise level (ANL) in the technical memoranda attached to the Bill.

The community groups considered the ANLs set out in the technical memoranda to be too high and that it should be lowered to a much more reasonable level to ensure that our environment will be rid of any excessive noise. However, the industrialists believed that such levels were unrealistically low and claimed that they were even lower than the noise level generated from traffic. And they feared that their operation costs would be pushed up significantly if they had to comply with such low noise levels in the course of production.

The root of the problem is the existence of residential buildings next to industrial buildings due to the lack of proper co-ordination in town planning in the last few decades when Hong Kong gradually transformed from a trade entrepot to a highly successful industrial city.

There were also requests from the manufacturing sectors to postpone the enforcement of the provisions in this Bill and to exempt machinery which were already in operation before the enactment of the Bill. The ad hoc group listened to all these views, discussed and considered them thoroughly before the group gave its proposed recommendations on how the original Bill should be amended.

Hong Kong is a vigorous city, and its geographical limitation forces this community to strive in a crowded environment where noises are abundant. We hope the Bill will provide a reasonable balance between environmental protection and our economic viability. And we believe the approach as stipulated in the Bill is appropriate for Hong Kong's situation.

The original Bill introduced last March included provisions for imprisonment for offenders in construction and industrial noise. This was considered to be too harsh and unreasonable as constituting any major criminal offence. After consultation, the Administration agreed to delete the imprisonment provisions except that pertaining to disclosure of confidential information.

Before and after the introduction of this Bill, which was introduced to the Legislative Council on 8 June this year, we received further submissions on this Bill, which the group has considered thoroughly. Since then, the group has held four meetings, including one on finalising the Chinese version of the Bill which is a dummy run with the aim of gaining experience in facilitating bilingual legislation in the future. As a result of these deliberations, the ad hoc group has proposed further amendments to the present Bill. Prof. C. K. POON and I shall move these amendments in Committee but would like to highlight some of the major ones now.

The ad hoc group has focused a lot of attentions on the status of the technical memoranda provided under clauses 9 and 10 of the Bill. The technical memoranda set out principles, procedures, guidelines, standard and limits for

the measurement and assessment of noise generated from construction sites and places other than domestic premises, public places or construction sites. They also set out the related conditions for the issue of noise permit and the noise amendment notices. According to the provisions in the Bill, the Secretary for Health and Welfare will issue the memoranda and will have the authority to amend them without reference to the Legislative Council. The ad hoc group considers that it is inappropriate for the technical memoranda to be treated in this way. It recommends that the technical memoranda should take the form of subsidiary legislation so that the details including proposed amendments will be published in the Government Gazette, open to public's scrutiny and consultation and will not come into effect until the Legislative Council has had a reasonable period to consider them. We believe that this will ensure the public to have an opportunity to voice out opinions and Members of the Legislative Council can ensure that the content of the technical memoranda will be practical and reasonable.

Another major points concerns the issue of construction noise permits issued under clause 8(4). Under this clause, if the authority fails to respond to an application within 28 days, a permit will be deemed to have been issued with a validity period of 30 days. This means that the construction company concerned will have to apply before the permit expires in order to avoid interruption of the work after 30 days. However since the authority has 28 days to reply, the construction company, in fact, will have to submit a new application within two days after receipt of the permit. This is not a fair arrangement as once construction work begins and the first permit granted, the company involved will have to put in considerable investment in the project. It will be very disruptive to its work if the new permit issued contains conditions which could mean rearrangement of plant and programme. Hence the group feels that the Administration must expedite the process of issuing permits so these can be granted once-and-for-all, without a limit on validity.

Despite all the efforts and time devoted to drafting this Bill, there are still some areas which are not adequately covered. The problem of noises arising from multiple sources is acknowledged to be a particularly difficult issue. Although the Administration has assured the ad hoc group that each of the complaint cases in regard to noises from multiple sources will need to be dealt with individually and each sources will be assessed in the most fair manner, and that any discontented party can seek redress for their grievances from an appeal board, it is envisaged that the appeal board will have a difficult time in appropriating responsibilities among the various different sources. As a result many disputes will arise. Further study will be required on the Administration's part to put forward a satisfactory solution to such situations.

Another area not covered in this Bill is noise generated from traffic. As regards individual vehicles, noise control regulations under this Bill can be introduced as and when necessary. I understand that this subject is now under

careful study by the Administration and I hope that related regulations can be introduced in the near future.

The level of traffic noise is governed by the volume of traffic and the location of roadways in relation to the noise sensitive receivers. Therefore improved town planning is the most effective means in controlling the level of traffic noise.

Hong Kong has its unique noise pollution problem due to its rapid development. In many parts of Hong Kong, factories can operate in residential areas where commercial buildings and residential buildings are virtually indistinguishable. Even if the provisions in the Noise Control Bill 1988 are strictly enforced, there is no guarantee that the result will be totally satisfactory.

To improve the environment it is therefore important that the future town planning has to distinguish carefully different areas for different usages. And it is necessary that town planning guidelines be updated from time to time in accordance with the provisions in the Noise Control Bill 1988.

With these remarks, Sir, I support the motion.

MR. CHEONG-LEEN: Sir, Hong Kong is one of the noisiest cities in the world, and it seems to be the norm for Hong Kong residents to speak loudly because of the high level of surrounding noise.

When travelling overseas one can sometimes spot a Hong Kong group by the loud level of their voices; it has, I am afraid, become part of the Hong Kong lifestyle.

This Bill is the culmination of more than 10 years gestation in the preparation of comprehensive legislation for the control of noise pollution, which because of our overcrowded living conditions and pace of development is one of Hong Kong's most intractable problems.

On the subject of general neighbourhood noise, that is noise from domestic premises by sources such as television sets or dogs, and noise produced in public places by hawkers, loudspeakers and so on, I would suggest that Government include in its civic education campaigns and programmes a territory-wide drive to get widespread public support in controlling and reducing this kind of noise pollution. It involves changing attitudes on the part of the population and the showing of more respect for the rights of others to enjoy a greater measure of peace and quiet.

The main purpose of this Bill as I see it is to bring down the level of noise as a day-to-day—and often intolerable—nuisance to the public. This will be achieved in the main by the establishing of detailed control criteria, measurement procedures, and other technical details to be contained in regulations, and also technical memoranda which because of its importance will have to be tabled in Legislative Council and amended by the Council if such is considered necessary in the public interest.

The Environmental Protection Department will take over from the Urban Services Department's responsibility for controlling noise caused by air-conditioning equipment in commercial buildings used by restaurants, and other establishments licensed by the Urban Council. This type of noise nuisance is a constant source of complaint by residents living in nearby buildings, who complain they are unable to sleep at night. I urge the Environmental Protection Department to deploy enough staff to take care of this type of nuisance effectively.

Apart from supporting today's amendments to the Bill, may I also express agreement with clause 25 of the Bill which states that the Environmental Pollution Advisory Committee must now be consulted before any regulations are made under the Ordinance. This will help to ensure that a reasonable balance will be struck between improved environmental standards and their economic impact on the community.

Although the control of aircraft noise is not part of the Bill, I would like to take this opportunity to seek assurance from Government that the progamme for the schools around the Kai Tak Airport to have double-glazed windows installed will be completed in time for school opening in the coming September.

The next major noise pollution problem to be tackled by Government will be traffic noise which is in fact becoming more serious than ever. I hear of more and more urban area residents complaining of not being able to sleep because of traffic noise at night. I hope the momentum will not be lost by Government in addressing this very serious problem within the next 12-18 months.

Sir, I support the motion.

MR. CHUNG (in Cantonese): Sir, I welcome the Noise Control Bill 1988.

