

HONG KONG LEGISLATIVE COUNCIL -- 10 January 1990 1

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 10 January 1990

The Council met at half-past Two o'clock

PRESENT

HIS HONOUR THE DEPUTY TO THE GOVERNOR (PRESIDENT)

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

THE HONOURABLE SIR PIERS JACOBS, K.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, 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.

THE HONOURABLE CHAN YING-LUN, O.B.E., 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, O.B.E., 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.

PROF. THE HONOURABLE POON CHUNG-KWONG, 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, O.B.E., J.P.

THE HONOURABLE GRAHAM BARNES, C.B.E., J.P.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

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

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

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

THE HONOURABLE RONALD JOSEPH ARCELLI, 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 YEUNG KAI-YIN, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE MRS. ANSON CHAN, J.P.

SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE PETER TSAO KWANG-YUNG, C.B.E., C.P.M., J.P.

SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MRS. ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.

SECRETARY FOR HEALTH AND WELFARE

ABSENT

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

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

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL

MR. LAW KAM-SANG

Oath

Mrs. Elizabeth WONG took the Oath of Allegiance.

Papers

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

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No. 40-- Hong Kong Productivity Council  
Annual Report 1988/89

Addresses by Members

Mental Health (Guardianship) Regulations 1989

MRS. TAM: Sir, the Mental Health (Amendment) Ordinance 1988 was enacted in June 1988 and received your assent on 23 June 1988. Subsequently, the formulation of the Mental Health Review Tribunal Rules was completed in January 1989, while work on preparing the Mental Health (Amendment) Regulations and the Mental Health (Guardianship) Regulations continued. In order to provide timely input to the drafting of the Guardianship Regulations so as to expedite the implementation of the Ordinance as extensively amended in 1988, a Legislative Council ad hoc group has been formed to examine the draft of these regulations which the Administration has kindly provided to Members.

The Guardianship Regulations tabled in this Council today represent the outcome of the efforts put in jointly by the Members and the Administration.

In supporting the Guardianship Regulations, the ad hoc group wishes to make some suggestions for future improvements.

First, the regulations make no provision for a guardian's powers and duties over the management of the property and finances of a person under guardianship who is unable to manage his own affairs. It has been accepted that such a provision would be desirable, but time is required to sort out the legal implications involved. The ad hoc group hopes that the subject will be carefully considered in the near future.

Second, the regulations do not provide for the appointment of a medical practitioner to act as the medical attendant of a person under guardianship, as provided under new section 72(3) of the Ordinance. The ad hoc group has noted the explanation by the Administration that such a provision is not practicable in Hong Kong given the existing manpower resources. In any case, the welfare of the patient

will be taken care of by other provisions in the Ordinance. The group nevertheless hopes that the situation can be reviewed once the manpower position of medical practitioners improves.

Sir, the relevant OMECO standing panels have agreed to monitor developments in these respects.

Lastly, Sir, the ad hoc group welcomes Government's decision to provide a guide, in plain language, for interested parties as regards the duties and responsibilities of a guardian, but wishes to reiterate that maximum publicity should be given to the major provisions in the amended Ordinance and its rules and regulations. Not only social workers and the health care professionals, but also members of the public should understand their respective roles to make the scheme work for the benefit of our less fortunate neighbours.

Sir, with these remarks, I whole-heartedly welcome and support the Guardianship Regulations and the coming into operation of the amendment Ordinance.

#### The Hong Kong Industrial Estates Corporation Annual Report 1988-89

MR. CHEONG: Sir, I am pleased to table the Annual Report of the Hong Kong Industrial Estates Corporation for the year 1988-89. Last year I reported on the record results for 1987-88 when almost 20 hectares of land were leased. The Corporation did not expect those exceptional results to be repeated and so set itself a somewhat lower target for land disposal in the year 1988-89. In the event 10 hectares were granted to 12 applicants. This result is comparable with the average land disposal figure for the previous four years and reflects continued satisfactory demand from both multi-national as well as local Hong Kong companies.

All but 3 hectares of land have now been granted on the Tai Po Estate. The vacant lots are on the High Technology Zone where the land is reserved for applications proposing the most modern manufacturing processes involving heavy capital investment. Although a number of enquiries received during the year did not lead to formal applications, it is in the Corporation's interest to have these very attractive sites available overlooking Tolo Harbour. As a result of Government's offer to grant an additional site of about two hectares later in this financial year, the Corporation should have adequate land available at Tai Po for high technology applications over

the next two to three years.

With the majority of sites for new applicants being provided at Yuen Long, development on that industrial estate is now progressing rapidly. There are 16 factories in operation, six under construction and 10 other sites granted and in various stages of investigation and design. The Yuen Long Industrial Estate just one mile north of the new town is now making a real contribution both in terms of good quality development and in providing career and job opportunities for the growing local population.

The new grantees will be manufacturing a wide range of new products including polystyrene, copper foil for the electronics industry, surfactants for the textile finishing industry, ductile and grey metal castings, recycled lubricating oil and herbal medicines. It is pleasing to note that the average committed investment per hectare at \$88 million shows a \$20 million increase over the year before. This is a clear indication of the quality of the industrial investment on the estates and confirms that the Corporation is fulfilling its brief to attract new capital-intensive industries to Hong Kong and to broaden our industrial base.

Almost \$100 million were repaid to the Development Loan Fund in the year 1988-89 leaving a balance still to be paid of \$212 million, which should have been repaid by mid-1991, after which the Corporation is forecasting to achieve a slight surplus of about \$300 million.

So far during the financial year 1989-90 the Corporation has completed seven grants amounting to 3.83 hectares. Formal offers have been made to two other companies involving 6.9 hectares and three other applications have been approved for which formal offers are being prepared involving a further two hectares. If all these grants are completed the total area of land granted will exceed 12 hectares.

With no more than half of the land on the Yuen Long Industrial Estate disposed of and less than 30 hectares remaining, attention has been focused on the Corporation's plans for a third industrial estate at Junk Bay. An engineering feasibility was completed in April 1989 and approval in principle was obtained from the Executive Council in September. The proposal was referred formally to the Land Commission in December and it has been agreed that engineering work may proceed. Final preparatory work will be put in hand as soon as possible.

Discussions regarding the financial arrangements for the formation and servicing

of the new estate, which will eventually have about 70 hectares of industrial land, have been proceeding during the second half of 1989. Agreement is expected to be reached before long and a proposal for a loan from the Development Loan Fund will be put to the Finance Committee in the near future.

Sir, I have been given staunch support throughout the year by members of the board. My thanks go to them and to the Corporation's staff whose efforts have once more proved to be successful.

#### Hong Kong Productivity Council Annual Report 1988-89

MR. TIEN: Sir, among the various papers laid on the table of this Council today is the Annual Report of the Hong Kong Productivity Council (HKPC) for the year ending 31 March 1989.

I am pleased to report a year of continued progress for the HKPC. It is evident from the sustained growth in demand for our services that the Council has played an enlarged role in the overall development of industry in Hong Kong. Fee income derived from services during the year increased by 28% over 1988.

As we enter the 1990s, industry in Hong Kong confronts a new decade, quite different from that of the 1970s and 1980s. With the current shortage of workers and the escalations of costs, industry in Hong Kong is undergoing a transformation process. Our costs illustrate the characteristics of a developed economy.

In the 1990s, talks of positive non-interventionism sound like a somewhat out-dated concept, bearing in mind the tendency of governments in the other "little dragons" to give active support to their industries.

Unlike other members of our community, industrialists will not take industrial action. Instead, industrialists vote with their feet. They simply take their investments to where the profits are more secure. In our region there are good business opportunities available in, for example, Thailand, Malaysia, Indonesia and the Philippines. These countries enjoy far lower labour costs than ourselves. Coupled with political uncertainties, places like those mentioned earlier have become increasingly popular for Hong Kong industrial investment. There is an obvious impact felt upon Hong Kong. Should industrialists and their capital leave, Hong Kong will

eventually feel the effects. Job opportunities will be lost. Moreover, the loss in tax revenue which industry generates will be considerable. What industry needs is a stronger human resources and technology base that will enable Hong Kong to build a new comparative advantage in technology and management intensive manufacturing. There is an urgent need for HKPC to upgrade its capability to support industry, in areas of productivity enhancement, technology transfer and value added production.

From the current allocation of resources, it does not appear that the Government has given due recognition to the challenges that are now confronting HKPC.

This report makes it clear that the major constraint on its activities is quite definitely financial. On the total provision for the year 1989-90 of \$96 million, we have only an increase of \$5 million. An "increase" of \$5 million is actually a "decrease" of \$3.5 million in real terms after taking current inflation rate into account. Considering the additional tasks which we have been given by Government, this is wholly unreasonable. For example, we have been asked by Industry Development Board to undertake a number of important new projects such as "Industrial Design Promotion", "Expansion of Environment Management" and "Expansion of Total Quality Management". For these no extra funding is forthcoming.

Sir, I am also fully aware of the keen interest displayed by Government in the whole issue of pollution control. As far as the HKPC is concerned, pollution poses special problems. We are seen as a possible source of technical expertise and assistance, and we are asked to advise on detailed problems in the expert area of pollution.

Of course, HKPC is prepared to do its best in this regard. However, given our meagre resources and the severe financial constraints under which we operate our hands are frequently tied. Many small factories and workshops cannot afford to pay the total cost of containing pollution on their own. Pollution control is not cheap but it is necessary. HKPC is willing to play its part, but we also expect Government to pay part of the cost.

I call upon Government to increase the funding for the HKPC, thereby directly and indirectly demonstrating confidence in the industry of Hong Kong.

As chairman of the HKPC, I cannot but also feel concerned at the loss of some of our brightest and best people in HKPC.

While increased emphasis is being given to staff training and management development, the key factor in the recruitment and retention of high calibre staff is our ability to offer a competitive remuneration package. The situation is not helped by the lack of parity in the shape of inferior conditions such as housing allowance and pensions between the terms and conditions of services at the HKPC with comparable institutions such as the Vocational Training Council and the two polytechnics. We should narrow the gap and eliminate the differential between them.

Finally, Sir, I would like to thank the former chairman, Mr. Graham CHENG and members of the HKPC as well as the staff for their dedicated work during the past year.

#### Oral answers to questions

##### Hang Lung Bank

1. MR. PETER WONG asked: Will the Government inform this Council of the overall cost of the Hang Lung Bank rescue in 1983 and whether the recent sale has yielded a surplus or a loss?

FINANCIAL SECRETARY: Sir, shortly after the acquisition of the Hang Lung Bank by the Financial Secretary Incorporated, funds totalling \$1.7 billion were injected into the bank by the Exchange Fund to enable the bank to comply with the requirements of the Banking Ordinance and to continue carrying on banking business.

