

1 HONG KONG LEGISLATIVE COUNCIL -- 12 December 1990

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 12 December 1990

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE CHIEF SECRETARY and

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 ALLEN LEE PENG-FEI, C.B.E., 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.

DR THE HONOURABLE HENRIETTA IP MAN-HING, O.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, O.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 Financial Secretary doubled up as Chief Secretary

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

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE MRS ROSANNA TAM WONG YICK-MING, O.B.E., 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 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 RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE PAUL CHENG MING-FUN

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

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

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 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 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

THE HONOURABLE IAN ROBERT STRACHAN, J.P.
SECRETARY FOR SECURITY

ABSENT

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE TAI CHIN-WAH, J.P.

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

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

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS ANSON CHAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR LAW KAM-SANG

Papers

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

Subject

Subsidiary Legislation

L.N. No.

Employment Ordinance

Employment of Children (Amendment)

Regulations 1990..... 390/90

Insurance Companies Ordinance

Insurance Companies Ordinance

(Amendment of Third Schedule)

Regulations 1990..... 391/90

Arbitration Ordinance

Arbitration (Parties to New York Convention)

(Amendment) Order 1990..... 396/90

Import and Export (General) Regulations

Import and Export (General) Regulations

(Amendment of Second Schedule) (No. 4)

Order 1990.....

397/90

Protected Places (Safety) Ordinance

Protected Places (Amendment) Order 1990..... 398/90

Public Health and Municipal Services Ordinance

Public Health and Municipal Services

(Public Markets) (Designation and Amendment of

Tenth

Schedule) (No. 3) Order 1990..... 399/90

Public Health and Municipal Services Ordinance
 Public Health and Municipal Services
 (Public Markets) (Designation and Amendment of
 Schedule) (No. 4) Order 1990..... 400/90 Tenth

Electoral Provisions (Amendment) Ordinance 1990
 Electoral Provisions (Amendment) Ordinance 1990
 (Commencement of sections 2, 3, 4, 5, 11, 12,
 13, 14, 15 and 20) Notice 1990..... 401/90

Securities Ordinance
 Securities (Specification of Approved Assets,
 Liquid Assets and Ranking Liabilities)
 Notice 1990.....
 402/90

Public Health and Municipal Services Ordinance
 Declaration of Markets in the
 Regional Council Area (No. 2) 1990..... 403/90

Public Health and Municipal Services Ordinance
 Declaration of Markets in the
 Regional Council Area (No. 3) 1990..... 404/90

Interpretation and General Clauses Ordinance
 Specification of Public Office..... 405/90

Sessional Papers 1990-91

No. 26 -- The Jubilee Sports Centre, Hong Kong
 Annual Report 1989-90

No. 27 -- The Accounts of the Lotteries Fund 1989-90

No. 28 -- Grantham Scholarships Fund Income and Expenditure
 Account with Balance Sheet and Certificate of the Director of Audit

for the year ended 31 August 1990

No. 29 -- The MacLehose Fund Trustee's Report for the period
1 April 1989 to 31 March 1990

No. 30 -- The Prince Philip Dental Hospital Hong Kong
Report by the Board of Governors for the period 1 April
1989 - 31 March 1990

No. 31 -- Sir Edward Youde Memorial Fund
Report of the Board of Trustees for the period 1st April
1989 to 31 March 1990

No. 32 -- Report of the Brewin Trust Fund Committee on the
Administration of the Fund for the year ended 30 June 1990

No. 33 -- The First Annual Report of the Open Learning Institute of
Hong Kong
20 June 1989 - 31 March 1990

No. 34 -- Chinese Temples Fund Income and Expenditure with
Balance Sheet and Certificate of the Director of Audit for the
year ended 31 March 1990

No. 35 -- General Chinese Charities Fund Income and Expenditure
Account with Balance Sheet and Certificate of the Director of Audit
for the year ended 31 March 1990

No. 36 -- Queen Elizabeth Foundation for the Mentally Handicapped
Report and Accounts 1989-90

No. 37 -- Social Work Training Fund Twenty Ninth Annual Report
by the Trustee for the year ending on 31 March 1990

Addresses by Members

Queen Elizabeth Foundation for the Mentally Handicapped

Report and Accounts 1989-90

DR IP: Sir, I have tabled today in this Council the Annual Report and the Accounts of the Council of the Queen Elizabeth Foundation for the Mentally Handicapped for the year ending 31 March 1990.

