

1 HONG KONG LEGISLATIVE COUNCIL -- 22 February 1989

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 22 February 1989

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, C.M.G., J.P.

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

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

THE HONOURABLE CHENG HON-KWAN, J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

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

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING, J.P.

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

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

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

THE HONOURABLE GEOFFREY THOMAS BARNES, J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE 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 LEUNG WAI-TUNG, J.P.

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, J.P.

THE HONOURABLE ELAINE CHUNG LAI-KWOK, J.P.  
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE DOMINIC WONG SHING-WAH, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

ABSENT

PROF. THE HONOURABLE POON CHUNG-KWONG, 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.
Interpretation and General Clauses Ordinance Rectification of Errors Order 1989.....	42/89
Registration of Persons Ordinance Registration of Persons (Invalidation of Old Identity Cards) Order 1989.....	43/89
Noise Control Ordinance 1988 Noise Control Ordinance 1988 (Commencement) Notice 1989.....	44/89
Noise Control (General) Regulations 1989 Noise Control (General) Regulations 1989 (Commencement) Notice 1989.....	45/89
Noise Control (Appeal Board) Regulations 1989 Noise Control (Appeal Board) Regulations 1989 (Commencement) Notice 1989.....	46/89

Sessional Papers 1988-89

No. 56-- Trustee's Report on the Administration of the Education  
Scholarships Fund for the year ended 31 August 1988

No. 57-- Report on the Administration of the Fire Services Welfare Fund  
for the year ended 31 August 1987

Oral answers to questions

Criminal activities of illegal immigrants

1. MR. POON CHI-FAI asked (in Cantonese): In view of the public concern over reports of Chinese illegal immigrants commissioned to undertake criminal activities in the territory, will Government inform this Council whether there is any deficiency in current measures adopted for controlling illegal immigration and what preventive and remedial measures would be considered to counter such illegal activities?

SECRETARY FOR SECURITY: Sir, there have been reports of illegal immigrants being imported by local criminal gangs, or arriving of their own volition to commit crimes, but I am not aware of extensive public concern on this issue. On the basis of the relevant crime statistics there is no indication of any overall increase in the crimes committed by illegal immigrants over the last year. Indeed the opposite is the case, and although there have been small increases in violent crimes, there has been a 32% drop in overall reported crime committed by illegal immigrants, not including serious immigration offences. Including the latter the drop is 34%.

Extensive and comprehensive measures involving our security forces are employed against illegal immigration. These include constant vigilance on the land border, round-the-clock maritime patrols by the marine police and the Royal Navy, road blocks and identity card checks by the police and specific operational action by the police, Immigration Department and Labour Department against the employment of persons without identity cards. In addition, close liaison is maintained by the police with their counterparts in China. Altogether I am satisfied with the action currently being taken.

There is no doubt that these measures have been effective in the last year. During 1988 nearly 21 000 illegal immigrants were caught either entering the territory or subsequently, and in the last six months of 1988 the monthly average of such arrests,

at 1 200, represented a 50% decline over the same period in 1987. Another indicator is the average daily arrest figure which shows a drop from 104 a day in April 1988 to 29 a day so far this year. Combined with the overall drop in the crime figures and the knowledge that there has been no relaxation of effort or deployment by our security forces, there is no reason to suppose that there is any particular deficiency in the measures employed by the law enforcement agencies against illegal immigration or the criminal activities of illegal immigrants.

MR. POON CHI-FAI (in Cantonese): Sir, although in paragraph 2 of the reply it was emphasized that Government is quite satisfied with the action currently being taken against illegal immigration, the press reported that recently illegal immigrants arrived in the territory in the morning and committed robberies in the afternoon. This also indicates that they arrived here uninhibited, and with arms; as long as arrangements could be made beforehand they could just slip in and involve themselves in criminal activities. Therefore why would the Secretary insist that he is content with measures taken against illegal immigration? Meanwhile, according to information I obtained in consulting a relevant government department the day before yesterday, number of cases of robberies committed by illegal immigrants has risen from 14 in 1987 to 21 in 1988; as for number of cases of armed robbery committed by them the figure has also increased from four in 1987 to eight in 1988, that is, a 100% increase. Could the Secretary account for such a drastic increase in these figures?

SECRETARY FOR SECURITY: Sir, there has not been any drastic increase. Reverting to the earlier portion of that question, I can say that in 1988 there were 19 reported cases of robbery with firearms in Hong Kong, and between 1980 and 1986 there was an annual average of 23 such cases overall. This to me indicates a decrease rather than an increase. As regards the involvement of illegal immigrants in crime, particularly in violent crimes, out of 348 illegal immigrants arrested last year for crimes, other than using other people's identity cards, 44 were charged with violent crimes, including 21 relating to robberies. These figures compare with a total of 8 935 arrests in Hong Kong for violent crimes, and 1 816 arrests for robberies, or 0.5% and 1% respectively.

MR. MICHAEL CHENG (in Cantonese): Sir, will the Administration inform this Council

what arrangements there are at present to arrest those criminals who have committed crimes in the territory and then slipped back to China, for subsequent prosecution?

SECRETARY FOR SECURITY: Sir, those persons who have undertaken criminal activities in Hong Kong and returned to China would not necessarily be known to the authorities. If people have been arrested and there was evidence to show that charges could be laid and somehow subsequently they escaped and returned to China, then of course that would be a matter for the Hong Kong Government to take up with the Chinese authorities.

MR. TAI: Could the Secretary advise whether the illegal immigrants arrived by land or by sea? In the part of the territory where my constituency lies, including Lau Fau Shan, there is, as the Secretary has mentioned, round-the-clock maritime patrol by the marine police. But I am given to understand that most of the marine police have been transferred to land duties because their craft have broken down or are unseaworthy. What then is the number and frequency of maritime patrols in north-west New Territories?

SECRETARY FOR SECURITY: Sir, of the 13 278 illegal immigrants who were arrested on entry in 1988, 83% of them came by land, 8% by bay, and 8% by sea. The remaining 1% were of course picked up at Hong Kong's control points, usually in possession of forged or other people's identity cards. I do not have the exact breakdown of marine police patrols. The marine police do have 66 vessels, and I can certainly assure Members that their patrolling is extensive and diligent.

Criteria for granting legal aid

2. MRS. CHOW asked: Sir, in view of comments made by a High Court judge recently on the granting of legal aid to a banker sued by his stockbrokers over financial loss in the futures market, will the Administration inform this Council of the criteria and guidelines adopted in the granting of legal aid and whether these criteria and guidelines will be reviewed in the light of the above comments?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the criteria for the grant of legal aid are contained in the Legal Aid Ordinance. Legal aid is granted if the applicant satisfies the means test and can show that he has reasonable grounds for bringing, continuing or defending proceedings.

In the case to which Mrs. CHOW has referred, the applicant made a statutory declaration that he had been dismissed from his employment as a bank clerk and was, at the time of making the application, unemployed. On the information available as to his actual and anticipated income and commitments he satisfied the means test.

As regards the merits of the case, the decision by a legal aid officer to determine if there are reasonable grounds is a matter of professional judgement subject to appeal in the event of refusal. That judgement is often supported by an opinion of counsel in private practice. In the present case it was the opinion of counsel that the applicant had a defence to the proceedings brought against him, and the fact that he had sustained a loss in the futures market was not a ground for refusal of legal aid in the light of the proposed defence.

The Administration therefore does not consider that there is a need to review the criteria for the grant of legal aid in the light of this particular case.

MRS. CHOW: Sir, will the existing criteria be reviewed in the light of comments by Mr. Justice Jones specifically for cases where, and I quote: "the legally aided person was clearly the author of his own misfortune"?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the principle of providing legal aid is to ensure that a person is not deprived, because of limited means, of legal representation in litigation, and thereby access to justice. Any suggestion to restrict the scope of legal aid must be considered carefully so that it does not impair its usefulness and effectiveness. In general, it is not appropriate, in the opinion of the Administration, to lay down in specific terms the type of cases which should be excluded as the circumstances of each case may be different.