Although the bank has recently been sold, it is not yet possible to determine the overall cost of the rescue. The calculation of the consideration for the sale depends, in part, on the net asset value of the bank, and this has yet to be finally agreed between the two parties. Furthermore, Government has given certain indemnities and warranties in relation to pre-government acquisition liabilities, if any.

Even at this stage, it is clear, however, that Government will not be able to recover all the costs incurred in the rescue of the Hang Lung Bank.

MR. PETER WONG: Sir, pending finalization of the figures, can the Financial Secretary

make an educated guess as to whether we are likely to recover close to \$1,700 million, or only \$1? And would he further confirm whether he will let this Council know the results when available?

FINANCIAL SECRETARY: Sir, I would prefer not to make educated guesses this afternoon. As I have indicated in my answer, we cannot determine the overall cost of the rescue at this stage, but I can confidently state that what we will receive at the end of the day will indeed be somewhere between \$1 and \$1.7 billion. When we actually know the result, I would be happy to inform this Council.

MR. McGREGOR: Sir, in the light of experience now obtained, does the Government consider that it has made the right decision to rescue the Hang Lung Bank?

FINANCIAL SECRETARY: Undoubtedly, Sir!

MR. NGAI (in Cantonese): Sir, taxpayers' money has been used to rescue the Hang Lung Bank; but at the present stage, the cost for the bail-out has not been fully recovered. In other words, the Government has suffered a loss or accepted a reduced price in selling an asset which has a profit-earning potential. Does it mean that the Government has indirectly subsidized the purchaser of the Hang Lung Bank with the taxpayers' money? Is this not against equitable principles?

FINANCIAL SECRETARY: No, Sir. I do not think there is any question of subsidizing the purchaser of the bank, and the circumstances of this rescue are well known to Members of this Council. I have already indicated that we undoubtedly made the right decision to rescue the bank. We have to look at what we gained at the time. Had we not rescued the bank, it would have had unforeseen and possibly very serious consequences, not only on our banking system but also, possibly, on our currency. The bank has a certain value today; a purchaser has come forward and purchased the bank; we will recover a substantial amount of money but, as I have said, we do not know the exact figure as yet.

MR. ARCULLI: Sir, will the Financial Secretary inform us, in relation to the sale of the bank, what steps, if any, were taken by the Government to ensure keeping the costs of the rescue to as low a figure as possible?

FINANCIAL SECRETARY: Sir, in selling the bank we did engage financial advisers to assist us in putting a proper value on the bank; so we are reasonably comfortable that we are obtaining a good return.

#### Mandatory repatriation of illegal immigrants from Vietnam

2. MR. POON CHI-FAI asked (in Cantonese): In view of the fact that Hong Kong has already spent billions of dollars on the accommodation and maintenance of the Vietnamese refugees and boat people and that many people in Hong Kong object to the Government being involved financially in mandatory repatriation, will Government inform this Council who will finance the mandatory repatriation of the Vietnamese boat people and whether consideration will be given by the Government to not paying for the expenses incurred by mandatory repatriation?

SECRETARY FOR SECURITY: Sir, it is standard international practice to repatriate illegal immigrants and the normal procedure is for the country returning such immigrants to pay the cost of their return to their country of origin. In the case of the mandatory repatriation of Vietnamese who have been found not to be refugees, and whose status is therefore similar to that of illegal immigrants, it would therefore be normal for costs to be borne by the Hong Kong Government. Over a period of time this would be cheaper than funding their indefinite detention in Hong Kong.

We have, however, always sought to obtain the maximum financial assistance from the United Kingdom. This has been the subject of repeated representations by the Hong Kong Government and the closest possible personal involvement by United Kingdom ministers. These efforts have resulted in substantial financial assistance being provided. In the mandatory repatriation process this will take the form of the United Kingdom Government meeting half the costs.

MR. POON CHI-FAI (in Cantonese): Sir, in the first paragraph of the main reply, the

Secretary said that the normal international practice was for the country returning illegal immigrants, Hong Kong in this case, to pay the costs of their return. However, Vietnamese boat people and illegal immigrants should be treated differently, for Hong Kong undertook to be a port of first asylum about 11 years ago at the request of the United Kingdom and other countries. Moreover, the costs also include reintegration assistance and re-establishment subsidy. Should we therefore consider asking the other countries to pay such costs?

SECRETARY FOR SECURITY: Sir, as a matter of historical fact, Hong Kong did not follow other countries in giving first asylum to persons coming to this territory. We did not follow the 1979 Geneva Agreement. We had, indeed, already accepted the principle of giving first asylum to Vietnamese, from 1975 onwards, who arrived in Hong Kong and were accorded, at that time, refugee status.

MR. CHOW: Sir, as the agreement on the repatriation process was made between the British and the Vietnamese Governments, why should half the costs be paid by the Hong Kong Government?

SECRETARY FOR SECURITY: Sir, the agreement was between the British Government representing also the Hong Kong authorities. This was the actual status of the agreement. It would, of course, be welcome if Hong Kong did not have to pay anything at all for Vietnamese refugees or for their repatriation. Unfortunately, this would not be in accordance with international practice all over the world, nor would it be politically practicable in the case of Hong Kong, nor in the case of the United Kingdom. Regrettably, Sir, I believe that this is a burden which Hong Kong will have to continue sharing with the United Nations High Commissioner for Refugees, the voluntary agencies, and the United Kingdom Government in the years ahead.

MR. MICHAEL CHENG (in Cantonese): Sir, the boat people repatriated have been given munificent reintegration assistance, but this will encourage more boat people to come to Hong Kong. Will the Government urge the United Kingdom to follow the standard international practice to mandatorily repatriate all boat people who have illegally come to Hong Kong without giving them reintegration assistance?

SECRETARY FOR SECURITY: Sir, that, unfortunately, is not the substance of the agreement which we have with the Vietnamese Government over repatriation. If we were to abrogate that agreement, the Vietnamese authorities would be perfectly justified in not accepting back any persons from Hong Kong.

MRS. LAM (in Cantonese): Sir, if the boat people repatriated come to Hong Kong again, will the Government give them reintegration assistance for a second time?

SECRETARY FOR SECURITY: Sir, I cannot imagine that being the case. We have yet, of course, to see anybody trying to come back to Hong Kong for a second time. But if they did, I cannot imagine that we would agree to pay reintegration assistance for a second time.

MR. MARTIN LEE: Sir, as Hong Kong is not a country but a colony, and as the country which signed the agreement with Vietnam was the United Kingdom, why does the Hong Kong Government take the stance that it would be normal for it to bear these costs?

SECRETARY FOR SECURITY: Sir, we do not take the stance that it would be normal for us to pay these costs. We take the stance that politically it is unavoidable that we have to bear a share of the costs.

MR. BARROW: Sir, would the Secretary inform this Council as to what steps are being taken to speed up voluntary repatriation which may prove to be more cost-effective and be beneficial in other ways?

SECRETARY FOR SECURITY: Sir, this is departing slightly from the thrust of the question. But one means by which we believe voluntary repatriation will be stimulated is indeed mandatory repatriation. In addition to that, the steps being taken in Hong Kong are: very active counselling by the United Nations High Commissioner for Refugees with the full support of the Hong Kong Government; and further activity by the United Nations High Commissioner for Refugees in conjunction

with the Vietnamese authorities in the production of propaganda information material -- films, pamphlets, posters -- which will be made available both in Vietnam, in overseas territories and in Hong Kong, explaining the true position which is faced by Vietnamese coming to Hong Kong, that is to say, the screening process and the two options which inevitably result from it, one being refugee status leading to resettlement, and the other being non-refugee status for which there is either voluntary or involuntary repatriation as the end result.

MR TIEN: Sir, the British Embassy in Hanoi is currently monitoring the boat people's return to Vietnam. Will Government inform this Council whether the costs of that monitoring will wholly be paid by the United Kingdom Government without Hong Kong being asked to pay half of it?

SECRETARY FOR SECURITY: Yes, I can confirm that that will not be a charge to the Hong Kong Government.

MR. McGREGOR: Sir, can the Secretary say how the costs of repatriating each of the non-refugees are worked out and by which authority? And what is the per capita estimate at present?

SECRETARY FOR SECURITY: The cost of the first mandatory repatriation I presume Mr. McGREGOR was referring to, which is the only one for which we have any experience so far, was:

Air charter :	HK\$ 506,000
Pocket money :	HK\$ 8,892
Reintegration assistance :	HK\$ 246,636
A total of :	HK\$ 761,528
Of which HK's share is :	HK\$ 380,764

MR. POON CHI-FAI (in Cantonese): Only after making tremendous effort could the Government succeed in repatriating the first batch of 51 Vietnamese boat people. However, recently another 31 boat people have arrived. Has the Government ever considered that sharing 50% of the costs of repatriating the boat people may lead

us to an abyss? Will the Government consider drawing a baseline or pay such costs endlessly for these boat people?

SECRETARY FOR SECURITY: Sir, unfortunately I cannot crystal-gaze. The 31 who arrived, I might say, did so by land through China. But I do not wish to go into the details of that because it certainly brings the whole question of first asylum into the open. Nevertheless, for the period ahead I can see no chance of varying the present cost-sharing agreement that we have entered into. But as I say, Sir, I cannot crystal-gaze. The Finance Committee of this Council will have the opportunity to comment on financial proposals later this month, and it would seem to me that that perhaps is the appropriate forum for the financial aspects to be further considered.

MR. MARTIN LEE: Sir, if the Finance Committee were to refuse to approve any item of expenditure involving payment to the Vietnamese Government in relation to the mandatory repatriation programme, would all the costs in relation to this programme then have to be paid by the United Kingdom Government?

SECRETARY FOR SECURITY: Sir, I would say that this would be an awkward bridge which I would prefer to cross when we come to it.

Elderly people sharing public housing accommodation

3. MR. HO SAI-CHU asked (in Cantonese): In view of a recent tragic incident at Lam Tin Estate in which an elderly person jumped to his death after hacking another elderly person with whom he shared the same housing unit, will Government inform this Council of the number of similar cases of homicide for the past three years, and whether it will review the current policy of public housing allocation for the elderly, bearing in mind that the number of elderly people out of the whole population is on the increase?

SECRETARY FOR HOME AFFAIRS: Sir, apart from the incident referred to in Mr. HO's question, there was only one similar case of homicide in the past three years involving elderly persons sharing public housing accommodation.

In November 1988, at the instigation of the Housing Authority, an inter-

departmental Working Group on Housing for the Elderly was set up to examine, inter alia, the extent to which the provision of public housing for elderly people could be improved. Arising from the review, a number of proposed changes to the current allocation and transfer policies will be put to the Housing Authority's Management and Operations Committee for consideration shortly. Appropriate publicity will be arranged once a decision has been taken on these proposals.

