

1 HONG KONG LEGISLATIVE COUNCIL -- 7 December 1988

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 7 December 1988

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)
SIR DAVID CLIVE WILSON, K.C.M.G.

THE HONOURABLE THE CHIEF SECRETARY and
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 ALLEN LEE PENG-FEI, C.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. RITA FAN HSU LAI-TAI, O.B.E., J.P.

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

THE HONOURABLE CHENG HON-KWAN, J.P.

THE HONOURABLE CHUNG PUI-LAM

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

THE HONOURABLE HUI YIN-FAT

* The Honourable Financial Secretary doubled up as Chief Secretary

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., 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 SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE ANDREW WONG WANG-FAT

THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.

THE HONOURABLE GRAHAM BARNES, C.B.E., J.P.
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE CHAU TAK-HAY, J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, J.P.

THE HONOURABLE MRS. PEGGY LAM, M.B.E., J.P.
THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS. SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE MRS. ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN

THE HONOURABLE ROBERT IAN WILLIAM UPTON, J.P.
SECRETARY FOR SECURITY

ABSENT

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

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

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

THE HONOURABLE TAI CHIN-WAH

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING

THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE LEUNG WAI-TUNG, J.P.

IN ATTENDANCE

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

Oath

MR. ROBERT IAN WILLIAM UPTON took the Oath of Allegiance.

Announcement

HIS EXCELLENCY THE PRESIDENT: I feel sure that Members will wish today to mark the recent death of Sir David TRENCH, who was Governor of Hong Kong and President of this Council from 1964 to 1971.

Sir David's governorship was the culmination of a distinguished career in the Colonial Service, most of which he spent here in Hong Kong. During his time of office as Governor, Hong Kong had to face a series of social and economic difficulties. That these were overcome owed much to his fortitude and calm, unruffled leadership. As a result Hong Kong entered the 1970s with enhanced confidence in its ability to deal with problems and ready to expand into the modern international city which it is today.

I think it would be fitting if we now stood for a minute in silence in respect for his achievements and in sympathy for his widow, Lady TRENCH.

(The Council observed one minute's silence as a token of respect.)

Papers

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

Subject	L.N. No.
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Subsidiary Legislation:

Occupational Safety and Health Council
Ordinance 1988

Occupational Safety and Health Council Levy (Rate of Levy) Order 1988.....	315/88
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Quarantine and Prevention of Disease

Ordinance

Quarantine and Prevention of Disease

(Scale of Charges) (Amendment)

Regulations 1988.....

316/88

Telecommunication Ordinance

Telecommunication (Cordless Telephone

Apparatus) (Exemption From Licensing)

Order 1988.....

317/88

Public Health and Municipal Services

Ordinance

Public Health and Municipal Services

Ordinance (Amendment of Third Schedule)

Order 1988.....

318/88

Public Health and Municipal Services

Ordinance

Public Health and Municipal Services

Ordinance (Amendment of Sixth Schedule)

Order 1988.....

319/88

Telecommunication (Hong Kong Telephone

Company) (Exemption From Licensing)

Order

Telecommunication (Hong Kong Telephone

Company) (Exemption From Licensing)

(Fees) (Amendment) (No.2) Order 1988..... 321/88

Public Health and Municipal Services

Ordinance

Pleasure Grounds (Regional Council)

(Amendment) (No.4) By-Laws 1988..... 322/88

Supplementary Medical Professions,
Midwives Registration and Nurses
Registration (Amendment) Ordinance 1985
Supplementary Medical Professions,
Midwives Registration and Nurses
Registration (Amendment) Ordinance
1985 (Commencement of Part II of the
Schedule to Section 16) Notice 1988..... 323/88

Inland Revenue Ordinance
Inland Revenue (Interest Tax)
(Exemption) (Amendment) (No.9)
Notice 1988.....
324/88

Tax Reserve Certificates (Fourth
Series) Rules
Tax Reserve Certificates (Rate of
Interest) (No.8) Notice 1988..... 325/88

Sessional Paper 1988-89:

No. 32 -- The Accounts of the Lotteries Fund 1987-88

Oral answers to questions

Smoking in public place

1. MR. EDWARD HO asked: Sir, under the Smoking (Public Health) Ordinance, not less than 50 % of each class of the seating accommodation of a cinema, theatre, concert hall or public transport vehicle has to be set aside as a no smoking area. Will Government inform this Council whether it will consider amending the existing legislation to totally ban smoking in these places and in public transport vehicles,

and, if so, when the necessary legislation will be introduced ?

SECRETARY FOR HEALTH AND WELFARE: Sir, the Hong Kong Council on Smoking and Health -- a statutory body one of whose functions is to advise the Government on matters related to smoking and health -- has recently recommended to the Government that the Smoking (Public Health) Ordinance be amended to impose a total ban on smoking in cinemas, theatres, concert halls and public transport vehicles.

A decision on this recommendation will be made following a public consultation exercise early next year.

MR. EDWARD HO: Sir, I would like to ask whether the Secretary is aware that ventilation systems in public places are usually not designed to segregate air circulation in smoking and non-smoking areas. Is there any measure to correct this situation if the present legislation is to remain unchanged?

SECRETARY FOR HEALTH AND WELFARE: Sir, I am aware that there is no such segregation but I think, pending a decision on the council's recommendation, it would be premature for us now to consider whether such a segregation system should be introduced.

MR. DAVID CHEUNG: Sir, will the Secretary kindly inform this Council how long will the consultation exercise take, and in what form?

SECRETARY FOR HEALTH AND WELFARE: Sir, I expect that a consultative document will be issued in January and that we will allow two to three months for the public and other interested parties to make comments on the document. In conducting the consultation exercise, we expect to be consulting the district boards, Sir.

MR. ARCULLI: Sir, will the Secretary inform this Council how the present legislation introduced since 1983 allowing 50% smoking area in the places described can be effectively enforced; and have there been any prosecutions on these infringements?

SECRETARY FOR HEALTH AND WELFARE: Sir, under the existing Ordinance, the following persons are empowered to enforce the relevant provisions:

- (a) the manager, or any ticket collector or usher of any cinema, theatre, or concert hall, or other employees authorized by the manager;
- (b) the driver, conductor, inspector, ticket collector of any public transport vehicle or other employees authorized by the manager; and
- (c) the manager of a public lift or other employees authorized by the manager.

The above persons may require any person who smokes in a no-smoking area to cease smoking forthwith, indicating the penalty for not ceasing and, if he fails to do so, require him to give his name and address and to produce proof of identity. Such persons are then reported to the government authorities for prosecution action.

Sir, whether or not the existing ban has been effective is a debatable point and I think it is recognized that they are not always effectively enforced. But this is a problem worldwide, and even with a less than perfect observation of a ban I think most people would agree that there is an improvement, often a substantial improvement, over no ban at all. For example, statistics from the Kowloon- Canton Railway since the smoking ban was introduced show clearly that over the years the number of offenders has dropped dramatically as the public becomes used to the ban.