The Bill represents a major step in the abatement of noise. What is noteworthy is that among the different types of noise—traffic noise seems to be particularly serious and this is not addressed in the Bill. I would like to point out that as the population in the urban areas increases and buildings get taller, there will be more and more traffic. Traffic in the urban roads and especially the noise from heavy vehicles is not only an ongoing problem, but will definitely deteriorate, giving rise to greater nuisance. For instance, in Shum Shui Po—from Ching Cheung Road to Kwai Chung Highway, much noise is emitted which causes nuisance to those living in Tsing Lai Gardens. Traffic near the May Foo Highway also causes a lot of nuisance to the residents nearby. Expansion work at the Container Terminals 6 and 7 will give rise to even more noise and it has been agreed by the Administration that there should be a 150 m buffer area or green belt to reduce noise. But all and all, traffic noise will increase.

Residents and commercial operators will find it very disturbing and the number of these people will increase. I believe that for all developed areas, there must be remedial measures to abate noise arising from traffic. For instance, in

the case of the Kwai Chung fly-over and the Kwai Chung Highway, apart from reservicing the roads with materials which will reduce noise, there could be a light overhead cover at some of these highways.

There are many noise pollution black-spots in Hong Kong. For the betterment of life in general and the reduction in nuisance, the Environmental Protection Department must have the resolve and the willingness to address the problem. If the relevant authorities cannot reduce traffic noise to an acceptable level, then improvement measures on the part undertaken by the residents themselves must be the subject of assistance from the Government.

Apart from these reservations, Sir, I support the motion.

6.00 pm

HIS HONOUR THE PRESIDENT: Members, it's now six o'clock and under Standing Order 8(2), this Council should now adjourn.

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

Question proposed, put and agreed to.

MR. MARTIN LEE: Sir, environmental protection legislation is a relatively recent occurrence in Hong Kong. And as pointed out by the Secretary for Health and Welfare on 8 June 1988 in moving the Second Reading of this Bill, as a result of the recommendations by the Government's consultants in 1975, 'comprehensive legislation has already been enacted in three of the four main areas of environmental protection; water pollution, air pollution and waste management.' Legislation in noise control is thus the last field of environmental protection. The purpose of this Bill is both to consolidate existing provisions scattered in various Ordinances and to expand the existing scope of noise control.

Sir, our society has developed in recent years to such an extent that we should now devote some of our attention towards the improvement of the quality of life of all our citizens. And so this Bill is naturally a welcome piece of legislation as the fourth step in the right direction. But concerned groups are still unhappy about the pace and extent of such legislative control. And it must be acknowledged, however, this Bill represents a compromise between conflicting groups, namely, industralists on the one hand and the general public on the other. It is therefore not the Bill which pleases everybody. And I have the following comments to make.

Planning

Recently, the representatives of the residents in the Tsuen Tak Gardens in Tsuen Wan made a formal complaint to the OMELCO Complaints Division in relation to excessive noise coming from factory buildings around them. The residents complained that they had to shut their windows 24 hours a day because of the excessive noise. And on analysis, it appears that this particular project was in an area which had recently been zoned by the Town Planning Board as 'commercial/residential' although it was formerly in an industrial zone. The result is that the existing factory buildings in the zone are not required to be demolished. This highlights the deficiency in town planning as well as the lack of co-ordination between the Town Planning Board and the Environmental Protection Department. Sir, the Tsuen Tak Gardens case is not an isolated one; but it underlines the importance of having such co-ordination. In the circumstances, I suggest that the Government should establish a new post of the Secretary for Town Planning and Environmental Protection, so as to ensure that, there will be proper co-ordination between these two separate bodies.

Multiple sources

Another difficulty highlighted by the Tsuen Tak Gardens case is that each of the factory units in the relevant industrial block apparently does not emit excessive noise as would contravene the provisions of this Bill, but the cumulative effect of the noise coming from all the units in the same block would constitute such an offence. Under the present system, an operator of a large factory from which excessive noise emitted can be dealt with by law; but if the same factory area had been occupied by separate operators in different units, emitting jointly the same level of noise, then none of them can be prosecuted. This is not logical, although I recognise that it is not an easy matter to resolve. I therefore urge the Government to address the problem urgently as it is of frequent occurrence in Hong Kong.

Penalty

When the White Bill relating to this subject matter was published in March 1987, it contained a penalty clause with a maximum fine of HK$100,000 or two years of imprisonment for serious violations of the law. But upon the objections of the industrialist lobby, the present penalties are confined to fines only, ranging between HK$5,000 and HK$100,000. Concerned groups have expressed the view that this is likely to encourage blatant breaches of the law by certain factory operators whenever it is in their financial interest to do so, for example, when goods have to be produced urgently in order to meet their contract commitments. In such a case, the factory operators would be more than ready to risk prosecution. I therefore believe that it would be sensible to have imprisonment as a penalty for persistent offenders in order to give real teeth to this Bill.

Conclusion

In the circumstances, I have a number of reservations about this Bill. But it is clearly a step in the right direction; and rather than to seek to amend it and

cause further delay to its enactment, I will support to make sure that it will be passed into law today. But I do urge the Administration most strongly to review the effectiveness of this law after six months of its operation to make sure that the matters I have brought out today may be satisfactorily resolved.

Sir, with these remarks, I support the Bill.

PROF. POON: Sir, I rise to support the Noise Control Bill 1988. The draft Noise Control Bill 1987 was gazetted on 13 March 1987 for public information and comment. Although the consultation period was initially scheduled for three months, it was subsequently extended to the end of June 1987 at the request of the public. The purpose of the Bill is to improve the existing control for the prevention, reduction and abatement of noise in Hong Kong.

Sir, before I go into some specific areas which have roused much public concern, I am pleased to learn that the provision for a two-year prison sentence in the White Bill is now deleted. This is most reasonable as we feel that any person who commits an offence under this Bill is not committing a criminal offence.

Clause 8(4) stipulates that the Government shall decide to issue or refuse to issue a construction noise permit within 28 days, and failing that, a permit, valid for only 30 days, shall be deemed to have been issued on the terms and conditions prescribed in the form of application. We feel that this clause will cause much confusion and do an injustice to the applicant. I will come back to this point when I move an amendment to this clause in Committee.

Sir, under clauses 9 and 10, the Secretary for Health and Welfare may amend the technical memoranda without reference to the Legislative Council. Although the Secretary confirms that thorough consultation will be conducted before any amendment is made, it still appears to be unsatisfactory because the Secretary can change the regulations and rules unilaterally. This is even more unsatisfactory since clause 19(5) stipulates that the contents of any technical memorandum issued under the relevant sections of the Bill shall not be called into question in any appeal. As the hon. F.K. HU has just mentioned, we are strongly of the opinion that the technical memoranda should be in the form of a subsidiary legislation so that any future amendment shall require the approval of the Legislative Council. This also means that the proposed amendments need to be gazetted for public information and comment. I am really glad that the Government has now agreed to concede to our proposal which will be moved by my colleague the hon. F.K. HU in Committee.

With regard to the question of multiple sources, the Bill includes a provision under clause 11(1) which enables the Government to consider noise from a combination of noise sources and to determine whether or not a noise abatement notice should be issued. Although it is possible, at least in principle, to determine the most dominant of these sources, it could not be denied that there are many practical problems in the enforcement action, especially in some

complex situations. Care should be exercised to ensure that the enforcement is applied in a fair and equitable manner. The appeal board should provide a useful and necessary check on the enforcement.