MR. HO SAI-CHU (in Cantonese): Sir, in the second paragraph of his reply, the Secretary mentioned that proposed changes to the allocation policy will be made shortly. How long is "shortly"? And how long will it take to implement these changes once a decision is reached?

SECRETARY FOR HOME AFFAIRS: Sir, I do apologize to Mr. HO. I meant within a matter of days. And once these decisions are taken, as I said, publicity will be given and action will be taken accordingly.

MR. HUI: Sir, according to available statistics, there is a serious shortfall of small units in public housing for single elderly people. Could the Government inform this Council what immediate plans it has to alleviate this problem?

SECRETARY FOR HOME AFFAIRS: Sir, the shortfall for the two years 1989-90 and 1990-91 for singletons adds up to 3 450 and for doubletons 2 170. But at the same time there will be a supply coming on stream of 5 009 and 8 009 singletons and doubletons respectively. I am confident that the Housing Authority will have regard, in planning its future housing stock, to this particular shortfall but I am afraid in the short term there does not seem to be an answer.

MISS LEUNG (in Cantonese): Sir, there have been frequent incidents of disputes and fightings among elderly persons sharing a public housing unit. Could the Secretary inform this Council of the number of such incidents resulting in injuries over the last three years? And has the Administration acquired a good understanding of the causes of such incidents and how is it going to tackle these problems?

SECRETARY FOR HOME AFFAIRS: Sir, as I said in my main reply, only two incidents of this sort are on record. There are many advantages for elderly people to be housed together -- helping to prevent loneliness and depression, providing mutual care and assistance, and sharing household chores, establishing social and emotional ties. The incidence of disputes among elderly people living in this sort of accommodation is slight in figure terms. I can say that 98% of such residents have had few or no disputes, and only 2% of them have had frequent disputes.

MR. ARCELLI: Sir, would the Secretary for Home Affairs inform this Council whether elderly persons who share accommodation in public housing units are visited regularly to ascertain their needs, their state of health, mental or physical, and whether this might help to avoid the tragedies that we are talking about this afternoon?

SECRETARY FOR HOME AFFAIRS: Sir, in the Housing Authority complexes there are social centres for the elderly, day-care centres, multi-service centres for the elderly, home-care-and-attention units, and home-help centres operated by various agencies. The Social Welfare Department and other voluntary agencies operate these facilities and extend these services to those in need on the advice of the estate management staff.

MR. MICHAEL CHENG (in Cantonese): Sir, in view of the fact that some early developed districts of Hong Kong such as Wong Tai Sin are having a rapidly growing population of old people, will Government make special arrangements for the elderly under the current public housing allocation policy in order to meet the demands of districts with an ageing population?

HIS HONOUR THE PRESIDENT : I think that question really goes beyond the scope of the original, Mr. CHENG. I would be grateful if you would put it down for a separate answer.

MRS. TU: Sir, for many years the Social Welfare Department has, to my knowledge, admitted that rehousing elderly people together in duos and trios with little regard

to compatibility has led to conflicts. Would the Secretary for Home Affairs explain why single elderly people are still being told to share with one or two others or they are unlikely to be rehoused at all? And why are they given no chance to obtain single accommodation?

SECRETARY FOR HOME AFFAIRS: Sir, as I said earlier in another reply, disputes are relatively few. The advantages to elderly people of being able to live together are fairly substantial. The advantages to many, compared with the disadvantages perhaps to a very few, certainly show the equation very clearly. And this is in favour, certainly, of housing them together. I do not think, and in terms of scientific proof it has yet to be established, that single elderly people living on their own would make happier residents.

MR. MARTIN LEE: Sir, will the Administration seriously consider not using expressions like "singletons" or "doubletons" any more in the context of this very tragic human problem, because we are, after all, not playing Bridge?

SECRETARY FOR HOME AFFAIRS: Sir, I certainly do not have the facility for language that Mr. Martin LEE has. I choose words which describe a situation exactly.

MISS LEUNG (in Cantonese): The Secretary said that there were only two wounding cases involving elderly people over the last three years. I should like to follow up on the point as, in my opinion, those two were fatal cases. As far as I know, wounding cases far exceeded this number. Could the Secretary submit to this Council at a later date the number of wounding cases involving elderly people over the last three years?

SECRETARY FOR HOME AFFAIRS: Certainly, Sir. But I did mention earlier on that only 2% of the residents had any frequent disputes, and from that figure one can deduce that the actual incidence of injuries would be minimal. I shall be happy to supply the figures in writing. (Annex I)

MRS. TU: Sir, may I also ask the Secretary for Home Affairs to check more carefully with district board members and urban councillors at their ward offices because I

could give him a long list of these disputes if he does not have that information?

SECRETARY FOR HOME AFFAIRS: Sir, I would be most grateful to receive such information.

#### Lion Rock Tunnel emergency procedures

4. MRS. CHOW asked: In view of the serious congestion repeatedly caused by accidents in and around the Lion Rock Tunnel in the last year, will Government inform this Council what measures were taken in the recent incident on 13 December 1989, whether they were formulated as a result of lessons learnt from similar previous occasions, whether such measures proved effective, and what further improvements will be introduced to eliminate the negative effects of similar occurrences in the future?

SECRETARY FOR TRANSPORT: Sir, the incident in question occurred in the Lion Rock Tunnel on 13 December 1989 at 11:47 a.m. While passing through the tunnel, a van being towed by an army recovery vehicle caught fire which subsequently spread to the recovery vehicle. The south-bound tube was immediately closed to traffic, and the fire was put out about 30 minutes later. In order to assist south-bound traffic, the north-bound tube of the tunnel was routed for two way traffic at 12 noon. After the damaged tunnel equipment had been checked and secured, one lane in the south-bound tube was re-opened at 1:15 p.m. thereby providing a total of two lanes for south-bound traffic and one for north-bound traffic. The tunnel resumed normal operation at 4:15 p.m. after the two burnt vehicles were removed.

The Transport Department's tunnel staff have standing instructions to deal with emergency situations, including fires. Under these instructions, the safety of people is given top priority, followed by the protection of property. Once these are assured, attention will be given to the clearance of traffic as soon as practicable. In addition, the public are immediately informed through radio and television broadcasts and the public transport operators notified so that they can adjust their services accordingly. The incident on 13 December 1989 was handled in accordance with these instructions. No injuries occurred and normal traffic flow was restored as quickly as possible.

To put the incident in its proper context, this was the most serious fire to break

out in the Lion Rock Tunnel since it opened in 1967 and the army vehicle was one of the heaviest vehicles ever to have broken down in the tunnel. As such, it put the existing emergency procedures to test under the most serious conditions. The Commissioner for Transport has conducted an immediate review with all departments concerned and initial recommendations for improvement include:

- shortening the response time still further;
- reviewing the fire fighting equipment in government tunnels;
- and
- intensifying the training of tunnel staff in fire fighting.

He has also established several working groups to pursue these and other possible improvements.

MRS. CHOW: Sir, the answer provides a description of what happened inside the tunnel during the fire but the fact of the matter is that traffic for the greater part of Kowloon ground to a halt that day as a result of that fire. What emergency measures were taken to alleviate the serious congestion that resulted from the closure of the tunnel, and were these measures taken as a result of lessons learnt from the previous occasion when a gas pipe caused similar stoppage some months ago?

SECRETARY FOR TRANSPORT: Sir, the fire in this case, as I said, was the most serious one and it was unusual in that most of the time taken was to remove the burnt vehicles. Because their tyres were burnt and the brake-linings were melted in the fire, the vehicles could not be towed away until the army recovery vehicles arrived, which replaced the tyres and lifted the whole wreck out of the tunnel within about two and three quarters of an hour. This was the main cause of the delay.

But as Members will appreciate, the Lion Rock Tunnel is the only tunnel between Kowloon and Sha Tin until the Tate's Cairn Tunnel opens in about one and a half years' time. As a result, the room for manoeuvre in relieving congestion under these special circumstances was limited indeed. But under the Department's instructions, the best efforts were made to rearrange traffic to help relieve congestion.

I should mention, Sir, in this case that the Radio Television Hong Kong's broadcast channel, introduced in November last year, proved most effective. It broadcast the news within three minutes of the fire and alerted all motorists of this incident long before any of them approached the tunnel. So, in this case, it did help a great deal to divert traffic away from Lion Rock to other possible areas such as Tai Po Road. But I fully accept, Sir, that Lion Rock Tunnel is vulnerable until we have an alternative route in about a year and a half.

MRS. CHOW: Sir, I do not believe the Secretary has answered my question entirely. I was asking whether there was a package of measures that was adopted to try to alleviate the traffic congestion that arose out of the tunnel accident, because for the better part of Kowloon traffic, in fact, ground to a halt, which was not too dissimilar to what happened about a year ago. And I just want to ask the Secretary whether any action has been initiated that day to address the peripheral problem and to try to alleviate the other traffic problems that arose out of that fire in the tunnel?

SECRETARY FOR TRANSPORT: Yes, Sir, I can certainly confirm that the normal arrangements were introduced in that period. For example, diverting bus services away from the affected area by the department concerned was activated at that time. Similarly, the police have taken action to divert traffic away from the main road leading to the Lion Rock Tunnel. These are all part and parcel of the normal arrangements for accidents of this kind and they were carried out on that particular day.

#### Tertiary courses in recreation and sports

5. MR. PAUL CHENG asked: Given the Government's recent decisions in support of increased tertiary places and increased financial resources for sport and recreation, will the Government inform this Council of actions taken to generate full-time undergraduate and post-graduate courses in the following fields:

(1) Physical Education;

(2) Sports Science;

- (3) Sports Medicine; and
- (4) Recreation and Leisure Management;

and whether such actions are in co-ordination with the efforts and intention of the Provisional Sports Development Board and manpower planning?

SECRETARY FOR HOME AFFAIRS: Sir, there are a number of part-time non-degree courses in recreation and sports currently offered by the Chinese University of Hong Kong and the University of Hong Kong. In addition, a part-time degree course in physical education is offered by the Chinese University of Hong Kong. The Colleges of Education also run teachers' courses in physical education. However, the Government will, in consultation with relevant bodies including the future Sports Development Board, examine the need for full-time degree courses in the field of recreation and sports and assess prospects for employment for such graduates. Subject to the findings and the availability of resources, it is the Government's intention to pursue opportunities to provide tertiary level courses in physical education and sports administration.

MR. PAUL CHENG: Sir, of over 800 physical education teachers currently employed within the education system, only 3% hold degrees in physical education. Given that the 1987 Government Working Party on Sport and Education confirmed certain weaknesses in the professional preparation of physical education teachers, has the Government taken any steps to ameliorate the situation since 1987?