As regards prosecution figures, Sir, in the past few years effectively there has been prosecution only of offenders on the Kowloon-Canton Railway and the figures are: for the years 1982-84, 301; 1985, 261; 1986, 65; 1987, 20; and in the first five months of 1988, 17. Apart from these prosecutions there were five prosecutions on the ferries in 1985 and one in 1986.

Motor vehicle insurance

2. MRS. SO (in Cantonese): In view of the strong public reaction aroused by the sudden announcement by the Accident Insurance Association of Hong Kong in late October to introduce in November substantial increases on the premium levels of the various classes of vehicle insurance, will the Government consider amending the existing

legislation to strengthen Government and public control over the insurance premiums charged by the motor vehicle insurance industry?

FINANCIAL SECRETARY: Sir, the Government has no plans to amend existing legislation to provide for the control of insurance premiums. The proper level of insurance premiums must be determined by market forces, and not by government intervention.

Sir, it must be recognized that there is no way in which the Government can control the level of claims. Premium income is needed to meet claims, and if the Government were to dictate the level of premium, then insurance companies, faced as they are with claims under their policies, might find themselves in financial difficulties and cease to write policies altogether.

MR. MARTIN LEE: Sir, in relation to the Financial Secretary's statement that premium income is needed to meet claims, has the Administration got any evidence to satisfy itself that the recent increases of insurance premiums are necessitated or justified by actual increases in claims?

FINANCIAL SECRETARY: Sir, as I have indicated in my answer, we do not consider that it is the Government's business to control the level of insurance premium and, therefore, we do not compare the level of premium income with the level of claims for the purposes of control. What we do look at is the overall solvency position of companies.

MR. MICHAEL CHENG (in Cantonese): Sir, in view of the highly competitive nature of the industry, some insurance companies may have to pay high rates of broker's commission -- sometimes as much as 50% of premium. This may cause financial loss to a company and lead to steep increase in premium. Would Government control the charging of commission to ensure that it will not exceed a reasonable limit so as to prevent steep rises in premium or high operating costs being passed on to consumers?

FINANCIAL SECRETARY: Sir, we feel that this matter of paying commissions is really a matter for the industry itself. As Mr. CHENG has said, it is a very competitive

industry. There are other ways of encouraging business, for example, through providing better service to customers. We try not to interfere in the way in which these companies carry on business.

MISS TAM: Sir, I am aware of Mr. Michael CHENG's observation that this could be a very competitive industry but can I still ask whether the structure of the industry is such that you can actually have a de facto monopoly situation for the industry or the companies to determine the premium the way they want?

FINANCIAL SECRETARY: Sir, I do not think there is a de facto monopoly. In fact there are, I think, 108 companies carrying on motor vehicle insurance business in Hong Kong. Over half of these companies are overseas companies. About 20% of the companies are not members of the Accident Insurance Association. We believe, Sir, that within the industry there is indeed plenty of competition and that the question of a monopoly does not therefore arise.

MRS. CHOW: Sir, while agreeing with the Financial Secretary that under normal circumstances premium should be determined by market forces, how is Government to ensure that the balancing effect of such market forces is not negated by the operation of a cartel? And, in this particular case, how can Government be sure that such a cartel does not exist?

FINANCIAL SECRETARY: Sir, I feel that I have given this answer already, that is, by the level of competition that exists in the industry. I would observe, Sir, that on occasions some companies have entered the market in the belief that they can offer motor insurance cover at considerably less than the rates offered by the majority of companies. I fear that some of those companies have become insolvent.

MR. MARTIN LEE: Sir, in relation to the Financial Secretary's answer to my supplementary question, is he saying that so long as insurance companies are solvent, then the Government simply does not care even if the insurance companies were to rely on false claim figures in order to justify their increase of insurance premiums, thereby ignoring the interests of consumers?

FINANCIAL SECRETARY: Sir, it is not a question of the Government not caring, but there is a limit to the amount of intervention that the Government can carry out in relation to the insurance industry. The primary responsibility imposed on the Government by the Insurance Companies Ordinance enacted in this Council is to ensure that insurance companies are solvent and that they can meet their liabilities. We leave it to market forces to ensure that the customer is getting the best possible deal. In Hong Kong we do have a large number of companies, larger than in many other places, and with the number of companies in existence it is possible for the customer to shop around and to see that he does himself get the best deal that is on offer.

MR. ARCULLI: Sir, will the Financial Secretary inform this Council whether the Administration is aware of the level of profitability of such companies and, if so, whether it is at a level that is so high that it becomes unacceptable?

FINANCIAL SECRETARY: Sir, we do get detailed returns from insurance companies and so, yes, we do have details of the levels of profitability. I am disturbed by what Mr. ARCULLI says about an unacceptable level of profitability. Many would say that in Hong Kong we regard profitability as a worthwhile and perfectly proper motive.

MRS. CHOW: Sir, will the Financial Secretary please explain how he comes to the conclusion that free competition does exist when over 80% of the companies arrived at the same percentage of increase through the Association?

FINANCIAL SECRETARY: Even companies being members of the association have been charging different rates of premium. They do not all charge the same rate of premium. There is considerable competition and a considerable variation in the rate of insurance premium charged.

MR. MARTIN LEE: Sir, is the Government aware of the fact that there are five major motor trading groups in Hong Kong covering somewhat like 95% of all vehicle sales in Hong Kong and they all have related insurance arms so that there exists in fact a near cartel situation and the AIA itself, for example, through its members, handles about 89% of all motor insurance business in Hong Kong?

FINANCIAL SECRETARY: Sir, I have to confess that I was not aware of those figures this afternoon. Mr. Martin LEE is obviously very well informed indeed. I would say this, Sir, that a customer buying a motor vehicle does not have to insure with a particular company, even if that company has been recommended to him.

Leakage of confidential government information

3. MR. HO SAI-CHU (in Cantonese): Will Government inform this Council of the number of known cases of leakage of confidential government information for the past three years and the number of persons who have been subjected to disciplinary actions or legal sanctions relating to these cases, what measures are being taken to prevent future leakages, and whether there is any plan to review the effectiveness of such preventive measures?

SECRETARY FOR SECURITY: Sir, I should say first that it is often very difficult to determine on the basis of a story or revelation in the media whether there has been a leak of confidential government information, rather than simply a process of intelligent speculation based on more-or-less informed rumour.

In cases where it is evident that a leak has taken place we distinguish between disclosures which are the result of carelessness and disclosures which we believe to have been made maliciously -- that is, with the intent to embarrass the Government or to frustrate the Government's intentions. Cases of carelessness are matters for heads of departments to deal with, by warning or reprimand. Cases of malice are, wherever possible, the subject of investigations by the Government Security Officer and his team. I have no information on the number of cases attributed to carelessness, but I can tell Mr. HO that there have been 18 cases in the second and more serious category in the last three years: these cases led to disciplinary action being taken against eight government employees.