MRS. CHOW: Sir, in several cases where negotiation for settlement occurs between the two parties are efforts made to encourage the applicant to settle out of court so

as to save costs as far as possible so that public money would not be wasted in lengthy hearings?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the short answer to Mrs. CHOW's question is "yes". Public expenditure is safeguarded by the requirement that the applicants must pass a merit test and also by the constant monitoring of legal aid cases by professional officers of the Legal Aid Department. Legal aid will be withdrawn the minute it is pointed out to the Legal Aid Department that there is no cause to continue with the litigation proceedings.

Responsibility for triad control

3. MRS. TU asked: Sir, in view of the public concern over widespread triad activities against minibus operators, restaurants, hawkers, shopkeepers and school children, would the Government consider handing over responsibility for triad control to the Independent Commission Against Corruption?

SECRETARY FOR SECURITY: Sir, the Independent Commission Against Corruption (ICAC) was established in 1974 specifically to fight corruption and operates under the Independent Commission Against Corruption Ordinance, the Prevention of Bribery Ordinance and the Corrupt and Illegal Practice Ordinance. In the course of its investigations the ICAC brings to court offenders who may also be involved in triad activities, but these only feature in the ICAC cases as a result of suspected offences under one or more of the three ICAC Ordinances. In other words ICAC cases are corruption based and the triad involvement, and possible offences under the Societies Ordinance and other laws, are incidental to the commencement of inquiries. Indeed the majority of ICAC cases do not have any apparent triad involvement.

Primary responsibility for action against triads has always rested with the police. The triad problem is one of law and order and of organized crime. The appropriate body to deal with these matters is the Royal Hong Kong Police Force, and its structure, training and equipment have been constantly evolved over the years to ensure that it remains effective for this purpose.

There is co-operation between the ICAC and the police in anti-triad work in areas

not involving corruption offences, but for the ICAC itself to take on all anti-triad investigations would mean the transfer from the police to the ICAC of a very extensive area of law enforcement which would have no direct relationship with the objectives and work of the commission and its three departments. This would result in a dilution of anti-corruption work which would not be in the public interest or in the best interests of the ICAC. It would also cut across the work of the police to an extent which would be damaging to both the police force and the ICAC.

The ICAC is an independent government organization outside the Civil Service and I have consulted the commissioner about this matter. We believe that it would not be appropriate to transfer to the ICAC the responsibility for anti-triad law enforcement.

MRS. TU: Sir, would the Secretary for Security agree that triad demands for money from minibus operators, restaurant proprietors and hawkers to permit them to ply their trades are a particularly obnoxious and socially dangerous form of corruption? If the answer is "yes", would the Secretary explain why such triad activities are not investigated by the ICAC with the result that operators are complaining that there is no purpose in making complaints to the police?

SECRETARY FOR SECURITY: Sir, the answer is "yes". With regard to the first part of the question, of course. The ICAC does investigate complaints that are put to it. But these complaints have to relate to offences under the three Ordinances under which the ICAC operates for the ICAC to be able to take any action. If it does take action they must, of course, relate to an offence under those Ordinances and the triad element becomes incidental. If the report received by the ICAC is not an apparent offence under one of its three Ordinances the matter is referred to the police. It is, of course, then up to the police to conduct the inquiries.

MR. MICHEAL CHENG (in Cantonese): Sir, will the Administration inform this Council how effective the Triad Renunciation Tribunal has been after its inception?

HIS HONOUR THE PRESIDENT: That is outside the scope of the original question, Mr. CHENG. Would you like to put it down for some future meeting?

MRS. TU: Sir, the Secretary for Security said in his answer that primary responsibility for action against triads has always rested with the police. As it is generally believed by the public that triad activity is getting worse, would it not indicate that it is time we tried some other body instead of the police?

SECRETARY FOR SECURITY: Sir, the answer to that particular question is really the same to the question about transferring responsibilities to the ICAC. The reason for this is that the ICAC, as I have explained, operates within a specific charter of investigating corruption offences. If it was asked, or if any other body other than the ICAC was asked, to deal with triad offences, the powers would have to range over the whole spectrum of criminal offences, because it is over the whole spectrum of criminal offences that there is triad involvement. This would mean that inevitably there would be a duplication of police activity, because the police would be retaining non-triad responsibility for offences which would also cover the whole spectrum. I see great danger in a duplication of law enforcement agencies in Hong Kong, not only from the police point of view but from the point of view of confusion of the general public and the very real question of morale.

Electrically operated remote control gates

4. MRS. LAU asked: Sir, in view of the recent incident in which a young boy was killed by an electric sliding gate, will the Administration inform this Council of the number of such incidents over the past three years in which injuries have been caused by remote control gates; whether the Administration will consider introducing legislation to govern the installation, maintenance and operation of remote control gates; and what measures will be taken by the Administration to prevent the occurrence of similar incidents in the future?

SECRETARY FOR LANDS AND WORKS: Sir, as far as we are aware there were two incidents involving injuries caused by electrically operated remote control sliding gates over the last three years.

These gates can in fact be made relatively safe by a number of different devices, and it seems clear that all such gates should be fitted with one or the other of these. But there is presently no legislation controlling the installation or use of such gates or requiring the use of safety devices.

So we propose first to produce a code of practice to cover these matters for issue to the trade as this is in any case a necessary step and it can be done quickly. At the same time we will also be looking at how best to legislate to enforce safety in this field.

MRS. LAU: Sir, can the Secretary inform this Council whether the Lands and Works Branch has carried out or has plans to carry out any study into the safety features of building installations, including electrically operated doors and gates. If so, when such a study was or will be conducted, and whether the details of such study will be published?

SECRETARY FOR LANDS AND WORKS: Sir, an internal study has been going on, particularly since the last incident, and that is aimed, of course, at producing a code of practice which I referred to in my answer. In due course the code of practice itself will be published, but there was no intention of doing a special publication of the study.

MISS LEUNG (in Cantonese): Sir, after the first incident in which a child was crushed to death by an electric sliding gate, why had Government not taken any measures to prevent recurrence of similar accidents? Why is it that it was not until after occurrence of a second accident that Government hastily buckled down to devising measures to deal with it?

SECRETARY FOR LANDS AND WORKS: It is probable that after the first case action could have been taken. But in fact people are inventing new devices and bringing in new things which to a certain extent threaten our safety all the time. I do not think the Government is likely to be able to keep up with all of them.

MRS. LAM (in Cantonese): Sir, will the Administration inform this Council whether sale of this sort of gates will be banned before the code of practice is issued or legislation on control is in place?

SECRETARY FOR LANDS AND WORKS: Sir, I would not really hazard a guess on the market. In many cases, these gates are perfectly all right, and the devices for closing them and making them safe are optional devices which are sold, and can be sold, separately. So I do not think we would be bringing in any prohibition, if I understood the question rightly on the sale of gates. It would take quite an effort of legislation to do so. But we will probably get to the code of practice first. The reason why we are going for a code of practice is that we can produce a code which will be useful whether or not we will bring in legislation.

DR. LEONG: Sir, we have just heard that there was another incident of child injury by an electric sliding gate. Will the Administration inform this Council whether prophylactic measures are or will be taken to better protect our younger generation from preventable accidents and injuries in general, as statistics prepared by the Hong Kong Government's Working Party on Post-graduate Medical Education and Training has shown conclusively that the most common cause of death in children and young adults in Hong Kong was injury and poisoning, especially accidents?

HIS HONOUR THE PRESIDENT: That is somewhat outside the range of the original question, Dr. LEONG. Secretary for Lands and Works, would you care to comment?

SECRETARY FOR LANDS AND WORKS: No, Sir. (laughter)

MRS. CHOW: Sir, is it not true that the two injuries referred to in the Secretary's answer both resulted in fatality? What is the difficulty in legislating for the safety device referred to to be made compulsory so as to prevent mishaps of this nature reoccurring?

SECRETARY FOR LANDS AND WORKS: Sir, there are various different kinds of safety

devices with various different efficiencies. It is, I understand, a more complicated technical matter than Mrs CHOW's question seems to presuppose.