As a final point, Sir, it is a pity that the issue of general traffic noise control has not been included in the Bill. This is a very complex issue and I do not wish to delay the passage of the Bill because of this imperfection. However, I do hope that this issue would be seriously considered by the Government, especially in the area of planning for a better control in the future.

With these remarks, Sir, I support the Noise Control Bill 1988.

MR. EDWARD HO: Sir, I rise to support the Noise Control Bill 1988. This is an extremely important piece of legislation that is a complement to other laws of environmental protection: that of air pollution control, water pollution control and waste pollution control that aim to protect our environment and to improve our quality of living. With the impressive progress in our economic development in the last decades, and perhaps because of it, Hong Kong has suffered from a gradual and accelerating deterioration in our environment, a condition that is not unlike many other developing and developed countries.

In recent years, the Government has shown a firm commitment to reverse the situation by establishing the Environmental Protection Department in 1986, and by enacting legislations which aimed at protecting different aspects of the environment.

Noise pollution, like other forms of pollutions, is either a nuisance generated by uncaring members of our community, or by process connected with the industries.

The control of both sources of noise pollution is covered by this Bill. As in other environmental protection legislations, sources of pollution associated with the industries merit special and careful considerations: it is important to remember that for industries, the mitigation or elimination of pollutions has to be achieved at a price. Therefore, in order not to strangle the industries, a sensitive balance has to be struck so that the community's interests on the whole can be taken into account.

It is heartening to note that the industrialists have given their support to the aim and objective of this Bill, and as a member of the ad hoc group scrutinising the Bill, I have also been most impressed by the very positive attitude shown by the Administration in dealing with the suggestions raised by Members and which will be incorporated as amendments to be moved in Committee later today.

As these amendments have been explained by my hon. Colleagues Mr. F.K. HU and Prof. C.K. POON, I shall not go into details except to say that they removed some uncertainties that concern the industries. For instance, the technical memorandum and any further amendment thereof will be subject to

the scrutiny of this Council, and would not therefore be amended without the fullest consultation and notice. Also, if the authority for some reason has not processed a construction noise permit within the prescribed period, it shall be deemed to be issued without any restriction, as such restriction will unduly penalise the applicant through no fault of his.

While we are considering environmental control, we should be aware that in a crowded city like Hong Kong, the close juxtaposition of industrial land use to residential land use is a source of most of our environmental problems. I agree with Mr. F.K. HU and Mr. Martin LEE that careful environmental assessment should be considered hand in hand with other major issues in the determination of our town plans.

Any legislation aimed at protection of environment requires positive co-operation of the Administration and all sectors of our community. I am most encouraged that we have enjoyed that co-operation in the consideration of this Bill, and I commend unreservedly its acceptance to this Council.

Sir, I support the Bill.

SECRETARY FOR HEALTH AND WELFARE: Sir, I am most grateful to Mr. F.K. HU and members of the ad hoc group for their painstaking efforts in studying the provisions of the Noise Control Bill 1988 and for their full support. Their constructive suggestions have led to the various amendments which will later be made in Committee.

Sir, I support these amendments, which are useful points of clarification. A more substantive point is that the technical memoranda, which will be issued by the Secretary for Health and Welfare and which set out standards and guidelines for the measurement and assessment of noise from various sources, should be subject to the approval of the Legislative Council. This will ensure that the public interest is properly represented before the final form of these important documents is agreed.

Both Mr. HU and Prof. POON have expressed concern over the provision dealing with noise arising from multiple sources. This provision is considered essential since many noise problems are the result of the combination of noise from a number of sources. In practice, due consideration will be given to the relative contributions of each source through the use of sophisticated measuring and analysis techniques. The appeal board will also provide a check to ensure that the provision is applied in a fair and equitable manner.

Mr. CHEONG-LEEN has asked for reassurance that the noise insulation programme for schools near to Kai Tak Airport will be completed by this autumn. I understand that work on the 24 schools which experience a more severe noise problem will be completed by the end of this summer and that funds for the remaining 12 schools will be sought from Finance Committee early in the next session. I will also bear in mind Mr. CHEONG-LEEN's other suggestions for a

territory-wide drive to promote public support in controlling noise pollution and for the Environmental Protection Department to deploy adequate staff to deal effectively with noise caused by air-conditioning equipment in commercial building.

Mr. HU, Mr. CHEONG-LEEN, Mr. CHUNG and Prof. POON have noted that the Bill does not attempt to control traffic noise and have recommended that this problem should be addressed early. Sir, in Hong Kong's concentrated environment it is inevitable that, in certain location, large volumes of traffic will pass close to noise-sensitive buildings. This problem is more effectively addressed through the planning process and the Environmental Protection Department has been active in providing technical advice on noise reduction methods to Highways Department, including the use of noise barriers where appropriate.

Mr. LEE refers to the deficiency in town planning and the lack of co-ordination between the Town Planning Board and Environmental Protection Department. I am pleased to inform him that the EPD is now represented on all major planning committees and may attend the Town Planning Board if necessary.

As regards Mr. LEE's point on possible problems of prosecution in the case of a factory area, in which separate factory operators in different units jointly emit the same level of noise, I would like to point out that clause 11(1) of the Bill covers this type of offence and provides a remedy.

The Environmental Protection Department, as the Noise Control Authority, intends to implement all parts of the Bill by the middle of next year and recruitment of staff has already commenced. Sir, this Bill is the result of many years of detailed work and consultation with all concerned, and will provide effective control of environmental noise. I therefore commend the Bill to Members.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1988

Resumption of debate on Second Reading (29 June 1988)

Question proposed.

MR. CHEONG-LEEN: Sir, I support this Bill which essentially empowers a magistrate's court to make a closure order in respect of premises to which regulations as to food and drug hygiene apply and against which a prohibition order has been made and not complied with.

A closure order under this Bill will empower public officers to lock or seal the entrances to or exits from the premises and to discontinue all gas, water and electricity supplies thereto. Food premises will include vessels and stalls.

Under the existing law, any person who operates a restaurant without a licence commits an offence and may be prosecuted.

However, due to problems in interpretation of the law it has not been possible since 1972 for the departments concerned to carry out a closure order against an unlicensed restaurant. Prohibition orders which prohibit the use of the premises were openly and easily flouted simply by willingness to receive further summons and paying higher financial penalties if found guilty.

It is hoped that this Bill when adopted will provide the Urban Council and the Regional Council with the necessary teeth to prevent and reduce the number of unlicensed restaurants from openly flouting the law to the detriment of the general health of the community.

Before the Bill comes into force on 1 October 1988, I would suggest that wide publicity be given to its provisions to ensure that the trade is fully aware of its provisions.

Sir, I support the Bill.

SECRETARY FOR HEALTH AND WELFARE: Sir, I am grateful to Mr. Hilton CHEONG-LEEN for supporting the Public Health and Municipal Services (Amendment) (No.2) Bill 1988. I would like to assure him that appropriate publicity will be given to the Bill before it comes into operation on 1 October 1988.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

COMMISSIONER FOR ADMINISTRATIVE COMPLAINTS BILL 1988

Clauses 1,3,4,6 to 9,11 to 13 and 16 to 24 were agreed to.

Clauses 2,5,10,14 and 15

MRS. CHOW: Sir, I move that clauses 2,5,10,14 and 15 be amended as set out in the paper circulated to Members under my name. These amendments have been suggested by members of the ad hoc group and agreed by the Administration.

Firstly the definition of maladministration will be extended to include the exercise of discretionary power, so as to put it beyond doubt that the wrongful exercise of such powers would fall within the jurisdiction of the commissioner. An amendment to clause 2(1) will cover this point.

Amendment to clause 5(2) ensures that whoever deputises for the commissioner is subject to the same requirement as the commissioner regarding matters where personal interests may be involved.