SECRETARY FOR HOME AFFAIRS: Sir, as far as I am aware, in 1987 an application for funds to run such courses was turned down, largely because there was insufficient evidence to indicate that there were sufficient job opportunities for such graduates. As I stated in my earlier reply, we will be looking at it again, and we will take another decision in the light of the results of the further investigation.

MR. DAVID CHEUNG: Sir, in view of the difficulties in recruiting qualified physical education teachers for the schools, will the Secretary inform this Council what measures have been taken or will be taken to alleviate the situation?

SECRETARY FOR HOME AFFAIRS: Sir, perhaps this question might better be answered by the Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, all I can say at this stage is that the Colleges of Education produce something between 200 and 300 graduates who have chosen physical education as electives. In addition, to the best of my information, one of the tertiary institutions is already providing a degree course in physical education. I would welcome the opportunity to investigate more closely the shortages and the difficulties in recruitment alluded to. If I am satisfied that those shortages exist, I will take appropriate action.

MR. PETER WONG: Sir, does the Government have any plans to make use of the Open Learning Institute (OLI) to provide tertiary level courses in physical education and sports administration?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, to the best of my understanding, no. The OLI is at an early stage of development and it must begin with courses which it can usefully adapt from the experience of similar institutions elsewhere. Once it has become more fully-fledged and mature as an institution, I am sure the OLI will take into consideration the need to develop less conventional courses of this type.

MR. PAUL CHENG: Sir, under the current system of block funding by the University and Polytechnic Grants Committee (UPGC) courses in Recreation Management, Physical Education and Sports Medicine normally receive low priority attention. Yet the March 1989 consultants' report for the University of Hong Kong on the need for degree courses in these fields reported that Hong Kong has fallen behind other developed and developing countries in the provision of high quality undergraduate and post-graduate courses in these areas. Has the Government taken any action to address this dilemma and review the current UPGC system of funding?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think it would be useful for Members of this Council to bear in mind that we have within the UPGC a collection of experience and wisdom second to none. It is an advisory body that looks very closely at a very large number of competing bids for tertiary education, and especially for degree

courses. The fact that the UPGC has been able to allocate funds over the past decade or two, having regard to priorities that this Council has seldom, if ever, questioned, attests to its efficiency and good judgment. I am not, Sir, satisfied that the UPGC system needs examination at this stage. I can say, however, that when the bid referred to earlier was put to the UPGC in 1988 the UPGC was not satisfied that a degree in recreation and leisure management would attract sufficient employment prospects to justify the establishment of such a course. However, a similar proposal is now being considered by the UPGC, almost at this very moment.

DR. LEONG: Sir, since the question of Sports Medicine was not covered in the Secretary's reply, would the Administration inform this Council whether there are any plans to develop training in Sports Medicine and to establish it as a special branch of medicine in Hong Kong; and if so, what the plans are?

SECRETARY FOR HOME AFFAIRS: Sir, may I once again defer, perhaps this time, to the Secretary for Health and Welfare?

SECRETARY FOR HEALTH AND WELFARE: Sir, Sports Medicine is too specialist a topic to be taught in its own right at the undergraduate level. Medical students however are given sessions by staff of the Department of Orthopaedics on injuries sustained through various kinds of sports, especially knee injuries. There is at present no course at the post-graduate level in Sports Medicine in Hong Kong, but it is worth considering for future development of Sports Medicine because, as quite rightly pointed out by various people in discussion, Sports Medicine has gained support in the medical field, not only by doctors, but by various other people practising sport. So, it is possible that the Hong Kong Academy of Medicine College of Surgery, when it is set up, could consider the setting up of post-graduate studies.

Agreement on orderly return of non-refugees to Vietnam

6. MRS. FAN asked: In view of the numerous reports or statements made by different Vietnamese officials on the subject of orderly return of non-refugees to Vietnam, will the Government ask Her Majesty's Government to make public the agreement that has been reached with the Vietnamese Government, so that the people of Hong Kong can

be properly informed as this is a matter of public concern?

SECRETARY FOR SECURITY: Sir, we have consulted the United Kingdom Government. It is not the practice for the texts of bilateral agreements of this nature to be made public. However, it may be said that the agreed arrangements cover the repatriation, and reintegration in Vietnam, of boat people who have been determined to be non-refugees, and who have no prospect of resettlement in third countries. The key elements are that:

- (a) the returnees will be treated humanely after their return to Vietnam, and will not be punished for having left Vietnam clandestinely;
- (b) representatives of the British Government, the UNHCR and agencies will have access to the returnees after their return to Vietnam; and
- (c) reintegration assistance will be given to help the returnees to re-establish themselves in their former communities in Vietnam.

MRS. FAN: Sir, since the mandatory return of 51 boat people last month, no further repatriation exercise has been carried out. There has been mounting public concern that the orderly return programme may not be continued. Can the Government inform this Council whether the agreement covers the continuous programme of mandatory repatriation of non-refugees, and whether negotiation has to be undertaken for each and every batch of returnees?

SECRETARY FOR SECURITY: Sir, it is the firm intention of the Government that mandatory repatriation should continue. The agreement with the Vietnamese authorities, although covering the first flight specifically, also refers to further flights. There should not be any particular need for further meetings with the Vietnamese authorities, although minor adjustments to modalities may be agreed.

MR. MARTIN LEE: Sir, having regard to the great difficulties apparently encountered by the recent British delegation to Vietnam, consisting of Lord ENNALS and another Member of Parliament, in locating and contacting the first batch of 51 involuntary returnees, will the Administration inform this Council what guarantee it can give to this Council that all future involuntary returnees will not be inhumanely treated

or punished for having left Vietnam unlawfully?

SECRETARY FOR SECURITY: Sir, the guarantees against the persecution, or prosecution, of people who are returned to Vietnam can only be provided by monitoring. In our view, this monitoring should be undertaken by the UNHCR. At present, the UNHCR have not been able to accept this responsibility. It is our hope that they will take it on. And at the steering committee in Geneva next week a firm and determined effort will be made to address them on the subject and to persuade them to accept this responsibility, which we do not believe is outside their mandate. In the meantime, the monitoring will be undertaken by the British Ambassador in Hanoi and his staff and by such ad hoc arrangements as can be made, such as the present visit of the former British Government Minister Mr. Timothy RAISON and Lord ENNALS, president of the British Refugee Council, who succeeded in seeing, or covering if I may so put it, 31 out of the 51 persons who were returned in December.

MR. POON CHI-FAI (in Cantonese): Sir, the reply seems to indicate that the agreement provides guarantee for the Vietnamese boat people only, but how is the British or Hong Kong Government going to guarantee the interests of the general public of Hong Kong through that agreement, such as how to prevent Vietnam from making use of the agreement as a means to gain profit by receiving reintegration assistance on one hand and exporting more boat people clandestinely on the other; besides, which party suggested that Hong Kong should pay the reintegration assistance?

SECRETARY FOR SECURITY: Sir, this of course is a very difficult area. We have agreed with the Vietnamese that they will account for the integration assistance, which is to be paid to them. This will be by means of regular statements of account showing where and to whom reintegration assistance is being paid and these will be checked on by the monitoring authority. But, as I have said, the monitoring authority at the moment has not been finally and firmly decided and it is our hope that this will be done as soon as possible.

MR. SIT: Sir, will the Secretary for Security inform this Council whether the Government of Hong Kong was fully aware of the terms and conditions of the agreement reached between the United Kingdom and Vietnamese Governments, prior to the action

taken in sending back the 51 Vietnamese boat people by air recently?

SECRETARY FOR SECURITY: Yes, Sir, we were aware of the agreement which had been drawn up with the Vietnamese authorities.

MRS. CHOW: Sir, a senior official of the Vietnamese Government was reported to have said that the returnees who did not return to Vietnam willingly will be sent back to Hong Kong. Can the Secretary inform this Council whether the agreement ensures that no boat people sent back so far and in future on any programme of mandatory repatriation will be sent back to Hong Kong?

SECRETARY FOR SECURITY: Sir, as stated in my reply, it is not the practice for the details of bilateral agreements of this sort to be made public. But I think it must be accepted that the reception and the acceptance by the Vietnamese authorities of the first group repatriated speaks for itself.

MR. PAUL CHENG: Sir, in view of recent reports that the Vietnamese Government no longer considers the repatriation resettlement allowances to be sufficient, putting the policy of mandatory repatriation in jeopardy, would the Administration comment on what implications this has on the agreement made between the Vietnamese and the British Governments?

SECRETARY FOR SECURITY: Sir, we have received no formal notice that the amounts of reintegration assistance are judged to be inadequate. Perhaps for the benefit of Members I will mention what they cover -- transport within Vietnam, food (that is, rice, the staple diet) for up to one year, medicine, domestic appliances, housing, resettlement where necessary if during their absence from Vietnam their house has been demolished or fallen down, vocational training, job placement, production tools, and administrative costs. These will be paid according to need, and as I said, accounted for by the Vietnamese authorities to the British and thereby the Hong Kong Government.

MR. MICHAEL CHENG (in Cantonese): Sir, will the Government inform this Council whether the agreement reached between the British and Vietnamese Governments has

taken into account the repatriation first of those boat people who have committed crimes or caused troubles in Hong Kong as well as those dangerous elements who have criminal records in Vietnam; and whether the agreement has proposed a schedule laying out a certain time by which all the Vietnamese boat people stranded in Hong Kong should be repatriated?

SECRETARY FOR SECURITY: Sir, the answer to both parts of that question is no.

MR. TAI: Sir, could I ask if there is any provision in the agreement preventing Vietnamese people from coming to Hong Kong illegally?

SECRETARY FOR SECURITY: No, Sir, there is nothing in the agreement referring to that. But the Comprehensive Plan of Action, to which both the United Kingdom Government and the Socialist Republic of Vietnam are each a party, has as one of its specific components the responsibility for the Vietnamese authorities to control and to stem the exodus from Vietnam. So there is, if I may so put it, an international forum by which the Vietnamese Government can be pressed on this particular point.

MR. MARTIN LEE: Sir, having regard to the publicly stated intention of the Vietnamese Government that it would not accept any involuntary returnee if force had been used in removing him or her, will the Administration inform this Council whether any involuntary returnee will be physically carried onto a plane if he or she should sit on the ground while at the airport?

HIS HONOUR THE PRESIDENT: I think that question is a hypothetical question, Mr. LEE. If you would care to rephrase it in another way we will try to get an answer to it.

MR. MARTIN LEE: The first part of the question is a statement; that is not hypothetical, I take it?

HIS HONOUR THE PRESIDENT: The second part of the question is: "if something happens, what will we do?" Could you rephrase it another way please?