As to preventive measures, I believe that our guidance to public officers in the Government's Security Regulations is sufficient to keep cases of careless disclosure of information to unauthorized persons to a minimum: these regulations, which cover both security of documents and security of premises, are reviewed regularly. The regulations provide the basis for disciplinary action in all cases; but in a case where we demonstrated an attempt to do deliberate damage we would also consider

criminal action under an appropriate Ordinance.

I believe that these measures are, generally speaking, quite adequate. Given the large number of civil servants in all departments who handle sensitive issues, and the high degree of access to civil servants which the public and the press have in Hong Kong, I do not believe that leakage of confidential information has been a major problem in recent times.

MR. HO SAI-CHU (in Cantonese): Sir, in paragraph 2 we have some figures. There were 18 cases of malicious leakage and eight government employees were subjected to disciplinary action. Does that mean that there were eight employees who were responsible for the 18 cases? I do not think so. In other words, for more than half of these cases, no culprit could be found. Is our system that imperfect? Why is it that the Administration failed to find all the culprits in these malicious leakage cases? If officers who were responsible for the leakages could not be indentified and in view of what the Secretary said in paragraph 4 of his main reply regarding the difficulty of maintaining absolute confidentiality, would Government therefore consider making itself more transparent?

SECRETARY FOR SECURITY: Sir, to answer the first part of that question, there is no direct correlation between the eight cases of disciplinary action and the 18 cases. They were not eight individual cases. A number of our investigations prove to be inconclusive. We apply a very high standard of proof necessarily in the interest of fairness to the officer and it is not always possible to track down and demonstrate that there has been such deliberate disclosure. As to the question of whether in the face of that record we should amend our position on disclosure of information generally, I think that the fact is, Sir, that we have to always strike a balance between the need for the Government to keep certain information and the formulation of policy at a certain stage confidential, and the need to be forthcoming in its provision of information to the public.

MR. CHUNG: Sir, could the Secretary for Security inform this Council whether criminal action has ever been taken against any government servant in the last three years?

HIS EXCELLENCY THE PRESIDENT: In connection, I assume, with this case otherwise the question is too wide.

SECRETARY FOR SECURITY: No, Sir, we have not taken criminal action for disclosure of confidential information in the last three years.

MR. CHOW (in Cantonese): Sir, what criteria are used to grade papers as restricted or confidential; and would the present system of grading lead to abuse of power by government officials at the expense of public interest?

SECRETARY FOR SECURITY: Sir, we operate a system of grading of information which relates to the degree of damage which would be done to the public interest if that information were improperly disclosed. I do not think I can go further than that, Sir, in answering the question.

MR. TAM (in Cantonese): Sir, the United Kingdom Government in 1911 enacted the Official Secrets Act which has been applied to Hong Kong since. Now the United Kingdom Government is introducing an amending Bill to repeal Section 2 of the Act. Will the Government inform this Council whether the amended Act will be applicable to Hong Kong after passage of the amending Bill?

SECRETARY FOR SECURITY: Sir, the Amending Bill for the Official Secrets Act of 1911 was announced very recently by Her Majesty the Queen in the opening of Parliament. The Bill has, I understand, just been published and introduced into the House of Commons on 30 November. We do not yet, Sir, have a copy of the Amending Bill. We will be seeking to obtain a copy and to study its provisions very carefully. If we think that there are implications for Hong Kong, we would of course consult the Executive Council.

MR. MCGREGOR: Sir, would Government take note of the fact that its record on confidentiality is rather better than that of this Council?

SECRETARY FOR SECURITY: Yes, Sir, I note that with pleasure.

MR. MARTIN LEE: Sir, does the Government agree that most documents given to Members of this Council should not have been marked with the word "confidential" and that the present Official Secrets Act is unnecessarily strict?

SECRETARY FOR SECURITY: Yes, Sir, I am not sure if there is any direct correlation between those two observations. I shall be certainly very happy, Sir, to investigate the grading of documents which are passed to Members of this Council. As to the Official Secrets Act and its application, as I have said, Sir, we shall be studying the new Bill.

MR. ARCULLI: Sir, will the Secretary please inform this Council, how many of the eight government employees that were disciplined were involved in those 18 cases? Was it one case, or more than one case?

SECRETARY FOR SECURITY: It was more than one case, Sir. I do not have all the information readily to hand and it is not normally our practice to disclose information on the results of such investigations. But I will, Sir, study the extent to which I can provide the information which Mr. ARCULLI requests and give him a written response. (Annex I)

MR. ANDREW WONG (in Cantonese): Sir, the Honourable HO Sai-chu's question relates to confidential documents. But do confidential documents include restricted documents? If there should be leakage of restricted information, will there be any form of sanction? Of the 18 cases, were there any where only restricted papers were involved?

SECRETARY FOR SECURITY: Sir, as I explained earlier, we have a system of classification of documents which contain confidential information. The classification "restricted" is one of those, of a lower order than the classification

"confidential". I am not aware, and I would very much doubt, whether any of the 18 cases to which I refer would deal with documents classified merely "restricted" but I will investigate the point and give Mr. WONG a written reply. (Annex II)

MR. BARROW: Sir, could the Secretary advise if government officers taking up a position where they have access to confidential information sign any form of statement of confidentiality?

SECRETARY FOR SECURITY: Sir, other than certain specific requirements applying, for example, to the Clerk of Councils who is the Secretary to the Executive Council, I think that the only such requirement of which I am aware is the requirement for all civil servants to sign every six months a declaration that they have read the appropriate sections of the Official Secrets Act.

MR. PETER POON: There has been some suggestion that government documents are over-classified. As the Secretary has already said, he is classifying the various documents into various categories. Will he give any indication whether there will be a review so that there will not be any necessity of having documents over-classified?

SECRETARY FOR SECURITY: Yes, Sir, that raises, I think, a very good point that the over-classification of documents is frequently a problem and it leads to a debasement of the whole system of protecting that information which is genuinely confidential. In the recent review of Security Regulations carried out this year we have sought to put emphasis on that very point, and we shall continue to do so.

Enactment of legislation at short notice

4. MR. ARCULLI asked : Sir, in view of the many occasions on which this Council has been asked to consider legislation with specific deadline for enactment at short notice, will the Government inform this Council of the factors that affect the priorities in the legislative programme, whether the Law Drafting Division of the Legal Department has difficulties in meeting the timetable, and what measures are

taken to overcome these difficulties?

CHIEF SECRETARY: Sir, the usual time frame for the passage of a Bill involves the resumption of the Second Reading and the Third Reading 14 days after the Bill has been introduced into this Council. Members are, of course, free to request more time to study any proposed legislation that comes before them. In general, Members are asked to give urgent attention to a Bill against a specific deadline only when the Bill deals with an urgent or an emergency situation. Happily, such Bills are few and far between. Of the 90 Bills enacted in the last Session, only four of them fell under this category.