In 1989-90 the Council approved a total of about \$2.5 million in the form of grants for the organization of seven projects benefitting the mentally handicapped. In addition, an amount of \$1.85 million, being the second instalment of the grants approved in the previous year, was also disbursed. The details are set out in the report. In the allocation of funds, strong emphasis was placed on projects providing job opportunities, job training for mentally handicapped adults or promoting their employment opportunities.

The major problem encountered by mentally handicapped job-seekers is the community's misconceptions about their vocational, social and communication skills, which give rise to doubts about their competence as employees. To dispel such misconceptions, the Council initiated in the past year a number of projects in conjunction with concerned voluntary agencies. I would like to highlight some of such projects.

A job training and placement service for mentally handicapped persons was established to supplement the vocational training and employment assistance programmes provided by the Government under the Rehabilitation Programme Plan. The target group are mentally handicapped adults of moderate grade, and those of mild grade with additional disabilities such as sensory defects, inadequate social skills or personality problems.

Another project involved the production of a video film on the employment of mentally handicapped persons. This video film aims at promoting the employment opportunities for mentally handicapped persons and removing the misconceptions about their working abilities.

The preparation of a "Directory of Job Opportunities for Mentally Handicapped Persons" is progressing satisfactorily, and it should be ready for publication in early 1991. This comprehensive directory will contain detailed information on opportunities for open employment. It will help mentally handicapped persons find suitable jobs on the one hand and advise prospective employers on how to employ

mentally handicapped persons on the other.

Apart from the projects initiated by the Council, a supported employment scheme funded by the Foundation was also launched. Under this scheme, a mobile crew comprising several mentally handicapped persons provides cleansing service on a commercial basis under the supervision of a non-handicapped person. The result has been encouraging.

Looking to the future, the Council is constantly and actively planning and organizing new projects. For example, a committee has been appointed by the Council to plan a series of video films for the training of mentally handicapped persons and their parents and carers. Action is also in hand to produce community education material to improve the public perception of mentally handicapped persons.

Finally, I wish to thank the government departments and the many voluntary agencies which have given the Foundation valuable assistance. The Council of the Foundation looks forward to receiving their continuous support in pursuing our object of furthering the well-being of mentally handicapped persons.

The First Annual Report of the Open Learning Institute of
Hong Kong 20 June 1989 - 31 March 1990

MR CHENG HON-KWAN: Sir, the first Annual Report of the Open Learning Institute of Hong Kong for the year ended 31 March 1990 together with the Auditor's report for the same period are tabled before this Council today. As Chairman of the Institute's Council, I am pleased to have the honour of presenting the reports to you and to highlight a number of the Institute's achievements in the year.

The year 1989-90 with the launching of the Open Learning Institute (OLI) in June 1989 was a significant landmark in distance education in Hong Kong. The novel concept of open entry was greeted with great enthusiasm by the people of Hong Kong, as was the opportunity to achieve degree level qualifications on a part-time basis by adults in full-time employment. The Institute has responded to the challenge raised by the great interest in its courses, by expanding both the opportunity for entry and the number of courses available, by admitting nearly 10 000 students in the period in question, and with a further rapid expansion being undertaken.

In addition, the Institute has recruited its core staff and appointed the large number of part-time tutors necessary to support the student intake. One gratifying aspect has been the readiness of many well-educated people in Hong Kong to take on the task of tutoring adults in the community who wish to better themselves by taking OLI courses.

In order to ensure that high academic standards are maintained, the Institute has formed numerous external and internal committees to advise on course development, assessment, and review. It has been an important aspect of the processes adopted by the Institute to ensure not only that all courses are high-quality and learner-oriented, but that they are relevant to Hong Kong.

The Institute has taken to heart both the goal of self-financing set by Government and its responsibility to other tertiary education institutions as the focal point in a consortium. On the first, the Institute is building on its initial success and is devising a development plan to guide it in achieving that goal. On the second, the Institute is willing to share its plans with the other tertiary education institutions, which are represented on its Council, and looks forward to further co-operation with its counterparts in the consortium.

Sir, the achievements of the Institute in its first year have attracted admiration from around the world. Those I have mentioned and others in the report are just the beginning. The Institute has many exciting plans for the future and its existence will be an increasingly important factor in providing learning opportunities in tertiary education for the people of Hong Kong.

The Jubilee Sports Centre, Hong Kong
Annual Report 1989-90

MR PAUL CHENG: Sir, it is a pleasure to table the 1989-90 Annual Report of the Jubilee Sports Centre (JSC). This past year has been an important one for sport in Hong Kong with Government establishing the Sports Development Board to usher in a new era for sports planning and funding. The JSC report provides a record of the part played by the Centre in working closely with its partners in sport during a year of new initiatives to develop a sporting culture in Hong Kong.