MR. MARTIN LEE: Very well. Having regard to the publicly stated intentions of the Vietnamese Government that they would not accept any involuntary returnees if force had been used in removing them, will the Administration inform this Council what it would do when the intended returnees sit on the ground at the airport?

SECRETARY FOR SECURITY: Sir, I would say that our police and Correctional Services personnel, who are well known for their great courtesy, would help them to their feet.

MR. TIEN: Sir, in view of the increasing number of violent incidents in the detention centres, does the Government have the intention of repatriating the trouble-makers first?

SECRETARY FOR SECURITY: No, Sir, that is not the case. We are returning people approximately in the order in which their appeals are dealt with.

MR. SIT: Sir, from the Secretary's reply to my question, do I assume correctly that the Executive Council fully endorses the agreement on the subject of mandatory repatriation?

SECRETARY FOR SECURITY: Sir, I must assume that is the case, otherwise I am sure I would have got into trouble.

#### Private sector retirement scheme

7. MR. HUI asked: In view of Government's decision in 1987 not to set up a central provident fund or to make private funds compulsory, will Government inform this Council:

(a) whether measures have since been taken to encourage more private sector employers to set up retirement schemes for their employees, and if so, how effective these measures have been;

- (b) of the number of government-recognized retirement schemes set up by the private sector in the past three years and the number of beneficiaries of these schemes; and
- (c) what progress has been made on the introduction of a regulatory framework over private retirement schemes and provident funds to ensure that assets held under these schemes for the future benefit of employees are given proper protection ?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, over the past three years the Labour Department has been encouraging employers in the private sector to set up provident funds and other schemes of retirement benefit. The measures taken by the Department include the regular issue of newsletters designed to generate interest in provident funds and retirement schemes, and the hosting of conferences, seminars and exhibitions for those employers who have shown interest. The content of this promotional activity includes both helpful advice on the way in which such schemes can be set up and the tax benefits that would accrue to both employers and employees.

At the end of 1986-87, the number of retirement schemes approved by the Commissioner of Inland Revenue stood at 4 826. In the following two years the number of approved schemes increased by 976 and 1 379 respectively. In the first nine months of the current financial year, the number of approved schemes has grown by a further 1 079. These figures show a cumulative growth over the past 33 months of 3 434 approved retirement schemes, representing a growth of 71%. To this extent the promotional efforts of the Labour Department can be said to have been effective.

I am afraid I am not able to supply any details about the growth in the number of beneficiaries under these approved retirement schemes. This is because employers applying to the Inland Revenue Department are not required to supply details of the number of employees involved. Nevertheless, it is reasonable to assume that some of the approved schemes, particularly those operated by banks and insurance companies on behalf of a group of businesses, or those administered by trustees on behalf of an organized profession, cover very large numbers of employers and employees. According to a survey conducted by the Census and Statistics Department in July 1989, it is estimated that about 26 000 establishments in the private sector have set up retirement schemes which cover about 618 000 employees, or about 28% of all persons actually employed at that time.

As regards the last part of the question, proposals for legislation to regulate retirement schemes have now been formulated and drafting instructions issued. The

intention is to introduce a Bill into this Council during the current Session. The Bill would not specify levels of benefits, nor would it compel employers to set up retirement schemes. But it would ensure that the benefits accruing to employees would be paid when they fall due. Accordingly, the Bill would provide for the registration of retirement schemes, the separation of the assets of retirement schemes from those of the employer's business, adequate funding, the prudent investment of assets, prompt disclosure of relevant information, and the exposure of all schemes to annual audit and to periodic actuarial review.

MR. HUI: Sir, according to the Secretary's reply, there are at present only about 600 000 employees or about one quarter of all persons actually employed covered by some form of retirement scheme. Could the Government inform this Council whether it will adopt other measures to further encourage, stimulate, and promote retirement schemes, so that more workers in Hong Kong will be covered?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the Commissioner for Labour will continue to promote the worthwhileness of provident funds and retirement schemes. I have every confidence that these promotional activities will continue to be successful. In addition, I am sure that the introduction of prudential supervision of such schemes will, once it becomes law, inspire greater confidence amongst the workforce and employers in these schemes. Other than that, at the moment I see no pressing need to introduce fresh or additional measures. However, it would be useful for Members to bear in mind that provident funds and other contributory retirement schemes do not necessarily lend themselves to the entire workforce. They operate best in situations where employment and wages are regular. They do not necessarily lend themselves to the type of employment which tends to be irregular and where wages tend to vary. In the circumstances, the Labour Department is now considering a scheme by which long service payment entitlements could be improved, and both long service payment and severance pay entitlements might be more adequately secured in the event of companies becoming insolvent.

MR. PETER WONG: Would the Secretary for Education and Manpower explain why out of the estimated 26 000 establishments with retirement schemes only 8 260 are approved by the Inland Revenue Department? Have they been rejected as not fulfilling the rather basic criteria, or have the employers just not bothered and thereby deprived the beneficiaries of potential tax and other benefits?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am afraid I do not have the answer to that question. I can only assume at this stage that the promotional activities undertaken by the Labour Department take time -- they were introduced only as recently as late 1987. It is useful to note that the pace at which a number of schemes have grown and been approved by the Inland Revenue Department has been quite significant.

MR. McGREGOR: Sir, could the Secretary say why employers are not required to give important information, namely social statistics, on the number of people covered by provident funds which have been approved? It would seem to me to be entirely necessary to have these statistics.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am afraid I am not a fiscal expert, and therefore cannot answer that question precisely. The criteria by which approval is given are based on a number of fiscal and other considerations, but they do take into account such factors as the nature of benefit for employees and their dependants, and the definition of benefits in relation to the terms and conditions of employment involved, as well as the accruing of benefits on very clear retirement dates. The approval criteria therefore provide very adequate safeguards, much more adequate, I would have thought, than the Department actually knowing the number of contributors involved.

MRS. TAM asked (in Cantonese): Through the promotional efforts by the Labour Department, more private sector employers have acceded to setting up retirement schemes; nevertheless, we still have a very long way to go before achieving our goal. After the three-year promotion work, has the Government considered making it compulsory for private sector employers to set up such schemes? If not, why?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as I mentioned in my reply to the main question, the legislation that we are now contemplating for the prudential supervision of retirement schemes will make it necessary for all such schemes to be registered with an authority to be established. It is envisaged that it will be an offence to operate an unregistered scheme, and to gain registration a scheme must comply with certain minimum requirements.

MR. TAM asked (in Cantonese): Sir, the Secretary considers that long service payment entitlements can replace retirement schemes. Under the long service payment scheme, however, the payment is limited, based as it is on the employee's active working years, length of service and age. In such circumstances, how can long service payment entitlements replace retirement schemes? Would the Secretary please explain?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think Mr. TAM has misunderstood what I have said. I did not say that long service payment entitlements can replace the need for retirement schemes. What I said was that provident fund schemes and contributory retirement schemes tend to operate more efficiently in situations where employment is steady, regular, and where wages tend to be constant. Where employment involves shifts or overtime that tends to be irregular, or part-time, or where wages tend to show differences from day to day, then contributions towards superannuation are going to be that much more difficult to administer. To that extent, I did not in any way suggest that long service payment entitlements can replace the need for retirement schemes. What I did say was that we within the Administration are contemplating improvements to long service payment entitlements, and these will be brought before this Council when they mature.

MR. LAU WAH-SUM: Sir, according to the last part of the reply, the proposed legislation will not specify the level of benefits. May I ask, Sir, whether consideration has been given to specifying at least a minimum level of benefits in order to make the schemes more effective?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I do not have a ready answer to the question. The scheme is being drawn up within the Monetary Affairs Branch, but I will ensure that this question is properly considered.

MR. CHOW asked (in Cantonese): Sir, the promotional efforts by the Labour Department have been in fact to little avail. In face of the financial pressure from enormous infrastructural developments in the future and a growing population of old people, should the Government not speed up legislation to make the setting up of provident

fund schemes compulsory in order to relieve itself of the financial pressure from the provision of welfare for the elderly?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am afraid Mr. CHOW is trying to re-open an issue that was decided in 1987. The decision of the Government at that time was that we would not contemplate making retirement or provident fund schemes compulsory. To do so would have the same effect as requiring the creation of a territory-wide provident fund.

MR. MARTIN LEE: Sir, having regard to the well acknowledged emigration tide in Hong Kong in the run-up to 1997 consisting of many more employers than employees, does the Administration not consider it prudent to review its policy decision made in 1987, which was well before the tragic events of June 4, of not setting up a central provident fund?

SECRETARY FOR EDUCATION AND MANPOWER: Again, Sir, I am afraid I do not have a ready answer to a question as profound as Mr. LEE's. I think a review of the decision taken in 1987 will have to depend on the efficacy or otherwise of the decision not to introduce a central provident fund but to do something else. Now, it will be necessary in my view to review the alternative arrangements which the Administration decided to introduce at that time, and only when we are satisfied in our minds that these alternative arrangements are not working well would the 1987 decision be then reviewed.

MR. TIEN: Sir, other than encouraging employers in the private sector to set up provident or retirement funds by the hosting of conferences, seminars and exhibitions, will the Administration inform this Council whether more concrete measures such as tax benefits for employers who set up these funds will be introduced?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the very fact that employers made contributions to superannuation schemes like provident funds already qualifies those contributions for tax relief because they are items of business expenditure.

MR. McGREGOR: Sir, with respect, although a great deal of information was provided, the Secretary did not answer my earlier question. All I was asking was whether those rather important social statistics such as the numbers of people actually coming within provident fund schemes could not be required of the employer by the Government?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I would be grateful if Mr. McGREGOR could once again explain for my benefit the significance of that step he is suggesting?

MR. McGREGOR: It would not be a question, Sir. The significance is that we are using estimates based on what the Secretary and his Branch think may be the number of employees the employers are employing. It would be a very simple thing, Sir, if the Government would require employers to state the number of employees covered by approved schemes. We would then have very specific social statistics.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I shall bear in mind that worthwhile suggestion and convey it to the Commissioner of Inland Revenue.

MR. ARCULLI: Sir, perhaps I can help Mr. McGREGOR. Would the Secretary for Education and Manpower consider including in the proposed legislation for prudential supervision of retirement schemes a requirement for the disclosure of the vital statistics that Mr. McGREGOR suggested, and more importantly, would the Secretary also ensure that the proposed legislation is simple and effective, so as not to discourage further schemes?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the short answer to the first part of the question regarding disclosure is in the affirmative. If the disclosure by employers of the number of contributors involved in their schemes is germane to information about the viability of the schemes, to that extent the requirement could be considered in the drafting of the legislation. The answer to the second part of the question, that is, whether legislation would be simple and effective is again: yes. We will exercise our best endeavours to make it so.