The group examined the possibility of withdrawal of a case by a complainant, for whatever reason and came to the conclusion that the commissioner must be able to proceed with an investigation if he considers it in the public interest to do so. An amendment to clause 10 will be moved to that effect.

Members feel that if arising out of an investigation the commissioner should come across a third party to whom injustice may have been done without his knowledge, then the commissioner should be allowed to alert him of such injustice so that he may be in a position to choose whether to lodge a complaint. An amendment to clause 14(2) will put the matter beyond doubt.

Clause 15 will be amended to allow the commissioner to specify a time within which a head of a department should act on the recommendations made by the commissioner after the investigation of a complaint.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2(1) be amended, in paragraph (*b*) of the definition of 'maladministration', by adding after 'power' the following—

'(including any discretionary power)'.

Clause 5

That clause 5 be amended, by deleting subclause (2) and substituting the following—

'(2) Section 4 shall apply to a person appointed to act as Commissioner as it applies to the Commissioner.'.

Clause 10

That clause 10(1) be amended, in paragraph (*c*), by deleting 'or is unwilling to appear before the Commissioner to substantiate his complaint orally'.

Clause 14

That clause 14(2) be amended, by inserting after paragraph (*b*) the following—

'(*c*) disclosing to a person any matter referred to in subsection (1) which, in the opinion of the Commissioner or person so appointed, may be ground for a complaint by that person.'.

Clause 15

That clause 15 be amended—

(*a*) by inserting after subsection (1) the following—

'(1A) The Commissioner may specify in a report under subsection (1) to a head of department a time within which the Commissioner is of the opinion it is reasonable in all the circumstances for the report to be acted upon.'; and

(*b*) by deleting subsection (2) and substituting the following—

'(2) Where a report under subsection (1) to a head of department is not, in the opinion of the Commissioner, adequately acted upon—

(*a*) within the time specified in the report; or

(*b*) if no time is specified in the report, within such time as the Commissioner is of the opinion is reasonable in all the circumstances,

the Commissioner may submit the report and recommendations, together with such further observations as he thinks fit to make, to the Governor.'.

Question on the amendments proposed, put and agreed to.

Question on clauses 2,5,10,14 and 15, as amended, proposed, put and agreed to.

New clause 10A. Commissioner may undertake or continue investigation notwithstanding withdrawal of complaint.

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

MRS. CHOW: Sir, in accordance with Standing Order 46(6) I move that new clause 10A as set out in the paper circulated to Members be read the Second time. The reasons are those which I have already given when moving amendment to clause 10.

Question proposed, put and agreed to.

Clause read the Second time.

MRS. CHOW: Sir, I move that new clause 10A be added to the Bill.

Proposed addition

New clause 10A

That the Bill be amended, by adding after clause 10 the following—

'Commissioner may undertake or continue investigation notwithstanding withdrawal of complaint

10A. Where the Commissioner is of the opinion that it is in the public interest so to do, he may undertake or continue an investigation into a complaint notwithstanding that the complainant has withdrawn the complaint and, in any such case, the provisions of this Ordinance shall apply to the complaint and the complainant as if the complaint had not been withdrawn.'.

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

Schedules 1 and 2 were agreed to.

BANKING (AMENDMENT) (NO.2) BILL 1988

Clauses 1 and 3 were agreed to.

Clause 2

MR. LI: Sir, I move that clause 2 be amended as set out in the paper in my name circulated to Members.

These amendments have been made as a result of discussion between the Hong Kong Association of Banks and the Administration. Basically they clarify that disclosure of information on individual customers remains subject to the criteria of being necessary for the exercise of any function under the Ordinance, and have been agreed by both parties.

The Hong Kong Association of Banks does not object to the Bill in the light of these amendments and in view of the assurances received from the Administration regarding the confidentiality of the United Kingdom Securities and Investments Board.

Sir, I beg to move.

FINANCIAL SECRETARY: Sir, I am grateful to Mr. David LI and the Hong Kong Association of Banks for the consideration they have given to the Bill and for their support. I fully support the Committee stage amendments to be moved by Mr. David LI.

With growing integration of financial markets and the banking business becoming more multinational in character, there is an important need for closer co-operation among regulatory authorities, both locally as well as overseas. To this end, the Bill will enable the Commissioner of Banking to share information with local and overseas regulatory authorities. Such information will only be disclosed to overseas supervisors if the commissioner is satisfied that the authority concerned is subject to adequate secrecy provisions and that the information will enable or assist the authority in the exercise of its functions. Accordingly, I can assure Mr. LI and the banking community that every effort will be made to ensure that shared information will not be disclosed to third parties by overseas supervisors without the commissioner's consent.

Proposed amendments

Clause 2

That clause 2 be amended—

(*a*) by deleting subclauses (1) and (2) and substituting the following—

'(1) Section 120(5)(*f*) of the Banking Ordinance is amended by adding " , a person holding an authorized statutory office" after "Affairs" '; and

(*b*) in subclause (3), in new subsection (5A), by deleting 'subsection 5(*h*)' and substituting the following—

'subsection 5(*f*)'.

Question on the amendments proposed, put and agreed to.

Question on clause 2, as amended, proposed, put and agreed to.

MONEY LENDERS (AMENDMENT) BILL 1988

Clauses 1 to 30 and 32 to 34 were agreed to.

Clause 31

FINANCIAL SECRETARY: Sir, I move that clause 31 be amended as set out in the paper circulated to Members.

The amendment concerns a drafting point and I am grateful to Mr. David LI for bringing it to our attention.

The proposed section 33C at clause 31 of the Bill provides that where an exempted person specified in part 1 on Schedule 1 makes loan and thereafter ceases to be so specified, that loan shall be deemed to be an exempted loan specified in part 2 of Schedule 1.

The Money Lenders Ordinance works on the principle that the lender's status as an exempted person is only relevant as at the time of making the loan. So any change in the lender's status subsequent to the loan does not affect the validity of the loan. The proposed section 33C is therefore redundant. Moreover, it raises doubts as to the status of exempted loans where the borrower subsequently ceases to meet the requirements necessary for the loan to qualify as an exempted loan. To remove the uncertainty, I propose to delete the proposed section 33C.

Proposed amendment

Clause 31

That clause 31 be amended, by deleting new section 33C.

Question on the amendment proposed, put and agreed to.

Question on clause 31, as amended, proposed, put and agreed to.

TRAVEL AGENTS (AMENDMENT) BILL 1988

Clause 1

DR. IP: Sir, I move that clause 1 be amended as set out in the paper circulated to Members in order to bring some of the provisions of the Bill into line with the change of the commencement date of the new scheme from 15 to 31 July.

Proposed amendment

Clause 1

That clause 1(3) be amended, by deleting '15 July' and substituting the following—
'31 July'.

Question on the amendment proposed, put and agreed to.

Question on clause 1, as amended, proposed, put and agreed to.

Clauses 2 to 18 were agreed to.

SOCIETIES (AMENDMENT) (NO.3) BILL 1988

Clauses 1 and 2 were agreed to.

TELEVISION (AMENDMENT) BILL 1988

Clauses 3,4,7 to 10,13,15 to 19 and 21 to 25 were agreed to.

Clauses 1,2,5,11,12 and 20

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, I move that clauses specified be amended as set out in the paper circulated to Members.

Most of these are technical and drafting amendments and are intended to clarify certain provisions.

The amendment to clause 1 provides for different sections to the Bill to come into effect on different days, as may be specified by the Governor in the *Gazette*. This arrangement would, for example, allow a licensee a longer period of time to comply with certain conditions. One such condition being the restrictions on shareholdings by non-local persons prior to the shareholders declaring their residential status, as required under section 17F of clause 14.