In general, priorities in the legislative programme are primarily determined according to the date or time by which the various Bills must be enacted.

As to the second part of the question, there are always legal and policy problems to be faced in tackling all but the simplest items of legislation. These problems take time to analyse and process. We do our best to ensure that acceptable and workable legislative proposals are placed before this Council.

In conclusion, Sir, I can assure Members that the Administration does and will continue to make every effort to ensure that the Council is not asked to consider draft legislation without Members being provided with adequate time for study and discussion.

MR. ARCULLI: Sir, will the Chief Secretary answer that part of my question dealing with the Law Drafting Division, namely, whether they have any difficulty in meeting timetable and, if so, what measures are taken to overcome such difficulties?

CHIEF SECRETARY: Sir, may I ask the Attorney General to cover this?

ATTORNEY GENERAL: Sir, as the Chief Secretary has said in his reply, the drafting process inevitably throws up legal and policy problems in all but the simplest of Bills. I am not aware of any specific difficulties that have arisen that would obstruct the drafting process. The Drafting Division is at full strength, well

stocked with experienced and highly competent draftsmen, and is producing legislation to meet the requirements of the legislative drafting programme.

MR. PETER WONG: Sir, will the Administration please confirm that Bills involving finance and legal matters are referred to the relevant professional organizations in good time for comment?

CHIEF SECRETARY: Sir, when there is a Bill that involves matters that require consultation with various professional bodies, we certainly do our best to ensure that consultation takes place in a timely manner.

MR. EDWARD HO: Sir, will the Chief Secretary inform this Council what are the factors or considerations that affect the time within which Bills must be enacted, and how priorities are established for different Bills?

CHIEF SECRETARY: Sir, in settling the priority for various items of legislation, a number of factors do come into play. Certainly we consider the urgency of the Bill as far as the public interest is concerned and if indeed there is a great deal of public pressure to get some legislative proposal through, that is a prime consideration as far as we are concerned. There are other items of legislation that are comparatively simple, and if it is found that we can get them through very quickly without disturbing the total legislative timetable, such Bills might be given some priority purely to get them out of the way. It is not easy, Sir, to describe all the factors that weigh with us. There are so many.

Full cost charging for the medically insured

5. DR. LEONG asked : Will the Administration inform this Council whether or not consideration will be given to charging the full cost of hospital and medical treatment in government and subvented hospitals or clinics in respect of patients whose expenses are covered by insurance or assistance schemes ?

SECRETARY FOR HEALTH AND WELFARE: Sir, the Government's present policy is to provide subsidized medical services at public hospitals and clinics to all entitled persons regardless of their ability to pay. Entitled persons are those who hold a Hong Kong identity card or a United Kingdom passport -- the latter because of a reciprocal arrangement in the United Kingdom for Hong Kong residents. The only exceptions are private patients and non-entitled persons, from whom the full cost of treatment in public hospitals or clinics is recovered.

Given this policy, there seems to be no justification for singling out a particular category of entitled persons for discriminatory treatment. The fact that they need not pay their own medical expenses, or that the insurance companies which are or could be paying their medical expenses can afford to pay more, is not really relevant. What is relevant is that, under the existing policy, all entitled persons should be equally able to benefit from the heavily subsidized services provided by the public hospitals and clinics, regardless of their financial means or the source of their financial support.

DR. LEONG: Sir, is the Secretary for Health and Welfare aware that victims of injuries, where ambulances are summoned, are always automatically taken to a government or public hospital without choice? Would the Administration consider changing the regulations to give a victim, if applicable, especially one with insurance coverage, the choice of attending private hospitals so that at least the overcrowding of public hospitals could be alleviated?

SECRETARY FOR HEALTH AND WELFARE: Sir, I understand that even victims of traffic accidents who are initially taken to a public hospital but who are medically insured will more often than not as soon as possible have themselves removed to a private hospital. So perhaps we are talking about a problem which is more theoretical than real, Sir.

MR. POON CHI-FAI (in Cantonese): Sir, since the answer made no mention of subvented hospitals, does it imply that subvented hospitals can be covered by the assistance or insurance schemes, having regard to the fact that most members of the public have to pay part of the costs in subvented hospitals?

SECRETARY FOR HEALTH AND WELFARE: Sir, I must apologize if I have misled Mr. POON. When I used the term "public hospitals", I was also referring to subvented hospitals.

MRS. CHOW: Sir, whereas what the Secretary has stated may be the present policy, does the Secretary not agree that Dr. LEONG's specific suggestion, where payment by insurance or assistance schemes is involved, of taking into consideration the ability to pay when determining charges imposed by the government and subvented hospitals should be passed on to the Provisional Hospital Authority for consideration before a definitive decision should be made?

SECRETARY FOR HEALTH AND WELFARE: Sir, I was hesitant to refer to the Hospital Authority in case I might have been accused of "passing the buck", but certainly this is one of the issues that the Hospital Authority will have to look into.

Acid rain

6. PROF. POON asked : Sir, in view of recent reports on the rising acidity of rainfall in Hong Kong, will Government inform this Council of its assessment of the general environmental impact caused by acid rain, including the effects on public health, agriculture and buildings, and so on; and what measures will be taken to minimize such adverse environmental impact?

SECRETARY FOR LANDS AND WORKS: Sir, the Government has been monitoring acid rain for the last few years, and the level of rainfall acidity has not, in fact, increased. Our assessment is that the impact caused by acid rain in Hong Kong is not too great. Acid rain, by itself, is not known to have any important direct adverse effects on public health in Hong Kong. Nor is the level of rainfall acidity high enough to be responsible for damage to our local vegetation or agriculture. However, acid rain, when combined with other common air pollutants, is certainly responsible for corrosion of building materials.

The principal measures, which will help to reduce the acidity of local rainfall, are in fact those measures being taken to improve air quality generally. They include the requirement of the new coal fired power stations to use coal of less than 1% sulphur content, and plans to control the sulphur content of fuel oil used by local industries and the emission of acidic gases from motor vehicles.

PROF. POON: Sir, what is the average rainfall acidity in the last three years; and has there been any report on a sudden rise in the rainfall acidity that could be regarded as posing a harmful effect on local vegetation?

SECRETARY FOR LANDS AND WORKS: Sir, the annual overall weighted pH values of Hong Kong's rainfall are:

1985	4.8
1986	5.4
1987	4.8
1988	4.9

Overseas research would indicate that no obvious damage occurs to the eco-system until the pH value falls below 4.6. For water in equilibrium with atmospheric carbon dioxide the pH value is 5.6. So the lower the pH value the more acidic is the rain. To my knowledge, there has been no report of increase recently. In fact the figures would suggest that the position is stable, not improving, but not getting worse.