8. MRS. LAM asked (in Cantonese): Will Government inform this Council whether consideration will be given to empowering the Commissioner for Television and Entertainment Licensing to exercise censorial control over the public display of advertising and promotional materials relating to films that are permitted to be shown in cinemas?

SECRETARY FOR HOME AFFAIRS: Sir, before the Film Censorship Ordinance (Cap. 392) came into force in November 1988, posters, figures and advertisements relating to films intended for showing in cinemas were subject to censorship before they were allowed to be displayed.

In promulgating the Film Censorship Ordinance 1988, the Government sought to set out clear criteria within which the Censor is permitted to carry out his duties; and to introduce a more liberal approach towards film censorship thereby giving film producers greater freedom of expression and viewers greater freedom of choice. In the same spirit, the Government also took the view that the criteria and procedures for film censorship should not be applied to printed advertising materials and film stills which are not part of a film. Such promotional materials should more appropriately be controlled under the Control of Obscene and Indecent Articles Ordinance.

The Government considers that the above arrangements should continue and does not propose to introduce legislative changes to impose censorship on promotional materials on films.

MRS. LAM (in Cantonese): Sir, the Secretary for Home Affairs mentioned in the third paragraph of his reply that Government has no intention to exercise control over these film advertising and promotional materials. But repeated complaints by schools recently, particularly those in Yuen Long, have pointed out that advertisements displayed in the lobbies of those cinemas showing Category III movies have had serious psychological influence on students in the vicinity, thus leading to undesirable consequences. Could Government inform this Council whether it is aware of such incidents? If so, will it reconsider amending the Ordinance or introducing special measures in order to reduce the undesirable influence on students?

SECRETARY FOR HOME AFFAIRS: Sir, what I said was that this sort of material would be controlled under a different Ordinance, the Control of Obscene and Indecent Articles Ordinance. Sir, we are well aware of the concern conveyed by Mrs. Peggy LAM. The Commissioner for Television and Entertainment Licensing indeed has held two meetings with the trade and has administered seven oral warnings and many warning letters, totalling 31, to cinema managers and film distributors. In addition, two cinema managers have been fined under the Ordinance; each was fined over \$1,000. So the Government is well aware of the concern and is taking action on it.

MR. DAVID CHEUNG: Sir, Category III films cannot be seen by children and young people under the age of 18 because theoretically they cannot enter the cinema to see the film. But the advertising and promotional material displayed publicly outside the cinema house or in the newspaper can be seen by all. Will the Secretary inform this Council whether he is satisfied that the advertising and promotional material, some of which is highly suggestive in nature, has no harmful effect on young people and therefore warrants no control?

SECRETARY FOR HOME AFFAIRS: Sir, the judgement as to whether or not a particular piece of material is obscene or indecent is a matter for the Obscene Articles Tribunal. When these materials are referred to the Tribunal a judgement will be made and action taken accordingly. I suppose if a Category III film were reproduced into an advertisement and displayed outside a cinema I would imagine that this would come very close to indecent material. However, the trade generally has been very careful in displaying these materials and I understand that much of what might otherwise be in a Category III film when displayed in public is covered.

MRS. CHOW: Sir, is Government satisfied that the control under the Ordinance now, which depends on public complaints, is well known to the public, and whether those who wish to raise such complaints are well aware of the avenue available to them?

SECRETARY FOR HOME AFFAIRS: Sir, the public, I think, are well aware of the avenue for complaint and the avenue for complaint is much used.

Written answers to questions

## Localization of the Civil Service

9. MR. POON CHI-FAI asked: In view of the discontent openly expressed by some officers of the Buildings and Lands Department and the Environmental Protection Department on various occasions against the employment of certain expatriate officers in their departments which may hinder the progress of localization which has become increasingly important to Hong Kong in the run-up to 1997, will Government inform this Council of the progress of localization in the Buildings and Lands Department, the Environmental Protection Department and other departments with a significant number of expatriate officers such as the Royal Hong Kong Police Force?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, localization of the Civil Service is a long established policy. It has been implemented by giving preference and priority to local candidates at the appointment stage. Overseas officers are recruited only when sufficient numbers of suitably qualified local candidates are not available.

At the inception of localization in the 1950s, overseas officers constituted about 4% of the strength of the Civil Service. The percentage has shrunk considerably over the years. As at 1 October 1989, the number of overseas officers was 2 543, which accounted for 1.4% of the strength of the Civil Service.

The Joint Declaration provides that overseas officers may continue to be employed after 1997, with the exception of a small number of very senior posts. While there have been no major changes in localization policy following the Joint Declaration, additional localization measures are introduced where necessary. Since 1985, all overseas officers have been appointed only on agreement terms. Agreements of overseas officers will only be renewed if they are not blocking the promotion of capable local officers. Steady progress has been achieved since 1985: there has been a decrease of about 0.1% of the total proportion of expatriates in the Civil Service per year.

There are currently four professional grades in the Buildings and Lands Department (BLD) which employ overseas officers, namely, Building Surveyors, Estate Surveyors, Land Surveyors and Structural Engineers. Manpower planning reviews of these grades are being conducted annually to assess the need for retaining those overseas contract officers whose agreements are due to expire. The aim of these

reviews is to effect a gradual implementation of the localization policy while at the same time ensuring that the operational efficiency of the department will not be unduly affected in the process. Localization of the four professional grades in BLD has accordingly been progressing steadily over the years. A comparison of the existing number of overseas agreement officers with that in 1985 shows that the percentage of overseas contract officers has dropped significantly for most of the grades, from 18% to 6% for the Building Surveyor Grade, 52% to 35% for the Estate Surveyor Grade, 33% to 14% for the Land Surveyor Grade and 36% to 12% for the Structural Engineer Grade.

The differences in the rate of progress of localization between different grades does not reflect different policies, but rather the availability of local officers with appropriate levels of experience and skills to fill posts vacated by overseas agreement officers.

It is the department's long-term policy to localize the four professional grades as far as possible. However, because of the relatively high wastage rate in recent years and the fluid supply situation in respect of local officers, the process can only be carried out gradually. Nevertheless, the department regularly reviews and monitors the progress and pace of localization in response to changing circumstances and service needs with a view to achieving the target as soon as practicable.

The Town Planner Grade formerly of the Buildings and Lands Department and now of the recently created Planning Department, has followed a localization policy which has resulted in the percentage of overseas officers on agreement terms falling from 21% in 1985 to 4% at present.

Environmental protection is a relatively recent professional activity in Hong Kong and so there was relatively little experience to draw on initially. For this reason, most of the senior posts were filled by expatriate officers who had the necessary experience in the field. The rapid growth of the Environmental Protection Department has meant that experienced officers, whether local or expatriate, have been spread ever more thinly. Nevertheless the percentage of expatriate officers has dropped rapidly over the past nine years, as the following table shows, although the absolute numbers, which are small, have increased.

Expatriate at SEPO rank and above as a % of total SEPO and above	82%	61%	10%
Total professional (i.e. EPO grade) expatriate staff as a % of total professional staff	47%	18%	9%
Absolute number of expatriates	9	14	22

In the past five years there has been only one overseas recruitment exercise, which was to fill one specialist Senior Environmental Protection Officer position.

The Royal Hong Kong Police is following a phased localization strategy which whilst not depriving expatriate officers of the chance of properly developed careers in the Force is intended to ensure that leadership in the senior ranks is predominantly local by the year 2000. A further aim was to have a local Commissioner by the year 1995, an aim which has already been achieved. Suitable overseas training courses and secondments to the United Kingdom police are in progress with a view to achieving this end.

The following table shows the change in the situation over the past 10 years:

#### 1.1.1980

	SP	SSP	CSP	ACP	SACP/DCP/CP
Local	35 (22.2%)	10 (18.2%)	2 (8.7%)	2 (22.2%)	0 (0%)
Overseas	123	45	21	7	9
	158	55	23	9	9

#### 1.1.1990

SP	SSP	CSP	ACP	SACP/DCP/CP
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Local	141 (44.7%)	24 (24.2%)	12 (22.6%)	4 (28.6%)	2 (25%)
Overseas	174	75	41	10	6
	315	99	53	14	8

It is expected that by the year 2000 local officers will have progressed further in their careers and that the principal aim will have been met.

The Government does not intend to change its long-established localization policy in the run-up to 1997. Management succession planning and training for officers of potential will continue to be used to identify and develop suitable local officers to fill senior positions as these become available.

#### CAAC airliner accident at Kai Tak Airport

10. MR. PETER WONG asked: Will Government inform this Council of the progress regarding the investigation into the Civil Aviation Administration of China (CAAC) accident that took place at the Kai Tak Airport on 31 August 1988 in which seven people were killed and 15 others were injured, and of the significant findings made in the consultancy report on the accident?

SECRETARY FOR ECONOMIC SERVICES: I should like first of all to clarify that six crew members of the plane were killed in the accident referred to in the question and 13 passengers were injured (one of whom died later from injuries sustained in the accident).

In accordance with the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (the Regulations), the Chief Inspector of Accidents announced in Gazette Notice 467 of 1988 the commencement of an Inspector's Investigation into the accident concerned. The draft accident report of the Inspector is now complete and, in accordance with regulation 11(1) of the Regulations, copies will shortly be passed to the operator, the next-of-kin of the commander, and persons whose reputation is likely to be adversely affected by the report. These persons will then have 28 days in which to submit to the Inspector any representation they may wish to make.

Regulation 21 provides for this period to be extended if necessary and experience shows that such an extension may be necessary for as long as six months.

Any representations made will be taken into consideration by the Inspector before he finalizes his report. The Director of Civil Aviation will forward the final report to the Governor and, at the same time, copies will be sent to all those who received copies of the draft report in accordance with regulation 11(1). If any of those persons considers that the final report has not fairly taken into account his or her representations, that person may apply, under regulation 12, for the relevant findings and conclusions of the report to be reviewed by a Board of Review.

In accordance with regulation 15, the Governor shall, unless there are reasons to the contrary, arrange for the Inspector's report and the report of any Board of Review that may have been held to be published either in whole or in part, as he thinks fit.

I have set out this procedure in order to explain that it is not possible to forecast at this stage with any degree of accuracy if, when and how the accident report will be published. It is, however, unlikely that anything would be available for publication much before the end of 1990. This timescale is not unusual, since such reports normally take two to three years to finalize. By way of comparison, in the case of the last major accident involving a Lufthansa plane at Kai Tak on 18 October 1983, the investigation report took slightly over three and a half years to complete.

#### Family life education

11. MR. HUI asked: In view of the increase in cases of divorce, child and spouse abuse, juvenile delinquency and neglect of the elderly in recent years, will Government inform this Council whether there are plans to strengthen family life education service in Hong Kong, such as by improving the manning ratio of family life education workers which was set 10 years ago?