Amendment (*a*) to clause 2 makes provision for existing licensees to be absorbed into or merged with their respective holding companies. Amendment (*b*) to clause 2 brings this Bill into line with the Securities (Disclosure of Interests) Ordinance.

The amendments to clauses 5,11 and 12 are purely technical.

Clause 20 deals with the imposition of royalty upon the licensees. Amendment (*a*) is necessary to make it clear that where the amounts on which royalty is payable exceed a certain level on the sliding scale, the higher percentage applies only to that part of those amounts which exceed the relevant threshold, and not to the whole of those amounts. The flat rate remains applicable to the entire sum.

Amendments (*b*), (*c*) and (*d*) are again drafting amendments.

Given that the royalty payable is based upon a licensee's accounting year, amendment (*e*) is necessary to cover the royalty for any old periods outside a full accounting year.

Sir, I beg to move.

Proposed amendments

Clause 1

That clause 1 be amended, by inserting the following subclause—

'(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the *Gazette* and different days may be appointed for different provisions and for different purposes.'.

Clause 2

That clause 2 be amended—

(*a*) in paragraph (*a*), in the definition of 'licensee's register' by inserting after 'Ordinance' the following—

', and in case the licensee did not hold the licence on 24 November 1987, the reference in section 17G(1)(*b*) to the licensee's register shall, in relation to him, be construed as including a reference to the register which he was so required to keep on that date or on any earlier date';

(*b*) in paragraph (*e*), by inserting after new subsection (2) the following—

'(3) When 2 or more persons have a joint interest, then for the purposes of this Ordinance each of those persons shall be regarded as having the entire of the interest to the exclusion of any other person.'.

Clause 5

That clause 5(*a*) be amended, in new subsection (2)(*c*)(i), by inserting after 'day' the following—

'either'.

Clause 11

That clause 11 be amended, by deleting 'subsection (3)' and substituting the following—

'subsections (3) and (4)'.

Clause 12

That clause 12 be amended, in new subsection (1), by inserting after 'revoke' where it first appears the following—

'pursuant to section 14(1)'.

Clause 20

That clause 20 be amended, in new section 41—

(*a*) in subsection (1)—

(i) in paragraph (*a*), by deleting 'those amounts' and substituting the following—

'that $100 million';

(ii) in paragraph (*b*)(ii), by deleting 'those amounts' where it last appears and substituting the following—

'that $100 million or excess';

(iii) in paragraph (*b*)(iii), by deleting 'those amounts' where it last appears and substituting the following—

'that $100 million or excess';

(iv) in paragraph (*b*)(iv), by deleting 'those amounts' where it last appears and substituting the following—

'that $100 million or excess';

(v) in paragraph (*b*)(v), by deleting 'those amounts' where it last appears and substituting the following—

'that $100 million or excess';

(vi) in paragraph (*b*)(vi), by deleting 'those amounts' where it last appears and substituting the following—

'the excess';

(*b*) by inserting before subsection (3) the following—

'(3) (*a*) The royalty created by this section shall be payable quarterly in accordance with paragraph (*b*).";

(*c*) in subsection (3), by deleting '(3)' and substituting the following—

'(*b*)';

(*d*) in subsection (8)(*b*)—

(i) by deleting 'notice of appeal' and substituting the following—

'such a notification';

(ii) by inserting after 'balance' where it secondly appears the following—

'(if any)';

(*e*) by inserting after subsection (9) the following—

'(10) Each of the following periods shall, for the purposes of this section, be regarded as being an accounting year of a licensee—

(*a*) in case the accounting year of a licensee begins on a day other than the specified day, the period beginning on the specified day and ending on the expiration of the licensee's accounting year in which the specified day occurs;

(*b*) in case a licence commences to have effect on a day other than the first day of an accounting year of the relevant licensee, the period beginning on such commencement and ending on the expiration of the licensee's accounting year in which the commencement occurs; and

(*c*) in case a licence is surrendered or revoked and the surrender or revocation has effect on a day other than the first day of an accounting year of the licensee, the period beginning on the commencement of the licensee's accounting year in which the surrender or revocation, as may be appropriate, has effect and ending immediately before that surrender or revocation, as may be appropriate, has effect.

(11) In subsection (1)(*a*) "the specified day" means the day specified for the purposes of that subsection by the Governor by notice in the *Gazette*.'.

Question on the amendments proposed, put and agreed to.

Question on clauses 1,2,5,11,12 and 20, as amended, proposed, put and agreed to.

Clause 6

MR. CHEONG: Sir, I move that clause 6 be amended as set out in the paper circulated to Members.

The amendments seek to remove an anomaly in the Bill by addressing the issue of nominee shareholding for the purpose of securing loans or other credit facilities.

During the ad hoc group's scrutiny on the Bill, it came to Members' attention that although the proposed section 17L(1)(*d*) disregards shares held by a bank or other financial institutions licensed or registered under the Banking Ordinance for the purpose of determining whether a nominee is holding relevant interests in the voting shares of a licensee, the existing section 10(*g*) prohibits a licensee under its articles of association from registering the transfer of its voting shares to a nominee. Also, it is a common practice for banks to demand prior ownership of a borrower's shares under their associated nominee companies before granting a loan. Hence, the net result is that it would affect adversely the marketability of the licensees' shares especially if and when the licensees were to seek a public listing in the stock market. The group believes that the rationale behind prohibiting nominee shareholding is principally to guard against undisclosed interest of foreign ownership of our television stations held by non Hong Kong residents or companies and that the group suggests this unintended side effect should be rectified by the amendment proposed.

With these remarks, Sir, I beg to move.

Proposed amendments

Clause 6

That clause 6 be amended—

(*a*) in paragraph (*d*), by deleting the full stop and substituting a semicolon;

(*b*) by inserting after paragraph (*d*) the following—

'(*e*) in paragraph (i) by repealing the semicolon and substituting a colon; and

(*f*) by adding the following proviso to the section—

"Provided that paragraph (*g*) shall not be construed as requiring the company's articles of association to prohibit the registration of a transfer which relates to any interest in shares which is an exempt security interest for the purposes of section 17L(1).".'.

Question on the amendments proposed, put and agreed to.

Question on clause 6, as amended, proposed, put and agreed to.

Clause 14

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, I move that clause 14 be amended as set out in the paper circulated under my name to Members.

The amendment to section 17A(1)(*b*) of clause 14 in particular is to allow for the setting up of 'second-tier' subsidiaries of a licensee company. The remaining amendments are technical and drafting changes.

Sir, I beg to move.

Proposed amendments

Clause 14

That clause 14 be amended—

(*a*) in new section 17A(1)(*b*), by inserting after 'licensee' where it first appears the following—

'or a subsidiary company of the licensee';

(*b*) in new section 17B—

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

'(1) (*a*)a nominee shall not hold an interest in a voting share of a licensee.