MR. MARTIN LEE: Sir, is the Administration satisfied with the present legislation relating to the control of air pollution in Hong Kong and, if not, what measures does the Administration intend to take in order to improve the situation?

SECRETARY FOR LANDS AND WORKS: Sir, that is a very very broad question. But in general I would say that the Government is not satisfied with the air pollution situation in Hong Kong nor with air pollution legislation, as it stands, being sufficient for

Hong Kong needs. Major sources of air pollution are the use of fuel oil by industry and other stationary burners, emissions from motor vehicles, and particulate emissions from a wide range of sources. For fuel oil, we will be submitting for approval regulations to control the sulphur content in fuels used in industry, first of all in the most vulnerable areas, but with a view to probable general introduction later. I think this is a very important piece of legislation. For motor vehicles, we are seeking to legislate for a move to unleaded petrol, largely to enable us to make compulsory the use of catalytic convertors, which will reduce particulates and nitrates in the emissions. Of course, both pieces of legislation would be relevant to the question of acidic rain. But not all air pollution problems can be solved by legislation and its enforcement. It is clear that many of the problems will only really be sorted out by planning and replanning over the long term.

MR. MCGREGOR: Sir, can the Secretary advise to what extent our acid rain is imported, as opposed to that "made in Hong Kong"? I am thinking, Sir, particularly of the industrialization of areas close to us in China.

SECRETARY FOR LANDS AND WORKS: When rain falls, it is extraordinarily difficult to tell where its contents actually derive from. But there is some evidence that rain is more acidic in the winter months when the wind from the north east is prevailing, suggesting sources either in the north east of Hong Kong or beyond. But also at the same time it is more acidic in the areas which have themselves a higher sulphur content. So, we believe that the majority of the acidic content of rain probably derives from outside Hong Kong.

PROF. POON: Sir, from the figures quoted by the Secretary on the average rainfall acidity, will the Secretary regard these values low enough to deserve close attention?

SECRETARY FOR LANDS AND WORKS: Sir, I think I could say that they are one of the features of air pollution which will be getting attention through control of sulphates and nitrates generally, and that is probably the best we can do for the time being, certainly by legislation.

MRS. FONG: Sir, while the Government is not satisfied with the existing legislation on pollution, could the Government inform this Council what is the reason for delay in considering new legislation to be introduced?

SECRETARY FOR LANDS AND WORKS: Sir, we have had much of our existing legislation relating to air pollution in force for some time. We have not had an effective and substantially staffed department for very long. Naturally when it started operation the Environmental Protection Department had a considerable amount of research, and I may say that even now many of the proposals for legislation still have a considerable amount of local research to be done before they can be brought to this Chamber. I think that the knowledge of our air pollution situation and our awareness of its effects on Hong Kong has perhaps been slower in being grasped over the years than it has in some other places.

MR. MCGREGOR: Sir, are the acidic gases referred to partially at least produced by diesel engines; and if so, since the fuel is not under question and is not to be changed, how can this source be reduced unless the Government expands its random checks on diesel engines?

SECRETARY FOR LANDS AND WORKS: Sir, the Government is in fact considering the possibility of legislation to gradually encourage the conversion of diesel vehicles to gasoline.

PROF. POON: Sir, with reference to the last sentence of the first paragraph of the answer, will the Secretary inform this Council if the Government has made any assessment of the long-term corrosive effects on buildings, in particular those with historical value, based on the present level of rainfall acidity and air pollution in general in Hong Kong?

SECRETARY FOR LANDS AND WORKS: No, Sir.

Supervision of banks and deposit-taking companies

7. MR. SIT asked: Sir, will the Government inform this Council whether the current system for supervising banks and deposit-taking companies is functioning satisfactorily and whether there is any plan to review the Banking Ordinance now that most of its provisions have been in operation for two years?

FINANCIAL SECRETARY: Sir, the current system for supervising banks and deposit-taking companies is working well.

The present Banking Ordinance provides a better framework than the previous legislation in relation to the supervision of authorized institutions. Nevertheless, legislative amendments are required from time to time in the light of experience of the operation of the Ordinance and developments in the banking industry.

Over the past two years, two amendment Bills have been enacted to improve the working of the Ordinance. Furthermore, subject to the approval of the Executive Council, it is my intention to introduce into this Council early next year a Bill to replace the existing categories of licensed deposit-taking company and registered deposit-taking company with two new categories, namely, limited service banks and deposit-taking companies.

Sir, the Government will continue to review the provisions of the Ordinance and further amendments will be introduced, if and when necessary.

MR. SIT: Sir, I am glad to hear the Financial Secretary's confirmation that the current system of supervision is working well. However, would the Government advise this Council if there is any person or persons being prosecuted or having been prosecuted as a result of contraventions of section 123 of the Banking Ordinance ever since the Hang Lung Bank incident? If the answer is in the positive, Sir, would the Financial Secretary further inform this Council of the estimated sum of money involved?

FINANCIAL SECRETARY: Sir, I am sorry I do not have that information available this afternoon. I will send a written reply to Mr. Kingsley SIT. (Annex III)

MR. SIT: Sir, in view of the fact that the sums of money allegedly involved in this

kind of bank fraud normally run into millions of dollars, does the Financial Secretary consider whether the penalty as stipulated in the Banking Ordinance should be reviewed for the purpose of protecting the interests of the depositors and the general public?

FINANCIAL SECRETARY: Sir, the penalties in all Ordinances including the Banking Ordinance are reviewed from time to time to ensure that they are commensurate with the offences involved.

Ability of police to maintain internal security

8. MRS. LAU asked: Sir, in view of the gradual withdrawal of the British garrison from Hong Kong in the years leading up to 1997, will the Administration inform this Council what steps are being taken to ensure that the police force will be capable of maintaining the internal security and stability of Hong Kong even without the assistance of the British armed forces?

SECRETARY FOR SECURITY: Sir, for many years now our police force has had the primary responsibility for the maintenance of internal security and stability in Hong Kong. The gradual withdrawal of the British garrison in the years before 1997 calls for relatively little adjustment to the police force's roles and responsibilities.

As regards internal security itself -- that is, the maintenance of public order in the event of rioting or outbreaks of violence -- the police force has maintained for 20 years now a very successful system of training to prepare it to cope with any threat. This system is based upon the Police Tactical Unit, where all police officers undergo 10 weeks training in internal security methods. This is maintained by continuation training after they return to their original units. The Police Tactical Unit itself provides six companies of police officers, two in training and four trained and deployed to regions, normally engaged in anti-crime work, as a ready reserve in the event of a sudden public order problem.