MR. POON CHI-FAI (in Cantonese): Sir, will the Administration inform this Council whether Government will in the interim, apart from formulating a code of practice for the sake of people in the trade, offer to educate members of the public before a complete set of legislation is in place?

SECRETARY FOR LANDS AND WORKS: Sir, apart from the publicity which will be given to this answer, we will consider further publicity.

MR. CHEONG: Sir, given that citizens generally have a responsibility to protect themselves, would Government take into consideration the scope of enforcement and costs involved if it is to legislate to regulate this sort of gates?

SECRETARY FOR LANDS AND WORKS: Certainly, Sir. If we go as far as legislation we will certainly take that into consideration, as we always do.

MR. CHENG HON-KWAN: Sir, would the Secretary for Lands and Works consider the issue of a practice note to the authorized persons and registered contractors as an immediate measure without waiting a long time for the code of practice to be completed?

SECRETARY FOR LANDS AND WORKS: Sir, I estimate that the production of the code of practice will take about two months. We could indeed issue a practice note to cover that period.

Passing of Emperor Hirohito of Japan

5. MR. MCGREGOR asked: Sir, will the Hong Kong Government approach Her Majesty's Government with a view to ensuring that no official flag under the Hong Kong Government's control is flown at half mast in Hong Kong on Friday, 24 February 1989

to acknowledge the passing of Emperor Hirohito of Japan?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: No, Sir.

MR. MCGREGOR: Sir, will the Government therefore mark the passing of Emperor Hirohito by carrying out a review of the present situation and social needs of the ex-prisoners of war taken by the Japanese and the families of these ex-prisoners of war, including widows, now residing in Hong Kong?

HIS HONOUR THE PRESIDENT: Mr. MCGREGOR, that is outside the scope of the original question. Will you please put it down for a separate sitting?

MR. SZETO (in Cantonese): Sir, just now the Acting Secretary for Administrative Services and Information replied by saying "no". Does the Secretary mean that Government will not liaise with the British Government in this respect or does she mean that government buildings will not fly flags at half mast on that day? If it is the latter that she means, would it imply that Government holds the view that the Pacific War waged by the Japanese militarists was a war of aggression for which Emperor Hirohito should be held responsible?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the flying of flags is regarded as a matter of protocol and therefore falls within the realm of foreign policy. The flying of flags on Hong Kong government buildings at half mast is at Her Majesty's pleasure. As to the second part of Mr. SZETO Wah's question, we have not so far received any instructions from Her Majesty to fly flags on Hong Kong government buildings at half mast on 24 February 1989, the date of the funeral of the late Emperor Hirohito of Japan and we are not likely to receive such instructions.

MR. MCGREGOR: Sir, can it be made absolutely clear whether or not flags will fly at half mast? It seems to me that an instruction could possibly be given by Her Majesty's Government.

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, as I said just now, we are not likely to receive any instructions to that effect.

MR. SZETO (in Cantonese): Sir, on the other hand, not too long ago government buildings did fly flags at half mast. What was the reason then?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, Mr. SZETO Wah is quite correct in saying that the Hong Kong Government flew flags on government buildings at half mast on 9 January 1989 which was the next working day after the passing of the late Emperor Hirohito of Japan. In flying flags at half mast, the Government was paying respect to the head of state of another country.

H.M.S. TAMAR site

6. MR. ARCULLI asked: Sir, will the Administration inform this Council what the present position is regarding the handover of the site known as HMS TAMAR, and whether such handover has any bearing on land use or reclamation of the harbour in the vicinity and east of HMS TAMAR for future development?

SECRETARY FOR LANDS AND WORKS: Sir, a decision on the future of HMS TAMAR has not yet been taken. Obviously HMS TAMAR has a significant bearing on the reclamation proposals and this is being addressed in the present comprehensive feasibility study into the Central-Wanchai reclamation.

MR. ARCULLI: Will the Secretary for Lands and Works inform this Council (a) when a decision is to be made on the future of HMS TAMAR; (b) of the reasons why such a decision has not been made; and (c) whether the absence of such a decision has any effect on the supply of land for commercial and office development in Central and Wan Chai

districts?

SECRETARY FOR LANDS AND WORKS: I can only inform this Council as to when we actually expect to produce a report on the Central-Wanchai reclamation. We will be producing a draft report which obviously covers the whole of the reclamation within three months and a final report in about six.

MR. PETER WONG: Sir, will the Administration inform this Council as to the timetable for the implementation and completion of such reclamation?

SECRETARY FOR LANDS AND WORKS: The first sites on the reclamation are likely to be available in 1994 to 1995 and will continue throughout the rest of the '90s.

MR. MARTIN LEE: Sir, will the Administration inform this Council who will be making this decision, the Hong Kong Government, the British Government, or the Chinese Government, or all of them together?

SECRETARY FOR LANDS AND WORKS: The Hong Kong Government is responsible for land administration in Hong Kong.

MR. ARCULLI: Sir, will the Secretary kindly answer my previous supplementary question?

SECRETARY FOR LANDS AND WORKS: Sir, my answer was in fact intended to answer the first part of that question as to when a decision will be made. I said I was not in a position to say when a decision would be made but I was in a position to say when the report was going to be published. I have no reasons to offer as to why a decision has not been made. This matter has been under discussion in expert talks under the Joint Liaison Group. Any delay is unexpected.

Election funds of political parties

7. MR. CHOW asked (in Cantonese): In view of the increased formation of political parties, will Government inform this Council whether it will consider introducing legislation to limit the contributions of individuals and organizations to the election funds of political parties, and to grant tax exemption for these contributions?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the Government does not intend to restrict financial contributions to election funds. Instead, its policy is to restrict the amount each candidate may spend on campaigning so as to remove any undue disadvantage for less well-off individuals to stand for election. Limits on election expenses are prescribed by the Governor in Council under the Corrupt and Illegal Practices Ordinance.

In line with our policy of keeping Hong Kong's taxation system as simple as possible, we do not propose to grant tax exemption for contributions to election funds. At present, tax deductions are allowed only for expenses incurred in deriving assessable income and for donations to charities.

MR. CHOW (in Cantonese): Sir, will the Administration consider increasing financial funding to candidates? Also what measures will it take to lessen the reliance of candidates or political groups on financial contributions to election funds by individual contributions? Is Government of the opinion that this sort of financial reliance is likely to lead to exchange of benefits in future? If we embark on legislation now, will it be in place by 1991?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, with the present limit, there is no reason to believe that all the problems which Mr. CHOW has mentioned do exist.

MR. PETER WONG: Sir, as the Secretary said that the contribution will not be deductible, it would be unfair for the Government to get a second bite of the cherry by taxing the recipient. My question is: does the Government intend to grant any tax advantages to political parties or organizations?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, as I have already mentioned in my reply, we shall be keeping our taxation system as simple as possible and there is at present no intention of providing any exemption.

MR. TAM (in Cantonese): Sir, under the Societies Ordinance, will an application for registering the formation of a political party be rejected by Government?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the Government is committed to the development of representative government. Public involvement and participation in elections are always encouraged. Groups may gradually be formed for the purpose of elections but they may not necessarily be political parties as in other parts of the world. There is therefore nothing against the formation of such groups if they comply with all the lawful requirements, such as those laid down in the Societies Ordinance.

MR. CHOW (in Cantonese): Sir, could the Secretary answer the second part of my previous supplementary question, which is, under the present system, does Government consider that such kind of financial reliance will probably lead to mutual exchange of benefits in future?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, as long as there is a limit to the expenditure of each individual candidate, as I mentioned, there should be no such difficulties.

Value of re-exports

8. MR. BARROW asked: Given that the value of re-exports exceeded domestic exports in 1988 for the first time since such figures began to be compiled in 1959, will Government inform this Council --

(a) whether it has considered the implications of this development in formulating its long-term trade policy; and

(b) whether consideration is being given to the Trade and Industry Branch playing

an expanded role in supporting the development of re-export trade?