SECRETARY FOR HEALTH AND WELFARE: Family life education service has been, and will continue to be, an important service. It aims to improve the quality of family life, promote interpersonal relationships and prevent family problems. There are plans to strengthen family life education service. A Programme Committee on Family Life

Education, with representatives from the Social Welfare Department and the voluntary sector, has been newly set up, to examine existing policy, service delivery model and manning ratio with a view to strengthening the service and to give central directives to steer the development of family life education service.

At present, family life education is directed at all members of society, at a manning ratio of one family life education worker at Assistant Social Welfare Officer level to 100 000 population. There are altogether 13 agencies subvented with a total of 56 family life education workers to serve the total population of 5.7 million. Although a revised manning ratio of 1:50 000 was recommended in the 1981 Programme Plan Review on Personal Social Work Among Young People, it cannot be implemented due to resource constraints. For 1990-91, it is planned to have three additional family life education workers, and funds are being sought for this purpose. It is hoped that improvements will continue to be made progressively in this important area of preventive service.

#### Engagement of consultants by Government

12. MR. DAVID CHEUNG asked: Will the Administration inform this Council which Government authorities are responsible for deciding on the engagement of outside consultants for government projects; how Government ensures that consultants are engaged in a cost-effective manner and only where their expertise is not available within the Civil Service; and what procedure is followed before financial approval for their engagement is given?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, before answering the specific question raised by Mr. CHEUNG about the employment of consultants for government projects, I would like to make a general point. The hiring of consultants is, like the employment of staff, a commercial process and is only done when Government can show firstly that it needs a job done and secondly that the best way of doing that particular job is by hiring consultants rather than either using existing staff or by employing additional staff.

The selection, appointment and remuneration of consultants is subject to the approval of the Secretary for the Treasury. This authority has been delegated to the Engineering and Associated Consultants Selection Board for engineering projects,

and to the Architectural and Associated Consultants Selection Board for building projects. Also, the Housing Department Engineering Specialists Review Committee recommends the appointment of civil engineering consultants to the Building Committee of the Housing Authority for approval. This is independent of the Secretary for the Treasury's approval.

The need to employ consultants is first established before seeking the approval of a selection board. Usually the need arises where the necessary expertise is not available within the particular department, or where existing staff resources are inadequate for the department to undertake the work. But there may also be other reasons, such as to accelerate time scales or to cope with a fluctuating demand for resources. The authority to use consultants is usually obtained through a submission to the Public Works Sub-Committee at which time full justification is provided.

Funds for employing consultants may be provided through inclusion of the project in the Public Works Programme, from a block vote for such purpose, or from a recurrent vote. Under no circumstances are agreements entered into without prior approval of funds.

Fees paid to consultants are based on one of three standard methods of remuneration. The majority of projects are undertaken on the basis of a standard scale which specifies the fees as a percentage of the construction cost, with the percentage decreasing as the construction cost increases. Where a consultancy is a feasibility study, the fee is usually negotiated as a fixed sum calculated on the basis of staff resources used on the study. In some cases a consultant is paid for his services on a "time charge" basis, by which he is reimbursed at fixed hourly rates for the staff employed on the project. All fees are subject to negotiation between the department concerned and the consultant, and approval by the selection board.

The cost effectiveness of a consultant is ensured, as far as possible, by proper management by professional staff of the client department. Performance of consultants is regularly monitored and reported. Suitability for further government work depends on effective performance on existing or recent assignments.

We are currently looking at the overall employment of consultants with a view to devising a system for payment and control which will ensure even greater incentive to achieve efficient, cost effective works which at the same time fully comply with required standards.

#### Unauthorised tampering with computer data

13. MRS. FAN asked: Will Government inform this Council whether there is any law at present to provide criminal sanctions against an employee who makes unauthorized alterations or erasures to a computer programme or data in his employer's computer which involve no apparent physical damage to it?

SECRETARY FOR HOME AFFAIRS: Sir, there is currently no specific legislation providing criminal sanctions against the conduct mentioned by Mrs FAN. However, any person committing such acts may be liable to prosecution under existing criminal law subject to the circumstances in which the acts are committed. For example, a charge of false accounting could be levelled at a dishonest payroll clerk who programmed his firm's computer to increase his own monthly pay.

Up to now there is little evidence that computer-related crime, including unauthorized alterations or erasures of computer programmes or data, poses a major problem in Hong Kong. However, as the use of computers in both the Government and the private sector becomes more extensive, there is a risk that they may be used for dishonest purposes. This has happened in other technologically advanced societies.

Accordingly, draft legislation is now being prepared to specifically cover crimes involving the use of computers.

#### Criminal elements in Vietnamese boat people camps and detention centres

14. MRS. TU asked: Will the Government inform this Council how many known or alleged criminals wanted for serious crimes in Vietnam, such as murder, drug-trafficking and corruption, are at present continuing their criminal activities in the camps and detention centres in Hong Kong, and will the Government take action to segregate these persons in separate camps or centres to prevent them intimidating other boat people as well as staff at the camps and detention centres?

SECRETARY FOR SECURITY: Sir, there is no reliable way of identifying boat people in

our detention centres and refugees camps who are known, or alleged, to have been involved in and wanted for serious crimes in Vietnam. Criminal records from Vietnam are not available and there is no means of verifying the comprehensiveness or validity of answers given by boat people during their screening interviews. A number of offences, however, are sometimes admitted and steps are being taken to check on the details and nature of these in relation to the conduct of those concerned in the detention centres.

During their stay in Hong Kong Vietnamese boat people are subject to the laws of Hong Kong in the same way as other members of the community. Their conduct in the detention centres is also subject to regulations provided by the Immigration (Vietnamese Boat People) (Detention Centre) Rules 1989 made under section 13H of the Immigration Ordinance (Chapter 115).

Irrespective of their previous background, any boat people held at detention centres or refugees camps who are suspected of having committed an offence under Hong Kong law will be referred to the police for investigation and dealt with through the due process of law. If convicted and given custodial sentences, such persons will be sent to prison.

Any boat people in detention centres who are found to have infringed the detention centre rules will be dealt with under the provisions of those rules. Section 37(1) of the rules empowers the Superintendent of a centre to order a detainee who commits any offence against discipline to be punished by separate confinement. The purpose of separate confinement is to discipline the offender and to prevent him or her from continuing to cause trouble or intimidating other boat people as well as staff at the centre. Separate confinement can take place within the same centre in purpose-built segregation units or in units in other centres. To reinforce our ability to deal with offenders through separate confinement, consideration is being given to the provision of separate accommodation and additional segregation spaces.

#### First Reading of Bills

COMPANIES (AMENDMENT) (NO. 2) BILL 1989

HONG KONG EXPORT CREDIT INSURANCE CORPORATION (AMENDMENT) BILL 1989

ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 1989

EMPLOYMENT (AMENDMENT) BILL 1989

HONG KONG SPORTS DEVELOPMENT BOARD BILL 1989

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

#### Second Reading of Bills

COMPANIES (AMENDMENT) (NO. 2) BILL 1989

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

He said: Sir, I move that the Companies (Amendment) (No. 2) Bill 1989 be read the Second time.

The purpose of this Bill is threefold: first, to increase certain penalties prescribed by the Companies Ordinance; secondly, to impose a one-time fine for continuing default cases; and lastly, to streamline the arrangement for prescribing penalties in the Companies Ordinance.

#### Increase in penalties

We have recently carried out a comprehensive review of the level of penalties prescribed by the Companies Ordinance. As a result, we consider it necessary to increase certain penalties in order to enhance their deterrent effect. In general terms, the proposed increases relate to four classes of offence: first, those for which the existing penalty is insufficient to serve any useful purpose; secondly, those involving prospectuses; thirdly, those involving the making of untrue statements or the giving of false information; and lastly, those which need to take account of inflation as well as the nature of particular offences.

#### One-time fine

At present, the Ordinance prescribes only a daily fine for continuing default

cases. We propose to add a one-time fine to acknowledge the two aspects of a continuing default offence, namely, the initial commission of the offence and its continuation. This follows the approach in other relevant Hong Kong legislation.

#### New consolidated schedule of penalties

The penalties for the various offences are currently set out in the relevant sections of the Ordinance. We propose to consolidate details of these offences and corresponding penalties in a new schedule. This will facilitate reference and simplify the amendment procedure.

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

Question on the adjournment proposed, put and agreed to.

#### HONG KONG EXPORT CREDIT INSURANCE CORPORATION (AMENDMENT) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Hong Kong Export Credit Insurance Corporation Ordinance."

He said: Sir, I move that the Hong Kong Export Credit Insurance Corporation (Amendment) Bill 1989 be read the Second time.

Section 17(2) of the principal Ordinance provides that the appointment by the Corporation of an officer whose salary exceeds \$85,000 a year should be subject to the approval of the Governor. This was designed to ensure some control over the appointment of the more senior officers of the Corporation. When the section was last amended, the salary point specified was that of a Senior Administrative Officer in the Civil Service.

A recent review of section 17(2) of the Ordinance, which has not been amended since 1974, revealed that, with the upward revisions in salary in the public sector since 1974, the specified salary level of \$85,000 has been surpassed not only by the Chief Officer, a rank equivalent to a Senior Administrative Officer, but also by many officers below that rank. This has resulted in an unnecessary widening of the scope of government control over the Corporation's employment of officers.

The Bill proposes to replace the salary level by a clause to the effect that only appointments of officers with an annual salary equivalent to or above that of a Senior Administrative Officer in the public service should be subject to the approval of the Governor. The deletion of a specific figure would obviate the necessity for periodic amendments to the section as and when salaries are adjusted.

The Hong Kong Export Credit Insurance Corporation supports this proposal.

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

Question on the adjournment proposed, put and agreed to.

#### ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 1989

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to amend the Criminal Procedure Ordinance, the Magistrates Ordinance and the District Court Ordinance."

He said: Sir, I move that the Administration of Justice (Miscellaneous Amendments) Bill 1989 be read a Second time.

The object of this Bill is to amend the Criminal Procedure Ordinance, the District Court Ordinance and the Magistrates Ordinance in order to remove some legal anachronisms and to improve the administration of criminal justice. None of the proposals is particularly novel or radical but they are nonetheless important because they have the effect of modernizing and making more efficient some areas of the criminal law which are sometimes overlooked when other more substantial changes are being planned. I hope to introduce one or two Bills a year like this one with a view to improving further all aspects of criminal procedure.

Clause 2 of the Bill amends section 9B of the Criminal Procedure Ordinance so as to remove a prohibition on defendants and private prosecutors from claiming the standard witness allowance in respect of the time they attend court. They will now be entitled to an allowance if successful in their defence or prosecution. A further change will ensure that public servants will now be entitled to claim an allowance if they incur personal expense in attending court as prosecution or defence witnesses. But this will not apply to police or Correctional Services officers unless attending in their private capacity.