The significant development resulting from the withdrawal of the garrison is the need for the police to resume full responsibility for the prevention of illegal immigration on the land frontier. The army took over that responsibility in 1979 at a time of a very serious influx of illegal immigrants, when the police force was hard pressed to cope. Starting in this financial year we are recruiting an additional

1 200 police officers over and above the natural growth of the police force. These additional officers will make it possible to extend the period of training and attachment to the Police Tactical Unit to provide a further six companies of police officers who will replace the army on the border. This additional unit -- to be known as the "Police Tactical Unit -- Border Detachment" -- should be ready to take over all anti-illegal immigration duties on the land border by 1993.

In conclusion, Sir, I am confident that the police force (including the auxiliary police force) will have the manpower, the equipment and the training to ensure that the needs of public order and internal security are well covered through the next decade and beyond.

MRS. LAU: Can the Secretary inform this Council of the number of officers leaving the police force over the past three years, and whether the wastage involved in any way signifies that the morale of the police may be on the decline?

SECRETARY FOR SECURITY: Sir, I do not have those figures to hand. I should say that police recruitment remains high, with more qualified applicants than there are places available in the current capacity of the Police Training School which is adequate to replenish all wastage, to meet the requirements of natural growth, and to meet the limited expansion needs of the Police Tactical Unit -- Border Detachment. This is of course always an area which requires careful watching, but we see no immediate problem.

MR. MARTIN LEE: Sir, with regard to the expression of confidence by the Secretary for Security that the police force will be able to ensure that the needs of public order and internal security will be well covered through the next decade and beyond, will the Administration inform this Council what will happen if the police force itself were to take part in a riot, as it had done so outside the headquarters of the ICAC some years ago?

SECRETARY FOR SECURITY: I think I regard that as an extremely hypothetical question. I do not contemplate such an eventuality.

MRS. LAM (in Cantonese): Sir, the Secretary said in his reply that an additional

1 200 police officers need to be recruited this financial year. Will the Administration inform this Council whether there will be any difficulty in recruiting this number, and if so, what steps will be taken to overcome it?

SECRETARY FOR SECURITY: No, Sir, I think I have explained that we have already started the recruitment of the additional 1 200 men, the first tranche being inducted this year. We have not encountered any difficulty in meeting the increased recruitment requirements. It was necessary to make some expansion to the Police Training School, but that has been done.

MR. MARTIN LEE: Sir, in relation to the police riot outside the headquarters of the ICAC some years ago, had it been contemplated by the Administration before it happened?

SECRETARY FOR SECURITY: Sir, I think that was a long time before I entered the field of security. I do not feel able to answer that question.

Written answers to questions

Legal training in tertiary institutions

9. MR. CHAN asked: Will Government inform this Council:

- (a) what measures are being taken by the tertiary institutions concerned to ensure uniformity of standards in legal training;
- (b) whether new law courses are being planned by other tertiary institutions for introduction in the coming five years; and
- (c) whether there is any plan for the future to introduce a common qualifying examination for law students in various institutions?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, only the University of Hong Kong now offers both first-degree and postgraduate courses in Law (LLB and PCLL). These are

both full-time courses with an intake of 150 students each. From October this year, the City Polytechnic of Hong Kong (CPHK) has also introduced a full-time LLB course, with an intake of 60 students.

The University of Hong Kong and the City Polytechnic of Hong Kong are individually responsible for the standards of their courses. Both institutions have external examiners who are practising lawyers and academics, to monitor the assessment processes and ensure uniformity of standards. CPHK's course has been validated by the United Kingdom Council for National Academic Awards.

The Advisory Committee on Legal Education (ACLE) has commissioned the Census and Statistics Department to conduct a survey to establish Hong Kong's future requirement for lawyers. If it indicates a shortfall, we will consider increasing the existing intakes at Hong Kong University and City Polytechnic of Hong Kong and possibly introducing new courses at other tertiary institutions. The institutions have recently been invited to draw up their academic development proposals for the 1991-94 triennium. In this connection, it is possible that :

- (i) the University of Hong Kong may propose an external LLB course;
- (ii) the City Polytechnic of Hong Kong may propose a part-time LLB course; and
- (iii) the Chinese University of Hong Kong may propose that its existing minor programme in Law be expanded into a major programme.

PCLL is the main avenue of entry into the legal profession. Since the University of Hong Kong is the only local institution providing such a course there is no need to introduce a common qualifying examination at present.

Flood control

10. MR. LAU WONG-FAT (in Cantonese): The Director of Civil Engineering Services recently announced that the Government would commission a consultant in late November to formulate a territory-wide strategy on drainage and flood control. Will the Government inform this Council, pending the completion of the study in 13 months' time, what preventive and contingency measures will be taken in the coming rainy

season to prevent recurrence of the extensive flood problems of last year?

SECRETARY FOR LANDS AND WORKS: Sir, the Director of Civil Engineering Services has now identified over 170 areas in the New Territories which are susceptible to flooding in the event of heavy rain. Many of them have flooded regularly in the past, mainly due to the low level of the land and the proximity of natural streams. Immediate measures are being taken to reduce the risk of local flooding at these black spots. The work involves minor improvement measures to drains and culverts, improved maintenance and clearance of streams and more frequent inspections.

Also many instances of localized flooding are caused by the blockage of drains with refuse discarded by local residents. Government intends to launch a publicity campaign to encourage local co-operation in keeping water-courses free. This will begin before the coming rainy season.

Within Government, all works departments will be reminded before the wet season starts to ensure that their contractors' temporary works do not increase the risk of flooding in neighbouring areas.

For five villages, a significant improvement in flood control will be achieved before the next rainy season, when flood protection schemes will be completed and operational. The villages concerned are Sheung Shui, Kiu Tau Wai, Lo Uk Chuen, Sik Kong Chuen and Sik Kong Wai.

Several major drainage improvement schemes are in the course of construction, particularly in the Tin Shui Wai, Yuen Long and Sheung Shui areas. Critical parts of these have been accelerated where this is possible, but until fully completed only small local improvements can be expected in the short term.

There are basic problems to tackle in the long term, such as flooding caused by the filling of low-lying areas, and by the higher levels in the Shenzhen River due to faster run off from developed areas. Nevertheless, with the measures described above, and improvements made in the co-ordination and effectiveness of the emergency organization, the consequences of any such flooding will be reduced to a minimum.

Preventive measures against noxious fumes

11. MRS. LAU asked: In view of a number of recent incidents in which members of the public have been affected by noxious emissions or fumes, will Government inform this Council the number of such incidents during the past three years; actions to be taken by the relevant government departments upon receipt of such complaints; and what measures, other than legislative measures, are being taken to prevent the recurrence of similar incidents?

SECRETARY FOR LANDS AND WORKS: Sir, during the past three years the Fire Services Department has responded to 1 499 incidents involving alleged noxious emissions or fumes. Nearly all of these incidents involved leakage of gas.

When an incident is reported, the fire services personnel goes to the scene. Depending on the severity of the incident, their actions would include cordoning the affected area; removal of casualties to hospitals; evacuation; ventilation of affected premises; tracing the origin of emission; stopping the emission; and flushing with water jets.