FINANCIAL SECRETARY: Sir, the changing pattern of our trade is one of the factors taken into account not only in respect of trade promotion but in other fields such as industrial development and infrastructural planning. The existing level of re-export trade does not, however, have any more specific implications for our basic trade policy. We remain firmly committed to free trade and to the multilateral trading system.

With regard to supporting the development of the re-export trade by expanding the role of the Trade and Industry Branch, the primary responsibility for trade promotion rests with the Trade Development Council, although there is, of course, input from the Trade and Industry Branch. The branch will continue to support the development of trade generally, and this includes the re-export trade.

MR. BARROW: Sir, would the Financial Secretary confirm to this Council whether or not long-term projections for re-export trade have actually been prepared in order to assist in developing the infrastructure plans which he has referred to?

FINANCIAL SECRETARY: Yes, Sir, we do take a long-term view of the development of all aspects of trade in Hong Kong.

MRS. SO (in Cantonese): Sir, re-exports are making a very strong showing. Will that in the long term have detrimental effects on the manufacturing industry which is the mainstay of our economy? Will the Administration consider further supporting the development of the industry?

FINANCIAL SECRETARY: Sir, I do not think the development of one type of trade in or from Hong Kong is likely to have a detrimental effect on another sector. There may, I am probably sticking my neck out here a bit, of course be some pressure on the labour market. We have seen that already. As far as giving further assistance to industry is concerned, I have dealt with that subject at some length on other occasions. There are many ways in which we give indirect assistance to industry in Hong Kong and we

will develop those methods over time.

MR. NGAI (in Cantonese): Sir, cargo handling charges of the Kwai Chung Container Terminal are ever on the rise. Some shipping companies are shifting to Kaoshiung and Singapore to have their consignments shipped. This is posing a threat to our re-export trade. Is the Administration aware that hefty increase in container handling charges will erode Hong Kong's edge over others as an international entrepot centre? And has any measure been considered to remedy the situation?

FINANCIAL SECRETARY: Sir, the container port is operated, as Mr. NGAI Shui-kit knows, by the private sector. We do, of course, take an interest in the charges levied but we do not attempt to control those charges. There are various mechanisms in place for expanding the container port over time and we are very conscious of the need to expand the container port so that it can handle the whole of Hong Kong's trade.

MR. MCGREGOR: Sir, given the importance of Mr. BARROW's initial question, could it be referred to the Trade Advisory Board for further advice?

FINANCIAL SECRETARY: I shall consider that, Sir.

MR. CHEONG: Sir, as the Financial Secretary said, the Government takes a long-term view of trade policies. Could I ask whether or not there is a resident economist in the Trade and Industry Branch to help Government evaluate the long-term macro-view of the various effects of development? If not, where does the branch get the expertise from? And if it is from another branch, how many macro-economists are employed in that institution?

FINANCIAL SECRETARY: Sir, the Trade and Industry Branch, just like other branches of the Government, gets its economic advice from the Economic Services Branch, from the Government Economist and his staff in that branch. I cannot give Mr. CHEONG the exact establishment of that particular division but I will let him have a note in writing. (Annex I)

Written answers to questions

Decisions of the Appeal Tribunal under the Buildings Ordinance

9. MR. CHENG HON-KWAN asked: Will Government inform this Council whether consideration has been given to disclosing to the public some of the decisions made by the Appeal Tribunal under the Buildings Ordinance if such disclosure would be in the interest of the public?

SECRETARY FOR LANDS AND WORKS: Sir, the Appeal Tribunal under the Buildings Ordinance is convened to consider appeals by private persons. Hence, it does not meet in public and its deliberations are likewise not publicly disclosed. However, it is recognized that some of its decisions may be of interest to the public. Consideration is therefore being given to amending the Buildings Ordinance so that the Appeal Tribunal may order the publication of its deliberations and hold inquiries in public where it is of the opinion that such actions are warranted.

Oath of Justices of the Peace

10. MR. HUI asked: Will Government inform this Council whether it will amend the Oaths and Declarations Ordinance to provide non-official Justices of the Peace with the option of taking an oath pledging to serve the people of Hong Kong, as in the case of Members of this Council?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, under the Oaths and Declarations Ordinance (Cap. 11), a Justice of the Peace is required to take the Oath of Allegiance and the Judicial Oath as soon as possible after his appointment.

The Administration is at present considering the provision of alternatives to the oaths so that Justices of the Peace may choose to pledge to serve the people of

Hong Kong. We hope to present a proposal to the Executive Council in the near future.

#### Noise nuisance caused by shipyards on Tsing Yi Island

11. MR. LAM asked: In view of the serious noise nuisance caused to residents of Cheung On Estate and Ching Tai Court on Tsing Yi North by the nearby shipyards, will Government inform this Council:

(a) why arrangements had not been made to resite the shipyards, which are located on sites not zoned for such a purpose on the town development layout plan, prior to the development of the aforementioned estates so as to avoid subjecting the residents to such noise nuisance;

(b) whether the sites on which the existing shipyards stand are leased under short-term tenancies which can be terminated within a short period; and

(c) when the shipyards will be moved out of the site?

SECRETARY FOR LANDS AND WORKS: Sir, (a) most of the shipyards at Tsing Yi North moved from Cheung Sha Wan over 20 years ago. Previously they were largely involved in building and repairing wooden junks, the noise level of which was not too serious. However, due to the decline in the traditional shipbuilding business, these shipyards have increasingly turned to repairing lighters which involve intense hammering of metal hulls, thus creating a noise nuisance.

(b) Of the 30-odd shipyards there, all but three are on short-term tenancies. Although it is possible to terminate these tenancies when their terms are up, their history is complex, and we consider that, in all fairness, they should only be cancelled when alternative sites are available.

(c) Our intention is to move the shipyards further away from the residential estates along the Tsing Yi North shore. This will involve some reclamation and the construction of an access road. We are planning to advance the undertaking of these works to March 1991 for completion in September 1992. The shipyards can be relocated from their present site after that, that is, in 1992-93.

Oral answer to question

Gas leakage on Tsing Yi Island

12. MRS. LAM asked (in Cantonese): Sir, first of all I wish to thank you for allowing me to raise a special question at such short notice. My question is: in view of the public concern over the gas leakage incident which occurred on Tsing Yi Island on 11 February 1989, will Government inform this Council of the number of similar incidents in the past; the existing measures to prevent and deal with such incidents; whether these measures will be further improved to afford greater protection to life and property; and whether there are plans to relocate oil depots away from residential areas?

SECRETARY FOR LANDS AND WORKS: The incident that occurred at the Hong Kong Oil Company Limited Depot at Tsing Yi Island on 11 February involved a gas leakage from a pressure relief valve on an isolated section of the LPG-receiving pipeline. Our research into the records of the past five years has not revealed any similar incidents, although we have had records of two other incidents involving damage by fire.

Under section 9 of the Dangerous Goods Ordinance, the Director of Fire Services (with the assistance of the Gas Safety Office of the Electrical and Mechanical Services Department) ensures that all fittings and equipment are designed, installed and tested in accordance with the appropriate internationally recognized code of practice before a licence to store dangerous goods can be issued.

As part of the licensing conditions, the licensee is required to ensure that all fittings and equipment are maintained in good order and condition to the satisfaction of the Licensing Authority. Staff of the Gas Safety Office carry out quarterly monitoring checks of the installations, and advise the management (either directly or via the Director of Fire Services) of any defects found and remedial measures needed. An annual inspection is also carried out before the Dangerous Goods Licence for each installation is renewed. Under section 9(2) of the Dangerous Goods Ordinance, the Licensing Authority may revoke any licence issued should the management fail to take the required remedial measures, or if there is a breach of licensing conditions.

In addition, the Fire Services Department requires that the licensee reports on accidents, adopt fire fighting procedures and conduct fire drills periodically. In the event of a gas leak occurring, the fire officer-in-charge of the scene would decide on the appropriate fire-fighting, rescue and emergency operations to be adopted to deal with the situation. Depending on the seriousness of the incident, the fire officer-in-charge would decide the appropriate security measures to be adopted by the nearby residents, for example, closing of window; and whether it is necessary to evacuate the residents in the nearby buildings to a place of safety. Police assistance would be required if necessary.