(*b*) In this section "interest" does not include any interest in shares which is an exempt security interest for the purposes of section 17L(1).';

(ii) by deleting subsection (4);

(*c*) in new section 17C, by deleting subsection (4);

(*d*) in new section 17D—

(i) in subsection (1)(*a*), by deleting 'in case the person is an individual, he' and substituting the following—

'an individual person who';

(ii) in subsection (3)(*b*), by inserting after 'corporate' the following—

'or a subsidiary company thereof,';

(iii) in subsection (4), by inserting after 'company' where it thirdly appears the following—

'thereof';

(*e*) In new section 17F—

(i) in subsection (4), by inserting after 'person' where it secondly appears the following—

'or persons';

(ii) in subsection (5)(*b*), by deleting 'by virtue of the receipt by a licensee of a declaration,';

(*f*) in new section 17G—

(i) in subsection (1), by deleting 'the Television (Amendment) Ordinance 1988 (apart from sections 17B and 17C)' and substituting the following—

'section 17D';

(ii) in subsection (7)—

(A) in paragraph (*a*), by deleting 'by virtue of a transfer in relation to which an approval should have been but was not obtained under section 17E(2) or otherwise' and substituting the following—

'solely or jointly';

(B) in paragraph (*b*)(ii)—

(I) by deleting '17B' and substituting the following—

'17B(1)(*a*)';

(II) by deleting 'a relevant' and substituting the following—

'an';

(iii) in subsection (8)(*a*), by deleting '(7)(*a*)' and substituting the following—

'(7)';

(*g*) in new section 17L—

(i) in subsection (4), by deleting '(1)(*d*)' and substituting the following—

'(1)';

(ii) in subsection (4)(*b*)—

(A) by deleting 'only';

(B) by deleting 'and' and substituting the following—

'only';

(iii) by inserting after subsection (4) the following—

'(5) For the purposes of subsection (1) a person shall not be held not to be a bare trustee in respect of any property by reason only—

(*a*) that the person for whose benefit the property is held is not absolutely entitled thereto as against the trustee by reason only that he is an infant or is a person under a disability; or

(*b*) that the trustee has the right to resort to the property to satisfy any outstanding charge or lien or for the payment of any duty, tax, cost or other outgoing.'.

Question on amendments proposed, put and agreed to.

MR. CHEONG: Sir, I move that clauses 14 be further amended as set out under my name in the paper circulated to Members. My speech on the amendment to clause 6 also applies to this amendment.

Sir, I beg to move.

Proposed amendments

Clause 14

That clause 14 be amended, in new section 17J—

(*a*) by deleting 'For' and substituting the following—

'Unless the contrary appears either from a declaration referred to in section 17F(2)(*b*) or for some other reason, then for';

(*b*) by inserting after 'entry' where it first appears the following—

', other than an entry which relates to an exempt security interest for the purposes of section 17L(1),'.

Question on amendments proposed, put and agreed to.

Question on clause 14, as amended, proposed, put and agreed to.

OCCUPATIONAL SAFETY AND HEALTH COUNCIL BILL 1988

Clauses 1 to 3,5 to 12,16,18 to 23 and 25 to 29 were agreed to.

Clause 4

PROF. POON: Sir, I move that clause 4 be amended as set out in the paper circulated to Members.

The amendment seeks to highlight the need for government departments responsible for industrial safety to communicate and co-operate with the Occupational Safety and Health Council. There have been criticisms that the purposes of the council as set out in the present provisions of the Bill cannot fully embody the role it is expected to assume in fostering safer and healthier working conditions in Hong Kong. The present amendment will define more clearly the function of the council in encouraging and facilitating co-operation and communication between the Government and the community to enhance industrial safety in Hong Kong.

Sir, with these remarks, I beg to move.

Proposed amendments

Clause 4

That clause 4 be amended—

(*a*) in subclause (*e*) by deleting 'and' where it secondly appears;

(*b*) in subclause (*f*) by deleting the comma and substituting the following—

'; and '; and

(*c*) by inserting after subclause (*f*) the following—

'(*g*) to encourage and facilitate co-operation and communication between the Government, employers, employees and relevant professional and academic bodies,'.

Question on the amendments proposed, put and agreed to.

Question on clause 4, as amended, proposed, put and agreed to.

Clauses 13 to 15,17 and 24

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I move that clauses 13 to 15, 17 and 24 be amended as set out in the paper circulated to Members under my name. These amendments are proposed as a result of further consultation with the insurance industry after the Bill was gazetted. Despite the lengthy

appearance, the concept behind these amendments is simple. They embody an inspection mechanism which not only ensures that the levy is properly collected and remitted to the Occupational Safety and Health Council, but also takes into account the normal business practices of the insurance industry.

The proposed amendment to clause 13 extends the notice period for subsequent changes to the rate of levy from 30 to 60 days. This will give the insurance industry ample time to notify their clients. The notice period for the first rate of the levy remains unchanged at 30 days as there will be a few months gap before the levy provision comes into effect.

New clause 14 makes it clear that the insurer or its agent has the responsibility to receive the levy. The original reference to invoices has been deleted at the request of the insurance industry.

The proposed amendment to clause 15 introduces the first part of the inspection mechanism by requiring the insurer to keep and maintain proper records, and to submit an annual certified statement of the amounts of premium and levy received.

New clause 17 sets out the second part of the inspection mechanism which enables the council to inspect the records kept by the insurer and to require the insurer to furnish further information, if necessary. In order to protect the confidentiality of the commercial information of the insurer, subclauses 7 and 8 prohibit unauthorised disclosure except for the purposes of legal proceedings.

The proposed amendment to clause 24 creates the necessary offences to ensure the integrity of the inspection mechanism.

Sir, all these amendments have the support of the insurance industry. No objection has been raised by members of the ad hoc group. I commend them to this Council for approval.

Sir, I beg to move.

Proposed amendments

Clause 13

That clause 13 be amended, by deleting subclause (3) and substituting the following—

‘(3) Subject to subsection (4), the rate of levy prescribed under subsection (2) shall come into effect 60 days after the publication of the order in the *Gazette*.

(4) The rate of levy first prescribed under subsection (2) after the coming into operation of this Ordinance shall come into effect 30 days after the publication of the order in the *Gazette*.’.

Clause 14

That clause 14 be amended—

(*a*) in subclause (1) by deleting the full stop and substituting the following—

'and the insurer or its agent, as may be appropriate, shall receive the levy.';

(*b*) by deleting subclause (2);

(*c*) by deleting subclause (3) and substituting the following—

'(3) Where an employer pays to the agent of an insurer an amount of premium together with the levy payable thereon at the prescribed rate, the insurer shall be deemed to have received the levy and shall deal with it according to subsection (4).'; and

(*d*) by deleting subclauses (6) and (7) and substituting the following—

'(6) An insurer or its agent who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable to a fine of $10,000.

(7) An insurer who, without reasonable excuse, contravenes subsection (4) commits an offence and is liable to a fine of $10,000 or 20 times the amount of levy that was not remitted to the Council, whichever is the greater.'.

Clause 15

That clause 15 be amended—

(*a*) by deleting the marginal note and substituting the following—

'Insurer to keep records and submit reports';

(*b*) in subclause (1)—

(i) by deleting paragraph (*a*) and substituting the following—

'(*a*) shall keep and maintain in respect of any insurance policy issued by it a record of—

(i) the number identifying the policy;

(ii) the name, address and place of business of the employer;

(iii) the amount of premium payable;

(iv) each amount of premium received and the date of its receipt;

(v) each amount of levy received and the date of its receipt;'; and

(ii) by adding after paragraph (*b*) the following—

'(*c*) shall submit to the Council, not later than 3 months after the end of each financial year, a statement, in such form and certified in such manner as may be prescribed, of the amounts of premium and levy received during the financial year.'; and

(*c*) in subclause (3) by adding 'or (*c*)' after 'subsection (1)(*b*)'.

Clause 17

That clause 17 be amended—

(*a*) in subclause (1) by deleting 'the number of employees insured under an insurance policy,'; and

(*b*) by adding after subclause (2) the following—

'(3) The Council may, by notice in writing, require an insurer to make available at its place of business, to a person designated for the purpose of this subsection in writing by the Council, the records specified in section 15(1)(*a*), and the insurer shall permit any person so designated to inspect those records at any reasonable time.