In 18 of these incidents the Environmental Protection Department was called to the scene. Fourteen of these incidents affected school children. For this type of incident Government has established response procedures to ensure that adequate measures are taken to protect life, health and property while at the same time minimizing disruption to educational activities, avoiding unnecessary mobilization of emergency services and limiting the possibilities of mass hysteria. Incidents are usually reported to the emergency services via a "999" call and they in turn alert the Environmental Protection Department and the Government Chemist. On arrival at the scene, the Environmental Protection Department officer is responsible for co-ordinating the investigation with a view to establishing the cause and determining what should be done. The Education Department has established procedures which are adopted by schools to ensure that affected children are given adequate attention, that the alleged gas or source of emissions is established and that the emergency services are notified where necessary. We believe that these procedures are working effectively because, as far as we know, so far no person admitted to hospital following such an incident has been found to be suffering from any ill effects.

In only three of these 18 incidents was it possible to confirm the source of the noxious emissions or fumes, so it is difficult to prevent the recurrence of such

incidents. However where statutory measures are available, we do take action, as in the case of an incident involving a secondary school in Kwai Chung in September 1988, when a nearby factory was ordered to shut down a malfunctioning oil-fried heater under the provisions of the Air Pollution Control Ordinance. The factory complied.

Liaison between schools and parents

12. MRS. FAN asked: Will Government inform this Council what efforts have been made in the past 12 months to strengthen the communication and liaison between parents of students and school authorities in the primary and secondary sectors and the total resources devoted towards this purpose?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, over the past 12 months, the Education Department has been very active in promoting and strengthening liaison between parents and school authorities.

The most significant event was the issue in late September this year of a booklet on good parenting. Sufficient copies were distributed to all primary and secondary schools to enable all parents to receive a copy, free of charge, and copies were also made available to interested members of the public through the district offices of the City and New Territories Administration and the department. The booklet is attractively illustrated and contains practical suggestions on the role parents should play in the education of their children: for example, loving and caring for their children, dealing with adolescent problems, communicating with their children positively, providing them with guidance in their studies and maintaining close liaison with schools.

Feedback from parents and the public has been very encouraging and the initial print out of 1 million copies has been supplemented by a second printing of 100 000 copies. Printing costs amounted to over \$400,000.

A circular issued on 28 September 1988 to primary and secondary schools to accompany the booklet urged school heads to discuss the contents with parents during meetings, seminars, open days and parents' days. A special note on school-parent liaison was appended to the circular, suggesting various ways to improve home-school contact and maintain a positive dialogue with parents.

Many schools have already held meetings and group sessions with parents, both to introduce the booklet and to discuss educational issues of mutual concern. Education Department inspectors and district education officers have acted as guest speakers at some of these meetings.

Two more booklets for parents are being prepared, one for parents of kindergarten pupils and the other for parents of pupils with special educational needs.

Further publicity to encourage parents' direct involvement in the education of their children has been given by an Announcement of Public Interest aired on the Chinese channels of all television and radio stations since the beginning of October. The Education Department, in conjunction with the Information Services Department and Radio Television Hong Kong, produced a short film on the same theme which was broadcast in the "Metrorama" programme of the TVB Jade Channel in mid-November.

In recent years a number of supportive services have been introduced into schools, notably the Student Guidance Scheme in primary schools and the Guidance Service in secondary schools. One of the aims of these services is to strengthen the link between home and school. In addition to offering guidance to parents of individual students when appropriate, guidance teachers and student guidance officers have organized many programmes to promote the involvement of parents generally in education, including seminars on the Secondary School Places Allocation System, orientation sessions for new pupils, and talks on study skills.

A seminar for secondary school heads, entitled "Towards Better Co-operation between Parents and Schools", will be held in January 1989. This will further stress the fundamental importance of close parent-school involvement.

All these efforts require a considerable input of resources, particularly human resources, but it is not possible to quantify these in money terms.

Industrial premises for commercial use

13. MR. TIEN asked: In view of the current shortage of office space in prime business locations such as Central and Tsim Sha Tsui, where rents have doubled in the past two years, many import-export trading firms are forced to move their premises to

industrial areas such as Kowloon Bay. Will Government inform this Council:

(a) of the estimated total floor area of commercial buildings (excluding hotels and shopping centres) and that of industrial buildings expected to be available in the next two years;

(b) whether consideration will be given to further relaxing the existing tolerance level of 70:30, as set down by the Town Planning Board, on the use of industrial buildings for commercial purposes; and

(c) whether consideration will be given to allowing owners of industrial buildings to apply for partial or substantial lease modification upon payment of a premium to enable their premises to be used for commercial purposes?

SECRETARY FOR LANDS AND WORKS: Sir, the estimated total floor area of commercial buildings (excluding hotels and shopping centres) expected to be available in the next two years is in excess of 500 000 sq m and that for industrial premises in excess of 2 000 000 sq m. I can provide more exact figures when the 1988 Property Review, presently under preparation, is completed early in 1989.

At present, up to 30% of the usable floor area (UFA) of industrial premises may be used for office purposes which are ancillary to a company's industrial operations without the Town Planning Board's approval.

For -

(a) any ancillary office use in excess of 30% of the UFA of industrial premises;

(b) any partly ancillary or unrelated office use; and

(c) any other commercial use;

the Town Planning Board's approval is required.

Before November 1987, the board had accepted only 20% as being a reasonable

proportion of a factory's overall usable floor area to be used for office space, and it was increased after a study had been made of industrial needs. This ratio cannot be changed again precipitately or the principle of tying office use to factory use lightly abandoned, as our industrial areas were designed and laid out for industry in accordance with an assessment of demand for industrial accommodation, and many buildings are in any case simply not suitable to be used as offices. Nevertheless in my speech in reply to the Motion of Thanks last month I said that Government would re-examine the situation again. This re-examination has started. It is addressed not only to the possibility of greater flexibility of the use of industrial premises, but also to the ways of releasing more land for office development in the medium and longer terms.

Government business

Motion

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

That the Factories and Industrial Undertakings (Cartridge-Operated Fixing Tools) (Amendment) Regulations 1988, made by the Commissioner for Labour on 22 October 1988, be approved.

He said: Sir, I move the resolution standing in my name on the Order Paper. The Factories and Industrial Undertakings (Cartridge-Operated Fixing Tools) (Amendment) Regulations 1988 were made by the Commissioner for Labour on 22 October 1988. In accordance with section 7(3) of the Factories and Industrial Undertakings Ordinance I now move that the regulations be approved by this Council.

Section 7(1) of the Factories and Industrial Undertakings Ordinance empowers the Commissioner for Labour to make regulations to ensure the safety of people in industrial undertakings. The Factories and Industrial Undertakings (Cartridge-Operated Fixing Tools) Regulations were made in 1977. Regulation 4 provides that no tool other than an approved tool listed in the Schedule shall be used in an industrial undertaking. Regulation 19 purports to empower the Commissioner for Labour to amend the Schedule by notice in the Gazette.