Measures to prevent and deal with such incidents are regularly reviewed and improvements are made. In addition, the Tsing Yi Hazard Reassessment Study will soon be completed. This study will suggest what further measures need to be taken to afford greater protection to life and property.

It is the Government's announced intention that we would relocate oil depots away from the residential areas in north-east Tsing Yi to the south and west of the island and elsewhere, which is separated from residential developments by a mountain ridge, when the opportunity arises. We have in hand various plans in this regard.

MRS. LAM (in Cantonese): Sir, it is mentioned in the last sentence of the Secretary's reply that Government has in hand various plans to relocate oil depots in Tsing Yi. Will Government inform this Council of the details of these plans? Does the proximity of oil terminals to residential areas represent inadequacy in town planning?

SECRETARY FOR LANDS AND WORKS: Sir, the plans to which I was referring were plans to remove oil terminals to safer places. There is a firm plan in respect of one. There are tentative plans, which await the finalization of the Tsing Yi hazard study, in respect of another. In respect of Hong Kong Oil, there is as yet no firm plan but I think there should be soon. Does the proximity of these oil terminals represent bad planning? I think by modern standards we would say it would, but we must remember that at the time that Tsing Yi was basically set out, liquefied petroleum gas (LPG) was not very far advanced and it is LPG which has made for the hazardous situation we are now in rather than the previous conventional petroleum products. Moreover, as Members will all be aware, very different view of hazard was taken in the '60s

and the early '70s than is taken now.

MR. CHOW (in Cantonese): Sir, in view of Tsing Yi residents' strong protest and demand for relocation of oil depots, will Government approach the oil companies to negotiate for such removal? If yes, will it mean that a large amount of removal compensation will have to be paid by the Government?

SECRETARY FOR LANDS AND WORKS: Sir, to relocate the oil terminals will clearly involve taking the matter up with the companies involved. Clearly the oil companies have valuable leases and the oil business is a valuable business; money may be involved.

MISS LEUNG (in Cantonese): The Secretary for Lands and Works has mentioned in his main reply that Government is planning for a relocation of Tsing Yi oil depots. Will the Secretary inform this Council whether the Government was aware that the siting of oil depots at such a distance from residential areas would be potentially a great hazard to the safety of Tsing Yi residents? If so, why was such a decision made at that time? Was there any convincing argument for it?

SECRETARY FOR LANDS AND WORKS: I commented in answer to an earlier supplementary on the planning issues. In my main reply I also said that the intention was that oil depots should be on the far side of Tsing Yi and separated by a mountain from residential areas. I do not know if there is anything beyond that which Miss LEUNG intended to ask.

MR. PETER WONG: Sir, I am trying to reflect some of the anguish and frustration of the Mayfair Garden residents who are protesting. Sir, what sort of opportunity does the Secretary for Lands and Works refer to in the last part of his reply? Does he mean the opportunity such as a full-blown explosion?

SECRETARY FOR LANDS AND WORKS: No, Sir. The initiative will be taken when we are a little bit clearer about the hazard of the situation. We are completing the hazard

assessment study and we are going to have to, in the light of that hazard assessment, develop our strategy further. We could not at this moment put together a very coherent study for the removal.

MR. POON CHI-FAI (in Cantonese): Sir, my honourable colleagues Miss LEUNG and Mrs. LAM have already covered part of the question I am going to ask. But I would like to add one point. Would the Government inform this Council whether experts such as those in gas safety had been consulted before the Town Planning Office approved the siting of Mayfair Garden and the housing estates near Tsing Yi oil depots? If yes, had their advice been followed when the planning was made? Would Government further look into the question of responsibility? In the long run, what measures will be taken to avoid such planning which may lead to recurrence of similar events?

SECRETARY FOR LANDS AND WORKS: Sir, the point in the first part of the question is not something on which I have checked, but from recollection of the times -- the early '70s and the late '60s -- in which the basic decisions and planning on Tsing Yi were made, I think it is extremely unlikely that in siting the housing estates in Tsing Yi, experts on gas safety were consulted. We certainly did not have one in Government at that time. But we have now, and certainly if there was any question of there being a potential hazard, Secretary inform this Council why the Administration does not consider it necessary or important to educate the residents of Tsing Yi Island in regard to contingency plans and security measures to be adopted in the event of accidents occurring before they actually occur?ard to contingency plans and security measures to be adopted in the event of accidents occurring before they actually occur?

SECRETARY FOR LANDS AND WORKS: Sir, because the exact nature of a hazard cannot in fact be anticipated, it would be quite impossible to give all the residents a kind of drill by which they moved, say, into Drill One for certain circumstances, Drill Two for other circumstances, and Drill Three for yet another set of circumstances. It has to be dealt with by the fire officer making a decision on the appropriate form of action to be taken and for this to be communicated through the police and emergency services.

MR. LAM (in Cantonese): Sir, in the wake of this accident, will Government step up routine inspections on oil depots to put the residents at ease before relocation takes place?

SECRETARY FOR LANDS AND WORKS: Sir, we will do our best within our resources.

MR. MARTIN LEE: Sir, bearing in mind that a major calamity could have occurred if a gas cloud resulting from the gas leakage in question had been ignited, will the Administration inform this Council whether there is in existence any code of practice, referred to by the Secretary for Lands and Works in another context in his answer to question No. 4, as would enable the fire officer-in-charge to decide what security measures he should adopt in any given emergency, including for example evacuation plans, and, if not, why not? And, if yes, is such code of practice available to the public?

SECRETARY FOR LANDS AND WORKS: Sir, I do not know if the Secretary for Security know the answer to that question. I would have to give the answer in writing. (Annex II)

SECRETARY FOR SECURITY: Sir, I am not aware of any code of practice but there is a contingency plan and the main features of this were circulated in 1987 to the Kwai Tsing District Board, and it is the intention for details of any evacuation plan, when it is finally refined, to be made known to the residents through the district board.

MR. ARCULLI: Sir, will the Secretary for Lands and Works inform this Council when the Tsing Yi Hazard Reassessment Study will be completed and whether it will be made public both in English and in Chinese?

SECRETARY FOR LANDS AND WORKS: Yes, Sir. I answered that question last year. It will be made public. It will be ready in April.

MRS. CHOW: Sir, are there any plans to install an early warning system so as to be in a position to initiate contingency plans, should another gas leakage occur?

SECRETARY FOR LANDS AND WORKS: Sir, there are no plans to institute an early warning system and it is hard to visualize what such an early warning system would consist of, unless it is a mechanical early warning system to detect leaks, in which case I believe that there are mechanical systems available and I will endeavour to give an answer on this subject to Mrs. CHOW, if that is what she means. (Annex III)

MISS LEUNG: Sir, the Secretary in his main reply mentioned that oil depots will be relocated when the opportunity arises. Will the Secretary inform this Council what he means by "when the opportunity arises"?

SECRETARY FOR LANDS AND WORKS: Sir, I answered that question in reply to Mr. WONG.

MR. NGAI (in Cantonese): Sir, the Secretary has just mentioned in his reply that it is difficult to gauge the extent of the hazard. But according to international safety standard, oil depots have to be at least 1 000 m away from residential areas. Tsing Yi depots, however, are only 100 m from nearby housing developments. The hazard is therefore obvious. Would the Secretary inform this Council whether even this factor of safe distance had been overlooked at the stage of planning?

SECRETARY FOR LANDS AND WORKS: Sir, when I said it was very difficult to gauge what type of emergency that would be, it was in answer to a completely different question. In this case, yes, indeed there certainly are standards now available by which the location and the proximity of such installations to residential and other buildings can be judged and those would be in use by Government now. But we are dealing here with a historical fact that we have public housing estates and petroleum depots, which have become very largely LPG depots in the meantime, being located together.