Clause 3 seeks to bring about improvements to the procedures to be followed when an indictment may be preferred against a person committed for trial in the High Court. The amendment enables the prosecution to add further counts to an indictment after committal for trial by a magistrate even though the new charges were not the subject of the committal proceedings so long as the new offences were, in fact, disclosed in the papers used in the committal proceedings.

Clauses 4 and 6 remove references to the "sessions" jurisdiction of the High Court. The reference to "sessions" is meaningless and should be removed because no criminal court in Hong Kong now sits in "sessions".

Clause 5 repeals in its entirety section 67 of the Criminal Procedure Ordinance. This contains special measures to deal with cases of larceny, embezzlement and other common law offences of dishonesty. These old common law offences were abolished in 1970 by the Theft Ordinance. Section 67 no longer serves any function.

Clause 7 amends section 109AA of the Criminal Procedure Ordinance which deals with the circumstances when supervision orders are made. The law requires that "aftercare" orders be made in respect of certain categories of young prisoners. It is pointless making such an order in respect of a person who is to be removed or deported from Hong Kong. This clause therefore amends the section so as not to require the making of an order in these circumstances.

Clause 8 amends section 80B(2)(b) of the Magistrates Ordinance which requires all statements used in committal proceedings to be signed by the maker with an endorsement to the effect that they understand that making a statement which they know to be false or do not believe to be true is a criminal offence under section 33 of the Crimes Ordinance. Section 33 prohibits the making of false statements which are used in committal proceedings or which are agreed by the prosecution and the defence.

However, very few statements taken by the police end up as being used in committal proceedings or are agreed in evidence. Most are used for operational purposes or form the basis of prosecutions before a magistrate or in the District Court. In such circumstances the endorsement required by section 80B(2)(b) is really quite meaningless. It was decided therefore that the endorsement should be broadened in its terms so as to be capable of application to all circumstances. It is therefore proposed that the maker of a statement will be asked to acknowledge that making a

statement which he knows to be false or does not believe to be true may render him liable to prosecution for a criminal offence. This covers the situation contemplated by section 33 and also the person who wastes police time or attempts to pervert the course of justice.

Clauses 9 and 10 of the Bill extend alibi provisions to accused persons who are tried in the District Court. This brings the practice of the District Court into line with that of the High Court where, since 1971, an accused person who wishes to use the defence of alibi is obliged to give notice of that fact to the prosecution so that the particulars of the alibi can be checked. If enquiries reveal that the alibi is likely to be true then the prosecution will be discontinued and much time and expense saved.

Clause 11 seeks to enable District Court judges to impose terms of imprisonment which are concurrent or consecutive to each other. At present a District Court judge may only impose consecutive terms of imprisonment.

The legal professions have been consulted on all of the proposals save for that relating to the discharge of supervision orders. They are broadly in agreement with them all.

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

Question on the adjournment proposed, put and agreed to.

#### EMPLOYMENT (AMENDMENT) BILL 1989

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employment Ordinance."

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

The Employment Ordinance now covers all manual employees regardless of wage levels. It also covers non-manual employees whose monthly wages do not exceed a wage ceiling of \$11,500. As the distinction between manual and non-manual employees has become out-dated, the Bill seeks to remove it so that all employees would in future be protected by the Ordinance.

Removing the distinction between manual and non-manual employees, however, would have the effect of increasing employers' long service payment and severance payment liabilities towards non-manual workers who are paid above the current wage ceiling. This is unacceptable to employers generally, on the grounds that employees whose monthly wages exceed the current wage ceiling are usually and adequately protected by contracts of employment that provide for retirement benefits. Accordingly, the Bill proposes that wages in excess of the ceiling should not be taken into account in the calculation of long service payments and severance payments. The Bill also proposes to lift the wage ceiling from \$11,500 to \$15,000, in line with wage movements since May 1987, when the current ceiling was fixed.

Secondly, the Ordinance protects employees who are on continuous contracts of employment. At the present time an employee with a continuous contract of employment is defined as one who has been employed for four consecutive weeks, within which he has been working for not less than three days a week and not less than six hours a day. This rigid definition has had the effect of excluding from the protection of the Ordinance many part-time employees who are in fact being employed on a regular basis, such as half-day school teachers and part-time workers in fast-food shops. The Bill seeks to revise the definition of continuous contracts of employment to cover all employees who have worked for not less than 18 hours a week within a period of four consecutive weeks, so that regular part-time employees would also be protected by the Ordinance.

A third area of improvement can be found in the revised definition of lay-off. At the present time, an employee whose earnings depend on the amount of work provided by his employer -- as distinguished from an employee who is paid on a monthly basis -- is deemed to be laid off, and hence entitled to severance payment, if the employer does not provide work for him on more than 12 normal working days within a period of four consecutive weeks. This definition stems from the assumption that employees could reasonably expect the employer to provide them with work for 24 days in a period of four consecutive weeks, so that any employee who is provided with work for less than half of this number of normal working days in such a period would be regarded as having been laid off. This definition, however, has been found to be inflexible. It has worked to the disadvantage of those employees who are usually provided with work for more than 24 days over any period of four consecutive weeks. Conversely, it has worked to the disadvantage of employers who usually provide work for less than 24 days over the same period of time. The Bill, therefore, seeks to remove the inflexibility and to re-define lay-off as meaning a situation in which the employer

fails to provide work on more than half of the number of normal working days in a period of four consecutive weeks. Moreover, to protect employees from prolonged under-provision of work, the Bill further proposes that an employee would also be regarded as having been laid off if no work is provided on more than one-third of the number of normal working days in a period of 26 consecutive weeks.

Fourthly, the Bill removes an ambiguity regarding the protection of pregnant employees against dismissal. Doubts have been raised as to whether an employee who has given notice of her intention to take maternity leave is protected from termination of employment unless she has completed a qualifying period of service. The Bill makes it clear that an employee who has completed a qualifying period of 12 weeks of continuous employment would be entitled to protection.

Finally, the Bill introduces a number of miscellaneous amendments. They include the requirement that where there is a contract of employment in writing, the employer should provide the employee with a copy of the contract. The Bill makes it clear that holiday pay shall be a sum equivalent to the wages earned by the employee on a full working day. It also provides that long service payments and severance payments may be offset by the employer's contribution to pension schemes and retirement schemes.

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

Question on the adjournment proposed, put and agreed to.

#### HONG KONG SPORTS DEVELOPMENT BOARD BILL 1989

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: "A Bill to establish a board for the purpose of the development of sport and physical recreation and for incidental matter."

He said: Sir, I moved the Second Reading of the Sports Development Board Bill 1989 which seeks to establish a statutory corporation to be known as the Hong Kong Sports Development Board. On 1 November 1989 a Provisional Sports Development Board was established and assumed the powers and functions of the former Council for Recreation and Sport which was thereupon dissolved.

The functions of the Board are to promote development of sport and physical recreation in Hong Kong, and to engage in activities in support of such promotion. Section 5 of the Bill sets out the powers of the Board and provides the terms of reference under which the Board will operate. Unlike the Council for Recreation and Sport, this Board will assume executive functions, including the allocation of funds, the establishment of its own working procedures, and appointment of staff. It will also be given the power to raise funds, either through donations or sponsorship, to supplement the subvention allocated by Government.

The Board will have non-official chairman and vice-chairman and not more than seven other members to be appointed by the Governor. In addition, the President of the Amateur Sports Federation and Olympic Committee of Hong Kong and the Chairmen of the Urban Council and Regional Council or their representatives will be ex-officio members. These appointments will ensure that there is close liaison and co-operation between the various agencies providing sports and recreation services in Hong Kong. A public officer will also be appointed by the Governor to be a member of the Board to represent the interest of the Government.

It is intended that the Board should start functioning from 1 April 1990, provided, of course, the necessary legislation can be enacted before then.

Sir, I move that the Second Reading of the Bill be now adjourned.

Question on the adjournment proposed, put and agreed to.

#### CENSUS AND STATISTICS (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 6 December 1989

Question on the Second Reading of the Bill 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.

CENSUS AND STATISTICS (AMENDMENT) BILL 1989

Clauses 1 to 4 were agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

CENSUS AND STATISTICS (AMENDMENT) BILL 1989

had passed through Committee without amendments. He moved the Third Reading of the Bill.

Question on the Third Reading of the Bill proposed, put and agreed to.

Bill read the Third time and passed.

Private Bill

Second Reading of Bill

THE HONG KONG INSTITUTE OF ARCHITECTS INCORPORATION BILL 1989

Resumption of debate on Second Reading which was moved on 6 December 1989

Question on the Second Reading of the Bill 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.

THE HONG KONG INSTITUTE OF ARCHITECTS INCORPORATION BILL 1989

Clauses 6 to 8 and 10 were agreed to.

Clauses 1 to 5, 9, 11 and 12

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

Proposed amendments

Clause 1

That clause 1 be amended by deleting "1989" and substituting "1990".

Clause 2

That clause 2 be amended, in the definition of "member" (會員) --

- (a) by adding "currently" before "included"; and
- (b) by deleting "for the time being".

Clause 3

That clause 3(3) be amended by deleting "hereof".

Clause 4

That clause 4(3) be amended,

- (a) by adding "資格可" after "具備"; and

(b) by deleting "的資格".

#### Clause 5

That clause 5 be amended,

(a) by deleting "⑨" where it first appears and substituting ","; and

(b) by deleting "學會尤其可以--" and substituting "尤其可以--".

#### Clause 9

That clause 9(a) be amended by deleting "or" and substituting "and".

#### Clause 11

That clause 11(5) be amended,

(a) by deleting "section 305" and substituting "section 304"; and

(b) by adding "under section 305" after "for the inspection of a document".

#### Clause 12

That clause 12(a) be amended,

(a) by deleting "政治團體" and substituting "政治體"; and

(b) by deleting "但本條例內所提及的或所指的人(1)以及依附⑩通過⑩由於或從屬這些人而提出聲請的人除外" and substituting "但本條例述及的人士及透過彼等或向彼等提出要求的人士除外".

Question on the amendments proposed, put and agreed to.

Question on clauses 1 to 5, 9, 11 and 12, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bill

MR. EDWARD HO reported that the

THE HONG KONG INSTITUTE OF ARCHITECTS INCORPORATION BILL 1989

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

Question on the Third Reading of the Bill proposed, put and agreed to.

Bill read the Third time and passed.

Adjournment and next sitting

HIS HONOUR THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 17 January 1990.

Adjourned accordingly at half past Four o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Hong Kong Sports Development Board Bill 1989 and the Hong Kong Institute of Architects Incorporation Bill 1989, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.