(4) Any insurer who contravenes subsection (3) commits an offence and is liable to a fine of $10,000.

(5) The Council may, by notice in writing, require an insurer to furnish to the Council, in such manner (including furnishing by statutory declaration) as shall be specified in the notice, such information relating to an insurance policy issued by the insurer as shall be so specified.

(6) Any person who, without reasonable excuse, fails to comply with a notice under subsection (5) within the period of 14 days after the notice is served commits an offence and is liable to a fine of $10,000 and an additional fine of $1,000 for each day during which the offence has continued.

(7) Save as provided in subsection (8), a person designated for the purpose of subsection (3) shall not disclose to any other person, other than a member of the Council or another person so designated and acting in the course of his duties, any information acquired in inspecting records pursuant to subsection (3).

(8) Subsection (7) shall not apply to the disclosure of information—

(*a*) where ordered by a court or magistrate;

(*b*) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Ordinance or otherwise; or

(*c*) in connection with any other legal proceedings arising out of this Ordinance.

(9) Any person who contravenes subsection (7) commits an offence and is liable to a fine of $20,000.'.

Clause 24

That clause 24 be amended, in subclause (2)—

(*a*) by deleting 'or' at the end of paragraph (*a*);

(*b*) by adding after paragraph (*a*) the following—

'(*aa*)in keeping or maintaining any record for the purposes of this Ordinance knowingly makes an entry which is false in a material particular; or'; and

(*c*) by deleting 'on conviction to a fine of $10,000 or 20 times the amount of any levy that was or was intended to be evaded by his conduct,' and substituting the following—

'to a fine of $10,000 or, where such conduct resulted in or was intended by the person to result in the non-payment or non-remittance of any amount of levy, 20 times such amount of levy,'.

Question on the amendments proposed, put and agreed to.

Question on clauses 13 to 15,17 and 24, as amended, proposed, put and agreed to.

New clause 30. Protection of members of Council.

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

PROF. POON: Sir, in accordance with Standing Order 46(6) I move that new clause 30 as set out in the paper circulated to Members be read the Second time.

This amendment gives effect to the ad hoc group's recommendation that employees and members of the Occupational Safety and Health Council should be protected by legislation against personal civil liabilities arising from duties relating to the council would they have carried out in good faith. Such a protection will ensure that any person working conscientiously for the council will not be personally liable for any act done or default made by the council or its committees.

With these remarks, Sir, I beg to move.

Question proposed, put and agreed to.

Clause read the Second time.

PROF. POON: Sir, I move that the new clause 30 be added to the Bill.

Proposed addition

New clause 30

That the Bill be amended, by adding after clause 29 the following—

'Protection of members of Council

30. (1) No member of the Council or of any committee of the Council and no employee of the Council shall be personally liable for any act done or default made—

(*a*) by the Council; or

(*b*) by any committee of the Council,

acting in good faith in the course of the operation of the Council or of the committee.

(2) The protection hereby conferred on members of the Council or of a committee of the Council and employees of the Council in respect of any act or default shall not affect any liability of the Council for that act or default.'.

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

Schedule

PROF. POON: Sir, I move that the schedule be amended as set out in the paper circulated to Members.

Proposed amendment

Schedule

That schedule be amended, in paragraph 5, by deleting sub-paragraph (*a*) and substituting the following—

'(*a*) has been absent from more than 3 consecutive meetings of the Council without the permission of the Council; or'.

Question on the amendment proposed, put and agreed to.

Question on schedule, as amended, proposed, put and agreed to.

QUEEN ELIZABETH FOUNDATION FOR THE MENTALLY HANDICAPPED BILL 1988

Clauses 1 to 14 were agreed to.

Preamble was agreed to.

NOISE CONTROL BILL 1988

Clauses 1,3 to 7,9 to 15,18 to 25,27 to 35 and 37 to 39 were agreed to.

Clauses 2,16,17,26 and 36

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

The definition of 'domestic premises' under clause 2 does not include parts of hotels or guesthouses which are let to outside guests. As noises from guests in hotels and guesthouses are potential sources of complaint, we believe the definition should be extended and the amendment proposed to clause 2 will provide for this extension.

Clauses 16 and 17 provide for grounds for appeal in which the term 'economic hardship' was used. The ad hoc group considered this definition as unsatisfactory for a guideline as it is so vague and general that it may encourage many unjustified appeals. The amendment now proposed will clarify this term.

Clause 26 deals with the disclosure of confidential information. While subsection (1) refers to information, subclauses (2) and (3) refer to information and document. Since the word 'information' covers documents as well, I propose an amendment to delete the word 'document'.

Clause 36 deals with the application of this Bill to the Crown. The ad hoc group considers that compared with the related section in the original Bill published last March, this clause was less satisfactory, and that the relevant section in the original Bill be used instead. The amendment now proposed will give greater assurance that the Bill will also be applicable to the Crown.

With these remarks, Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, by deleting the definition of 'domestic premises' and substituting the following—

' "domestic premises" means—
(*a*) any premises used wholly or mainly for residential purposes and constituting a separate household unit; and
(*b*) any part of a hotel or boarding-house that is let by the keeper of the hotel or boarding-house to a guest;'.

Clause 16

That clause 16(3)(*c*) be amended, by inserting after 'hardship' the following—

'seriously prejudicial to the conduct of his business'.

Clause 17

That clause 17(2)(*d*) be amended, by inserting after 'hardship' the following—

'seriously prejudicial to the conduct of his business'.

Clause 26

That clause 26 be amended—

(*a*) in subclause (2), by deleting 'or document' in both places where it occurs;' and

(*b*) in subclause (3), by deleting 'of any information or the giving of any document' and substituting the following—

'or giving of any information'.

Clause 36

That clause 36 be amended, by deleting clause 36 and substituting the following—

'Application to Crown

36. (1) Subject to this section, this Ordinance shall bind the Crown.

(2) Section 4,5,6,7,11,12,13,14 or 15 shall not have effect to permit proceedings to be taken against, or to impose any criminal liability on, the Crown or on any public officer who causes or permits to be made any noise in the course of carrying out his duties in the service of the Crown.

(3) If it appears to the Authority that any noise is being, or has been, made in contravention of section 4,5,6,7,11,12,13,14 or 15 by any public officer in the course of carrying out his duties in the service of the Crown, the Authority shall, if the contravention is not forthwith terminated to his satisfaction, report the matter to the Chief Secretary.

(4) On receipt of a report under subsection (3), the Chief Secretary shall enquire into the circumstances and, if his enquiry shows that a contravention of section 4,5,6,7,11,12,13,14 or 15 is continuing or likely to recur, he shall ensure that the best practicable steps are taken to terminate the contravention or avoid the recurrence.

(5) Any notice under this Ordinance concerning the making of noise which is to be, or may be, given or made by or on behalf of the Crown may be given or made by any public officer on behalf of the Crown.

(6) Any notice under this Ordinance concerning the making of noise which is to be, or may be, given by the Authority to the Crown shall be given to the principal officer of the Government Department which appears to the Authority to be responsible for such emission or, in the event of any question arising as to which Department is responsible, to such public officer as the Chief Secretary shall determine.

(7) No fee prescribed under this Ordinance shall be payable by the Crown.'.

Question on the amendment proposed, put and agreed to.

Clauses 2,16,17,26 and 36, as amended, proposed, put and agreed to.

Clause 8

PROF. POON: Sir, I move that clause 8(4) be amended as set out in the paper circulated to Members.