MR. CHOW (in Cantonese): Sir, could the Secretary answer the question of whether

Government will take the initiative to negotiate with the oil companies on removal of oil depots? The Secretary also mentioned an evacuation plan in his reply. We were told that the Fire Services Department, with police assistance, would take charge of the plan. But newspaper reports disclosed that neither the police nor fire officers were prepared to take that responsibility on the day of gas leakage. Is the evacuation plan a product of the accident or something already in existence?

HIS HONOUR THE PRESIDENT: Secretary for Lands and Works, would you like to answer the first part of the question?

SECRETARY FOR LANDS AND WORKS: Yes, Sir, I suspect that we will have to take the initiative in some cases to open negotiations with oil companies on this matter.

HIS HONOUR THE PRESIDENT: Secretary for Security, can you answer the second part of the question?

SECRETARY FOR SECURITY: Sir, with regard to the second part of the question, there is, as I said before, a contingency plan which covers evacuation for Tsing Yi Island. At the time of the incident which has prompted this question, I understand that the Fire Services, when they arrived at the scene, recognized that the leak was of a minor nature. I am told by the Director of Fire Services that the actual period during which gas escaped was little more than about 10 minutes before the valve was made safe, although there was subsequently some residual gas which took a much longer time to remove. On that occasion there was, of course, absolutely no question of the evacuation part of the contingency plan being put into effect.

MR. POON CHI-FAI (in Cantonese): Sir, OMELCO's Complaints Division has recently been informed that fire engines and ambulances missed their destination on the day of gas leakage. Will the Government inform this Council whether this implies inadequacy of the present arrangements? Will a comprehensive review be undertaken to look into the matter?

SECRETARY FOR SECURITY: Sir, I am not aware of this information that has just been provided. I would say that if it did happen in that way, it was not that the arrangements are inadequate, it is merely that somebody's direction finding is inadequate.

Government business

Motions

FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

(a) That the Fixed Penalty (Criminal Proceedings) Ordinance be amended by repealing the Schedule and substituting --

"SCHEDULE [ss. 2 & 12]

OFFENCE

Item	Regulation	Description	Section or	Fixed	Penalty
	Road Traffic Ordinance (Cap. 374)				
1.	Section 41	Driving in excess of speed limit by 15 km/h or less		\$200	
2.	Section 41	Driving in excess of speed limit by more than 15 km/h, other than where item 2A or 2B applies		\$280	

- 2A. Section 41 Driving in excess of speed  
limit by more than 30 km/h,  
other than where item 2B  
applies \$280
- 2B. Section 41 Driving in excess of speed  
limit by more than 45 km/h \$280
- 3. Section 42(1) Driving with an expired  
driving licence \$200
- 4. Section 42(2) Failing to carry driving  
licence when driving \$200
- 5. Section 43(3) Failing to produce driving  
licence \$200
- 6. Section 52(1) Driving unlicensed vehicle \$280
- 7. Section 52(8) Driving a private car which  
is carrying goods weighing  
more than 200 kg \$200
- 8. Section 52(9) Contravening condition of a  
vehicle licence \$280

Road Traffic  
(Traffic Control)  
Regulations  
(Cap. 374,  
sub. leg.)

- 9. Regulation 10(1) Unlawfully entering box  
junction \$200
- 10. Regulation 11(1) Crossing continuous double  
white line or white line

with a broken white line \$280

11. Regulation 14(5) Driving in prohibited zone \$280
12. Regulation 14(6) Picking up/setting down  
passengers in restricted  
zone \$280
13. Regulation 14(7) Loading/unloading goods in  
restricted zone \$280
14. Regulation 18 Failing to comply with  
traffic signals \$280
15. Regulation 27(4) Driving on closed road  
without permit \$200
16. Regulation 31 Failing to give precedence  
to pedestrians on a  
zebra crossing \$280
17. Regulation 38(2) Failing to stop for school  
crossing patrol \$280
18. Regulation 42(d) "U" turn causing obstruction \$200
19. Regulation 43 Sounding audible warning  
device unnecessarily \$200
20. Regulation 45 Unauthorized stopping at  
bus stop/public light bus  
stand/taxi stand/public  
light bus stopping place \$200
21. Regulation 47(1)(a) Driving without necessary  
lights illuminated \$200
22. Regulation Light other than permitted

47(1)(b) illuminated lights  
and (c) showing to rear \$200

23. Regulation 53(3) Excess passengers \$280
24. Regulation 54 Overloading \$450
25. Regulation 57 Insecure load \$280
26. Regulation 59 Failing to comply with  
traffic signs \$280
27. Regulation 59 Failing to comply with  
road markings \$280

Road Traffic  
(Construction  
and Maintenance  
of Vehicles)  
Regulations  
(Cap. 374,  
sub. leg.)

28. Regulation 5(4) Defective direction indicator \$200
29. Regulation 31(1)(a) Excess smoke or visible  
vapour \$280
30. Regulation 90(2) Defective or inadequate  
dipping mechanism \$200

Road Traffic  
(Registration  
and Licensing)

of Vehicles)  
Regulations  
(Cap. 374,  
sub. leg.)

31. Regulation 8(2) Registration mark not  
displayed/lit/adequately  
fitted \$200

32. Regulation 18(1) Failing to report change of  
vehicle particulars \$200

33. Regulation 25 Failing to display valid  
licence \$200

Road Traffic  
(Driving Licences)  
Regulations  
(Cap. 374,  
sub. leg.)

34. Regulation 17(4) Contravening condition of  
driving licence \$200

35. Regulation Failing to display "L"  
30(3)(b) plates \$280

36. Regulation 30(4) Contravening condition of  
learner's driving licence \$280

Road Traffic  
(Safety Equipment)  
Regulations  
(Cap. 374,  
sub. leg.)

37. Regulation 3(1) Driving motor cycle without protective helmet \$200
38. Regulation Driving private car without 7(1)(a) being securely fastened with seat belt \$200
39. Regulation 7(3) Driving private car when front seat passenger not securely fastened with seat belt \$140

Road Traffic  
(Public Service  
Vehicles)  
Regulations  
(Cap. 374,  
sub. leg.)

40. Regulation Driver of first or second 35(1)(a) public light bus at public light bus stand leaving vehicle \$200
41. Regulation Driver of first or second 35(1)(b) public light bus at public light bus stand not ready/ willing to drive from public light bus stand \$200
42. Regulation Public light bus driver not 35(2)(a) moving forward at public light bus stand \$200
43. Regulation Public light bus obstructing 35(2)(b) other public light bus at public light bus stand \$200

44. Regulation Public light bus driver  
 35(2)(c) at stand not obeying  
 directions given by  
 police officer/traffic  
 warden \$200
45. Regulation 36(2) Taxi driver not moving  
 forward at taxi stand \$200
46. Regulation Taxi driver at stand  
 36(3)(b) accepting fare out of  
 turn \$200
47. Regulation Driver not taking all  
 45(1)(d) reasonable precautions  
 to ensure safety of  
 passengers of a public  
 bus, public light bus  
 or taxi \$200
48. Regulation Stopping public bus, public  
 45(1)(h) light bus or taxi longer  
 than necessary when  
 picking up/setting down  
 passengers \$200
49. Regulation 49(2) Not setting taxi meter to  
 recording position \$200

Road Traffic  
 (Safety  
 Equipment)  
 Regulation

(Cap. 374,  
sub. leg.)

50. Regulation Driving taxi without  
7A(1)(a) being securely fastened  
with seat belt \$200
51. Regulation Driving light bus without  
7A(1)(a) being securely fastened  
with seat belt \$200
52. Regulation Driving goods vehicle  
7A(1)(a) without being securely  
fastened with seat belt \$200
53. Regulation Driving taxi when front  
7A(3) seat passenger under  
15 years of age not  
securely fastened with  
seat belt \$140
54. Regulation Driving light bus when  
7A(3) front seat passenger  
under 15 years of age  
not securely fastened  
with seat belt \$140
55. Regulation Driving goods vehicle when  
7A(3) front seat passenger  
under 15 years of age  
not securely fastened  
with seat belt \$140";

(b) That subject to paragraph (c), this resolution shall come into operation on 1 July 1989; and

(c) That items 52 and 55 in the Schedule shall come into operation on 1 January 1990.