We have recently been advised that regulation 19 may have been ultra vires section 7(1) of the Ordinance because it is expressed as a sub-delegation of the power to make regulations, rather than as a power to approve certain types of equipment.

The purpose of these amendment regulations is to put the matter beyond doubt by providing for :

(a) the revocation of the existing regulation 19 and the Schedule;

(b) the introduction of a new regulation 19 to empower the Commissioner to approve tools by notice in the Gazette; and

(c) the amendment of the definition of "approved tool" to reflect these changes.

These are purely technical amendments which do not involve any change in substance. They have the support of the Labour Advisory Board and the revised procedure is in line with other regulations under the Factories and Industrial Undertakings Ordinance.

Sir, I beg to move.

Question proposed, put and agreed to.

Second Reading of Bills

ROAD TRAFFIC (AMENDMENT) (NO.2) BILL 1988

Resumption of debate on Second Reading which was moved on 20 October 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).

ROADS (WORKS, USE AND COMPENSATION) (AMENDMENT) BILL 1988

Resumption of debate on Second Reading which was moved on 20 October 1988

Question proposed.

DR IP: Sir, an ad hoc group was set up to examine the Bill arising from Members' concern over the possible effects of the proposed change to the existing legal procedure for private road resumption whereby the need to serve resumption notices on individual persons having any estate, right, share or interest in the private road resumed will be removed. Deprived of the opportunity to be notified individually, owners who happen to be abroad or even those in Hong Kong may be ignorant of the resumption. It was the group's prime objective that persons entitled to compensation would not be penalized by the simplification in the resumption procedure.

We have met with the Administration and came to appreciate the difficulties involved. Due to severe staff shortage in the Buildings and Lands Department and other priority work, the department has not been able to expedite the resumption of the many private streets which were plagued with serious environmental and traffic problems for repair and maintenance. To achieve the target of resuming 300 private streets within the next 10 to 12 years, a simplified procedure needs to be adopted. If not, the programme would have to be extended to 30 years. A similar simplified procedure was adopted under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276). It has proved to be satisfactory with no complaints received.

The other requirements under the Ordinance will remain, for example to give notice by publishing it in one issue of the Gazette, one issue each of a Chinese and English newspaper; to affix a copy on or near the land affected and to make it available for public inspection at government offices.

Sir, the group has also clarified with the Administration on whether the compensatable right of owners would be affected by the proposal to dispense with individual notifications. According to the Building (Planning) Regulations, any part of any street or service lane is not taken into account in determining the permitted site coverage and plot ratio of a site on which a building is erected; it

is therefore unlikely that compensation due to loss of value or interest would arise since the development potential of the site would unlikely be affected. Out of the 38 claims processed in connection with the private streets resumed so far, none of the claims for compensation could be substantiated. Besides, the road was a collective liability rather than a benefit to owners. Resumption would mean that the obligation to repair, maintain and manage such streets is transferred from the owners to the Government.

Despite the above assurances, the group has still endeavoured to offer the best possible protection to owners or persons having an interest who might be unaware of the resumption order and could only submit a claim after the elapse of the one-year period prescribed in the Ordinance. In view of the cost and procedural complexities facing the owners, the group has requested that late claims be processed by the Secretary for Transport without requiring the claimant to seek a formal extension from the Lands Tribunal. This was accepted by the Administration and I shall be moving an amendment in the Committee stage to this effect.

Members of the public have been deeply troubled by the environmental and traffic problems associated with private roads and the matter has been a frequent item on the agenda of district board meetings. This Bill sets off in an attempt to solve the management and maintenance problems posed by private streets with multiple ownership through the speeding up of the resumption process. The Government would be spending about \$250 million on the repair and improvements of the 300 private streets to be resumed. With this objective in the forefront of our minds, we have on the other hand tried every effort to ensure that the entitlements of owners to compensation would not be adversely affected by the simplification in the resumption procedure. Through the amendment to section 28, ample protection should be afforded to the compensatable right of owners. I understand that the district boards and the public have given their full support to the proposed arrangements which are designed to work for the public interest.

Sir, with these remarks, I support the motion.

SECRETARY FOR TRANSPORT: Sir, I am most grateful to the ad hoc group chaired by Dr. IP for the time and effort they have spent in examining this Bill and for their general support.

I support the amendment introduced by Dr. IP at the Committee stage to empower

me to process compensation claims outside the period prescribed in the principal Ordinance for cases where the affected persons have not had actual notice of the resumption order. This will give an additional safeguard for people such as overseas owners who may not be aware of the resumption order during the prescribed period. It will also save time and expenses in seeking the Lands Tribunal's approval to extend the claim period.

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.

ROAD TRAFFIC (AMENDMENT) (NO.2) BILL 1988

Clauses 1 to 17 were agreed to.

ROADS (WORKS, USE AND COMPENSATION) (AMENDMENT) BILL 1988

Clauses 1 to 4 were agreed to.

New clause 5 Claims out of time.

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

DR. IP: Sir, in accordance with Standing Order 46(6), I move that new clause 5 as set out in the paper circulated to Members be read the Second time. This amendment has been suggested by Members of the ad hoc group and agreed by the Administration.

The new clause will empower the Secretary for Transport to process late claims served on him outside the one-year prescribed period if he is satisfied that the claimant has not had actual notice of the resumption order. The main objective is to enable any late claimant to submit a claim without having to incur the time and expenses of applying to the Lands Tribunal for an extension.

Sir, I beg to move.

Question proposed, put and agreed to.

Clause read the Second time.

DR. IP: Sir, I move that new clause 5 be added to the Bill.

Proposed addition

New clause 5

That the Bill be amended, by adding after Clause 4 -

"Claims out of time

5. Section 28 is amended -

(a) in subsection (1) by repealing "subsection (2)" and substituting "subsections (2) and (6)"; and

(b) by adding after subsection (5) -

"(6) Without prejudice to subsections (2) to (5), where an order has been made under section 13(1), 15(1) or 17(1) and notice of the order has not been served in accordance with section 14(1)(a), 16(1)(a) or 18(1)(a) respectively, the Secretary may, if satisfied that the claimant has not had actual notice of the order, accept service of a claim after the period specified in the fourth column of Part II of the Schedule for such service, and if he does so, the claim shall be deemed to have been served within that period."

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

ROAD TRAFFIC (AMENDMENT) (NO.2) BILL 1988

had passed through Committee without amendment and the

ROADS (WORKS, USE AND COMPENSATION) (AMENDMENT) BILL 1988

had passed through Committee with an amendment.

He moved the Third Reading of the Bills.

Question on the Bills proposed, put and agreed to.

Bills read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 14 December 1988.

Adjourned accordingly at nineteen minutes to Four o'clock.

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