In the present Bill, clause 8(4) stipulates that the authority shall issue or refuse to issue a construction noise permit not later than 28 days after an application has been made. If the authority fails to respond to an application within the 28 days period, a permit shall be deemed to have been issued with a validity period of 30 days. A fresh application must be made if the construction work is to continue after the 30 days period. But if an application is then rejected or the terms of permit modified, the applicant can unfairly suffer inconvenience and financial loss. I therefore recommend that the limited validity of the permit should be deleted and that it would be incumbent on the Administration to process the application expeditiously within the stipulated period of 28 days, otherwise a permit shall be deemed to have been issued.

With these remarks, Sir, I beg to move.

Proposed amendment

Clause 8

That clause 8 be amended, in subclause (4), by deleting 'on the terms and conditions prescribed in the form of application, but that permit shall not be in force for more than 30 days after the date given in the application for the commencement of the relevant construction work'.

Question on the amendment proposed, put and agreed to.

MR. HU: Sir, I move that clause 8 be further amended as set out under my name in the paper circulated to Members.

Clause 8(5) provides that the authority shall refuse to issue a construction noise permit if the issue of a permit is contrary to any principle or procedure set out in a technical memorandum. It gives the authority no alternative but to refuse even if the issue of a permit is merely contrary to a procedure. To give the authority some flexibility in the issue of permits, I propose that the word 'shall' should be changed to 'may'.

Clause 8(6) provides that in the case of imposition of conditions on a noise permit issued in respect of percussive piling, the construction company has to write to the authority to ask for the reasons. To simplify the procedure, it is

proposed that the reason in each case should be given along with the notice of permit without waiting for a request from the construction companies.

With these remarks, Sir, I beg to move.

Proposed amendments

Clause 8

That clause 8 be amended—

(*a*) in subclause (5), by deleting 'shall' and substituting the following—
'may'; and

(*b*) in subclause (6), by deleting ', where the permit is in respect of any percussive piling, the notice shall state that if the applicant objects to the imposition in relation to any such piling of any condition an adequate statement of reasons will be provided on receipt by the Authority of a request in writing in that behalf' and substituting the following—
'in the case of a permit subject to conditions issued in respect of percussive piling, shall adequately state in the notice the reasons for the imposition of those conditions'.

Question on amendments proposed, put and agreed to.

Question on clause 8, as amended, proposed, put and agreed to.

New clause 10A. Placing of Technical Memoranda before Legislative Council.

New clause 10B. Commencement of Technical Memoranda.

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

MR. HU: Sir, In accordance with Standing Order 46(6) I move that new clauses 10(A) and 10(B) as set out in the paper circulated to Members be read the Second time.

These new clauses require that all technical memoranda issued under clause 9 or 10 be published in the Gazette and be placed before the Legislative Council.

The clauses generally follow the standard provisions of section 34 of the Interpretation and General Clauses Ordinance, which sets out the 'negative procedure' for subsidiary legislation, except that the technical memoranda will not come into effect until 28 days after tabling in Legislative Council (or an extended period of a further 21 days if Legislative Council so resolves). During this period there will be opportunity for public comments and for consideration by Members and the Administration of any necessary amendments.

The reasons for this amendment have been given in my Second Reading speech.

With these remarks, Sir, I beg to move.

Sir, before I sit down, may I have your permission to say a few words. Whether through coincidence or manipulation, I am most probably the last Member to speak in the Council on the last day of this 1987-88 session.

I shall retire from the Council at the end of the session and during the nine-year period I serve on the Council, I have witnessed many changes. The Council's workload has increased drastically and its image in the eye of the public has also enhanced greatly. Without doubt, the workload in future will increase year by year and the public's expectation of Members of the Council to reflect their views and to ensure a more stable and prosperous Hong Kong will also increase. I hope you will join me in wishing the future Council every success in facing future challenges with determination.

Question proposed, put and agreed to.

Clauses read the Second time.

MR. HU: I move that new clauses 10A and 10B be added to the Bill.

Proposed addition

New clause 10A

That the Bill be amended, by inserting after clause 10 the following—

'Placing of Technical Memoranda before Legislative Council

10A. (1) All Technical Memoranda issued under section 9 or 10 shall be published in the *Gazette* and shall be laid on the table of the Legislative Council at the next sitting thereof after such publication.

(2) Where a Technical Memorandum has been laid on the table of the Legislative Council under subsection (1), the Legislative Council may, by resolution passed at a sitting of the Legislative Council held before the expiration of a period of 28 days after the sitting at which it was so laid, provide that such Technical Memorandum shall be amended in any manner whatsoever consistent with the power to issue such Technical Memorandum.

(3) If the period referred to in subsection (2) would but for this subsection expire—

(*a*) after the end of a session of the Legislative Council or a dissolution thereof; but

(*b*) on or before the day of the second sitting of the Legislative Council in the next following session thereof,

that period shall be deemed to extend to and expire on the day after that second sitting.

(4) Before the expiration of the period referred to in subsection (2) or that period as extended by virtue of subsection (3), the Legislative Council may by resolution in relation to any Technical Memoranda specified therein extend that period or that period as so extended by a further period not exceeding 21 days.

(5) Any resolution passed by the Legislative Council in accordance with this section shall be published in the *Gazette* not later than 14 days after the passing thereof or within such further period as the Governor may allow in any particular case.

Commencement of Technical Memoranda

10B. All Technical Memoranda issued under section 9 or 10 shall come into operation—

(*a*) in the case where before the expiration of the period referred to in section 10A(2) or, before the expiration of that period as extended by virtue of section 10A(3) or (4), the Legislative Council does not pass a resolution amending the Technical Memoranda, upon the expiration of that period or, upon the expiration of that period as so extended, as the case may be; and

(*b*) in the case where the Legislative Council passes a resolution amending the Technical Memoranda, upon the expiration of the day next preceding the day of the publication in the *Gazette* of such resolution under section 10A(5).'.

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

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1988

Clauses 1 to 8 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

SOCIETIEIS (AMENDMENT) (NO.3) BILL 1988

QUEEN ELIZABETH FOUNDATION FOR THE MENTALLY HANDICAPPED BILL 1988 and the

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1988

had passed through Committee without amendment and the

COMMISSIONER FOR ADMINISTRATIVE COMPLAINTS BILL 1988

BANKING (AMENDMENT) (NO.2) BILL 1988

MONEY LENDERS (AMENDMENT) BILL 1988

TRAVEL AGENTS (AMENDMENT) BILL 1988

TELEVISION (AMENDMENT) BILL 1988

OCCUPATIONAL SAFETY AND HEALTH COUNCIL BILL 1988 and the

NOISE CONTROL BILL 1988

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.

End of session

HIS HONOUR THE PRESIDENT: Before closing this session of the Council, I should like to pay tribute to the tremendous amount of time and effort contributed by Members to ensuring that one of the prime functions of this Council, namely the making of legislation, is achieved. This session has seen a record number of Bills enacted—90 in all. Of these, 31 were enacted in the first six months of this session and 59 in the last three months.

I thank Members for their patience and understanding in dealing with the large volume of work which this has generated in the past few months. I am sure that the Administration will do its best to ensure that in future the flow of legislation to this Council is better distributed throughout the year.

May I take this opportunity to wish all Members a very enjoyable break from Legislative Council business.

The first sitting of the 1988-89 session has been scheduled for Wednesday, 12 October.

Adjourned accordingly at two minutes to Seven o'clock.

(*Note:* The short title of the motion/Bills listed in the Hansard Report have been translated into Chinese for information and guidance only. They do not have authoritative effect in Chinese.)

PRINTED AND PUBLISHED BY H. MYERS, GOVERNMENT PRINTER
AT THE GOVERNMENT PRINTING DEPARTMENT, HONG KONG
67346-6L-8/88 $140-G412288