He said: Sir, I move the first motion standing in my name on the Order Paper. The motion seeks to increase the level of fixed penalty fines for moving offences and to extend these fines to cover the failure of drivers and front seat passengers to wear seat belts in taxis, light buses and goods vehicles.

The existing fines of \$140 and \$200 for moving offences have remained unchanged since 1984 and 1980 respectively. The increasing number of tickets issued in recent years indicates that the deterrent effect of these fines has been eroded by inflation. For example, the number of tickets issued for driving in excess of speed limit by 15km/h or less has increased from about 30 000 in 1985 to 64 000 in 1988, an increase of 110%. The number of licensed vehicles has continued to increase, and the upward trend of fixed penalty tickets issued is likely to continue. The Transport Advisory Committee has advised that a 40% increase in the fine levels is required to restore their deterrent effect. It is proposed that the existing fines of \$140 and \$200 should be increased to \$200 and \$280 respectively.

The new fixed penalties to be added are required for extending the seat belt legislation from private cars to taxis, light buses and goods vehicles. In the 12 months after the introduction of the compulsory wearing of front seat belts in private cars, the total front seat casualties fell by 28%, while the number of fatal and serious casualties fell by 51%. Because of such proven benefits, the Governor in Council approved on 31 January this year the proposal to introduce the compulsory wearing of front seat belts in taxis, light buses and goods vehicles. Six new fixed penalty offences are required: three at \$200 for driving such vehicles without fastening a seat belt, and the other three at \$140 for driving such vehicles when a front seat passenger under 15 years old is not fastening a seat belt. The vicarious liability of these drivers is limited to passengers under 15 because it is accepted, after extensive consultation with the trade, that drivers may have difficulties in requiring passengers above this age to wear the seat belt.

The above increases do not, however, apply to two particular moving offences. First, the number of tickets issued for overloading in 1988 has shown an alarming increase over that of 1985, from about 1 600 to 27 000. Overloading also reduces braking efficiency and affects road safety. A higher fine of \$450 is therefore

proposed. This is about half of the amount usually enforced by the courts when serious overloading offences are brought before them. Second, the Transport Advisory Committee has advised that the fixed penalty imposed on drivers of taxis, light buses and goods vehicles in respect of their vicarious liability for front seat passengers' failure to wear a seat belt should be lower because passengers rather than drivers should be primarily responsible for the offence. The fine for this offence should therefore remain at \$140. The fine for drivers of private cars similarly stays at \$140.

Sir, I beg to move.

Question proposed.

DR. IP: Sir, it is right that front seat passengers of taxis, light buses and goods vehicles, who are over 15 years of age, should bear full responsibilities for their own safety. It is also a caring government to make it an offence if seat belts are not worn, simply to ensure that they are, for the safety of the passengers themselves. What I disagree is to charge the defaulter by way of summons and not by fixed penalty.

Summoning the defaulter and witnesses to court wastes man hours and valuable court time. In the present day of labour shortage, we should be working towards saving time and efforts. I consider it justified to expand the present computer system to include information on all residents in the territory, so that fixed penalty can be issued to passengers. Such computer backup will pave the way to introducing fixed penalty for littering, spitting, jaywalking, hawking and smoking in public places. A lot more court time can then be saved.

I agree that this will take time and accept that we should go ahead first with charging by way of summons. However I urge Government to reconsider the fixed penalty system which will be more cost effective in the long run, when other ancillary use are taken into consideration.

MR. DAVID CHEUNG: Sir, while I support that offences should not go unpunished especially in serious cases involving speeding, reckless and dangerous driving, and overloading, I am sceptical of the justifications for increasing the fixed penalty fines en bloc, particularly those for minor traffic violations.

Increases by 40% or more in fixed penalty fines, from \$140 to \$200 and from \$200 to \$280, do not seem to be justified because Government cannot offset accumulated inflationary effect by one shot. Neither is inflation, in my view, an acceptable argument for such hefty increases.

If the increases are aimed at restoring the deterrent value of the fixed penalty fines as I have been told, I do not think they will achieve the purpose. Most drivers do not intentionally choose to violate the law. Very often, they are the victims of the many road-works and road re-routings that take place all over Hong Kong all the time, and the frequent changes made to road signs which are confusing and which escape their notice. Drivers not familiar with such road conditions fall prey to police officers or traffic wardens on the lurk for unwitting offenders.

For professional drivers who are on the road every day, the hefty fines being proposed will cost more than a day's wages. Who likes to lose a day's wages because of an unintentional mistake? I think we must not be indifferent to the plight of the average decent professional driver who has to make a living. If I tell my teacher that he/she will lose a day's wages if he/she is found unintentionally teaching a concept wrongly in class, I am being unreasonably harsh to the teacher. But if I fire a teacher who plays dangerously with chemicals in the laboratory resulting in an explosion, I am sure nobody will dispute what I do.

For serious offences such as those in items 2, 2A, 2B, 24, 29 and 49 of the Schedule, I support the level of fines proposed. But for the minor offences, I would urge my honourable colleagues and the Administration to re-consider the package discreetly, having sympathetic regard to the plight of the driving public.

With these remarks, Sir, I regret that I do not support the motion that these regulations have to be passed en bloc.

SECRETARY FOR TRANSPORT: Sir, I wish to thank Dr. IP and Mr. CHEUNG for their helpful comments. I would like to make several observations.

The current supporting computer facilities for the fixed penalty system contain

only information on driving licence holders and vehicle owners. To develop a new computer system to cover all residents in the territory so as to make front seat passengers liable to fixed penalty would be very costly and not likely to be cost effective.

To minimize public inconvenience, extra administrative work and court time, the present traffic summons system already allows a person to plead guilty to the offence by letter.

Turning to the proposed level of increase, if inflation and the growth in average income are taken into account, the fine levels should have been increased by 70% instead of 40%. However, fixed penalty fines are designed on traffic management rather than on revenue grounds. A moderate increase of 40% is therefore proposed to restore their deterrent effects.

As regards road-works, road re-routings and changes in traffic signs and road markings, these are necessary for traffic management, particularly safety, reasons. All changes are fully publicized in advance to ensure that motorists and pedestrians are aware of them. In any case, police do have discretion in enforcement. Extenuating circumstances like the poor display of a traffic sign would normally lead to a verbal caution rather than the issue of a fixed penalty ticket.

Question put and agreed to.

#### FIXED PENALTY (TRAFFIC CONTRAVENTIONS) ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

(a) That \$200 is prescribed as a fixed penalty for a contravention of any of the provisions of section 4, 5, 6, 7, 8, 9, 10, or 11(1) of the Fixed Penalty (Traffic Contraventions) Ordinance; and

(b) That this resolution shall come into operation on 1 July 1989.

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

motion seeks to increase the level of fixed penalty fine for parking offences from \$140 to \$200.

The existing fine of \$140 has remained unchanged since 1983. The number of tickets issued in 1987 shows the beginning of a rising trend, from about 734 000 in 1987 to 836 000 in 1988, an increase of over 13%. The apparent reduction in the deterrent effect of the fine can be attributed to inflation and increased parking charges at off-street car-parks. The narrowing gap between parking charges and fixed penalties may attract motorists to park illegally. As advised by the Transport Advisory Committee, a 40% increase in the fine from \$140 to \$200 is proposed to restore its deterrent effect.

Sir, I beg to move.

Question proposed.

MR. DAVID CHEUNG: Sir, as I said a while ago, I am not convinced that the hefty increases in the fixed penalty fines en bloc are justified for the stated purpose they intend to achieve. This is particularly not justified in the case of parking offences.

The parking situation here in Hong Kong, in my view, has always been unimaginably difficult. The increase in the number of cases of illegal parking cannot be said to reflect that \$140 has no deterrent effect. Who, may I ask, in his/her right mind would risk paying a fine of \$140 by trying to save a few dollars or ten dollars on parking? Drivers park illegally often because they have to park their cars under very desperate and exceptionally difficult circumstances. For the rich, if \$140 has no deterrent effect, neither will \$200.

The continued increase in the number of vehicles is bound to result in proportionally more cases of illegal parking. Besides, residential blocks are developed without developers being required to provide parking spaces equivalent to the number of flats. Fortunately or unfortunately, the affluence in Hong Kong has brought about a consequence which, from the traffic management point of view, is paradoxical -- car owners living in residential blocks that provide inadequate parking spaces, and car owners finding themselves unable to drive to their destinations where inadequate or no parking facilities are available. There are

simply not enough parking spaces. Besides, requiring motorists to feed parking meters in residential area until midnight is already very harsh.

Sir, because I feel that parking offences committed are due, in no small part, to Government's fault in not providing adequate parking facilities to meet the need of the increased motor vehicles it continues to license, I do not support the motion.

SECRETARY FOR TRANSPORT: Sir, I thank Mr. CHEUNG for his comments. I would like to make two points.

First, experience indicates that an increase in the fixed penalty fine for parking offences will enhance its deterrent effect. The fine was last increased in 1983 from \$70 to \$140. In the subsequent three years, the number of parking offence tickets issued showed a steady decrease from over 1 000 000 in 1984 to about 700 000 in 1986. However, over the years, the deterrent effect of the \$140 fine has been eroded and an increase in the fine is now necessary to restore its deterrent effect.

Second, as regards the provision of more car parking spaces, the current policy is to encourage the private sector to develop and operate more off-street car parks through the land sales programmes. I have already given details on the long-term provision of car parking spaces when replying to a supplementary question in this Council on 14 December 1988 and I do not wish to repeat them here. Suffice it to say that the parking demand can never be fully satisfied, and so restraint measures are necessary to prevent indiscriminate parking.

Question put and agreed to.

#### ROAD TRAFFIC ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

That the following regulations, made by the Governor in Council on 17 January 1989, be approved --

(a) the Road Traffic (Parking on Private Roads) (Amendment) Regulations 1989;  
and

(b) the Road Traffic (Traffic Control) (Amendment) (No.3) Regulations 1989.

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

Section 14(1) of the Road Traffic Ordinance allows any regulation made under the Ordinance to provide that in any criminal proceedings the onus of proof shall rest with the person being prosecuted or certain facts shall be presumed until the contrary is proved. Section 14(2) requires that any such regulation shall be subject to the approval of the Legislative Council.

This motion seeks the Council's approval to two amendment regulations made by the Governor in Council on 17 January 1989, both of which relate to the onus of proof.

The first is the Road Traffic (Parking on Private Roads) (Amendment) Regulations 1989. It provides that any traffic sign or road marking placed on a private road shall be deemed to be lawfully so placed if it is similar to that specified in Schedule 1. A code of practice will be published to give guidance to owners for placing signs and markings specified in that Schedule. The purpose of this amendment is to enable the private road owners to place and use such signs and markings to control unauthorized parking on their roads effectively.

The second is the Road Traffic (Traffic Control) (Amendment) (No. 3) Regulations 1989. It provides that in any criminal proceedings against the owner of a private road in respect of an improper traffic sign or road marking placed on that road, the onus is on that owner to prove that the sign or marking is unauthorized and was placed on or after the commencement of the Road Traffic (Amendment) (No. 2) Ordinance 1988 without his permission. The purpose of this amendment is to give the Commissioner for Transport sufficient powers to require the owner of a private road to remove any improper traffic sign or road marking on that road.

Sir, I beg to move.

Question proposed, put and agreed to.

First Reading of Bill

INSURANCE COMPANIES (AMENDMENT) BILL 1989

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

Second Reading of Bills

INSURANCE COMPANIES (AMENDMENT) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Insurance Companies Ordinance".

He said: Sir, I move that the Insurance Companies (Amendment) Bill 1989 be read a Second time.

The purpose of this Bill is to introduce a number of amendments to the Insurance Companies Ordinance in order to update certain provisions and to improve the administration of the Ordinance. The main provisions of the Bill deal with the definition of controller, minimum solvency margin requirements, frequency of actuarial reports and grounds for exercising powers of intervention.

Section 8(1) of the principal Ordinance requires that a controller of a company applying for authorization to carry on insurance business must be a fit and proper person to hold such a position. Section 9(1) defines a controller, in part, to be a person who is able to exercise control, either directly or indirectly, over one-third or more of the voting power of the company. This definition is based upon the relevant provisions of the United Kingdom Insurance Companies Act 1974 which have since been amended to reduce the trigger point to 15%. To follow the United Kingdom practice and to bring significant shareholders within the "fit and proper" requirements, clause 2 seeks to reduce the trigger point from one-third to 15%.

Insurers authorized to carry on general (that is non-life) business are subject to minimum solvency margin requirements specified in section 10(1) of the Ordinance. The current requirements are out of date and no longer provide an adequate safety margin. Clause 3 of the Bill seeks to increase these requirements and to update the levels of relevant premium income in order to provide greater security to existing and potential policy holders.

A grace period will be given to allow insurance companies time to comply with the new requirements. This period, however, should not be too long because the new requirements are considered the minimum necessary and would, if delayed for too long, be out of date before they were introduced. On balance we consider that the new requirements should come into effect on 1 January 1991 for existing authorized insurers. Nevertheless, for insurers authorized after the enactment of this Bill, the new requirements will take immediate effect.

Sir, under section 18(1) of the Ordinance, an insurer authorized to carry on long-term business is required to cause an actuarial investigation to be made into the financial condition of the long-term fund once every two years and to submit an abstract of the actuary's report to the Insurance Authority. Clause 4 seeks to increase the frequency of such investigations to at least once every 12 months, which is in line with the United Kingdom legislation and is regarded as necessary for the purposes of prudential supervision.

Under sections 34(1) and 34(2) of the Ordinance, the Insurance Authority may require an insurer to provide specified information and to produce specified documents for inspection. Both powers may only be exercised upon the serious grounds set out in section 26(1) which include a suspected breach of the Ordinance and the failure to meet obligations under the Ordinance. These grounds cannot be called in aid lightly and often cannot be used in respect of a simple request for additional information. By contrast, the wider power of inspection under section 34(2) may also be exercised on the less stringent grounds under section 26(3), namely, that the exercise of such power is desirable in the general interests of existing and potential policy holders. There is no good reason for this difference of treatment. To remove the anomaly and to enable the Insurance Authority to carry out his duties more effectively, we propose in clause 5 of the Bill that the specific ground in section 26(3) should also apply to the power under section 34(1). This new reserve power will be used only sparingly. I believe the Insurance Authority will in the vast majority of cases be able, as at present, to rely upon the good will and co-operation

of the insurers.

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

Question on adjournment proposed, put and agreed to.

SUPREME COURT (AMENDMENT) BILL 1988

Resumption of debate on Second Reading which was moved on 11 January 1989

Question proposed, put and agreed to.

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee.

SUPREME COURT (AMENDMENT) BILL 1988

Clauses 1, 3 and 4 were agreed to.

Clauses 2 and 5

ATTORNEY GENERAL: Sir, I move that clauses 2 and 5 be amended as set out in the paper circulated to Members.

As presently drafted, these clauses refer to the Supreme Court (Amendment) Ordinance 1988, instead of 1989. The purpose of these amendments is to correct the date in these two places.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, by deleting, in the proposed section 12A(1)(c), "Supreme Court (Amendment) Ordinance 1988 ( of 1988)" and substituting the following --

"Supreme Court (Amendment) Ordinance 1989 ( of 1989)".

Clause 5

That clause 5 be amended, by deleting "Supreme Court (Amendment) Ordinance 1988 ( of 1988)" and substituting the following --

"Supreme Court (Amendment) Ordinance 1989 ( of 1989)".

Question on the amendments proposed, put and agreed to.

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

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

SUPREME COURT (AMENDMENT) BILL 1988

had passed through Committee with amendments and moved that the Bill be read the Third time and passed.

Question on the Bill proposed, put and agreed to.

Bill read the Third time and passed.

Adjournment and next meeting

HIS HONOUR THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 1 March 1989.

Adjourned accordingly at four minutes past Four o'clock.

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