Hong Kong is at a disadvantage in sport when compared to other countries. Not

only does Hong Kong have a small population base, but it also does not have an accepted sporting culture. Such a culture will only develop as better opportunities for sport and physical recreation and education are provided at the school level, as community sports clubs are developed, and as funding increases to provide more chances for young athletes to achieve international successes. In addition, career opportunities for coaches and administrators need to be enhanced so that full-time professionals can augment the work of the many volunteers involved in sport.

The role of the JSC supports the pursuit of excellence by athletes and coaches through its programmes for athlete development and management, as well as for coach education and development. The JSC is a resource for coaches, national sports associations, physical education specialists, and sports science and sports medicine professionals. It seeks to promote an exchange of information, international understanding and goodwill through sport.

The JSC Board recognized the need for ongoing growth and expansion of services. This was reflected in decisions to build additional residential accommodation and to expand the JSC Scholarship Programme to cover athletes in more sports. With plans for the JSC to become the Hong Kong Sports Institute, effective April 1991, efforts are on evolving into a Hong Kong-wide institution -- an institute that serves all of Hong Kong, rather than merely serving as a Shatin-based sporting institute.

The reports of the various sports contained in the annual report show the special attention being paid to recruiting and developing athletes with long-term commitment and potential. There have been outstanding results in many areas during the year -- notably in table tennis, badminton, rowing, cycling, squash, fencing, soccer and swimming. The JSC is pleased to have contributed to the performance of several world-class athletes. For example --

-- At the Commonwealth Games, CHAN Chi-choi and Amy CHAN won a gold medal, and the badminton team won a bronze;

-- In the Asian Championships, the cycling team won a silver medal in the 100 km team time trial;

-- HO Kim-fai won Hong Kong's first ever Asian Championship Medal in rowing;

-- The women's table tennis team won a bronze medal in the Asian Games;

- Fencers won gold and silver medals in the Junior Asian Fencing Championships;
- The Under 19 Hong Kong National Youth Team in soccer won the Gothia Cup in Sweden; and
- Michael WRIGHT won medals in swimming at the World Cup Meet in Britain.

For the first time in its three-year history, the Scholarship Programme extended its scope to cover disabled athletes. The ultimate targets were to improve their standard of performance in the 1989 FESPIC Games in Japan and the 1990 World Championships in the Netherlands. Two outstanding young athletes, WONG Chi-keung and CHAN Shing-chung -- one in a wheelchair and the other suffering from cerebral palsy -- won 10 gold, two silver and five bronze medals for Hong Kong throughout the year.

The JSC will continue to strive towards providing improved opportunities for those talented in sport to reach their full potential.

I would also like to thank all of those who have made valuable contributions to the Centre during the past year. Sir, I commend this report to you.

Written answer to question

Right of abode in Hong Kong for non-Chinese nationals

1. MR BARROW asked: In order to allay the concerns of foreign residents in Hong Kong, will Government inform this Council:

(a) what steps are being taken to give the right of abode in Hong Kong to non-Chinese nationals who have ordinarily resided in Hong Kong for a continuous period of seven years or more and who have taken Hong Kong as their place of permanent residence; and

(b) what is the progress of bringing the current arrangements in line with the provisions stipulated in Article 24 of the Basic Law, which says that the permanent residents of the Hong Kong Special Administrative Region, including those described

in (a) above, shall have the right of abode in Hong Kong and shall be qualified to obtain permanent identity cards which state their right of abode?

SECRETARY FOR SECURITY: Sir, in June this year we reduced the residential requirement for unconditional stay for foreign nationals from nine to seven years. Thus they may apply for unconditional stay after having lived here for seven years, as opposed to the previous requirement of nine years. This is the first step we have taken to extend the right of abode to foreign nationals in Hong Kong.

We are now considering how to align the Immigration Ordinance with the Joint Declaration and the Basic Law. This would include giving the right of abode to foreign nationals who have ordinarily resided in Hong Kong for a continuous period of seven years or more and who have taken Hong Kong as their place of permanent residence. There are however also other aspects, many of which will require discussion with the Chinese Government. Discussion on some aspects is already taking place in the Joint Liaison Group.

Oral answers to questions

Tax treaties with Hong Kong's trading partners

2. MR PAUL CHENG asked: Will Government inform this Council what consideration has been given to negotiating tax treaties with Hong Kong's important trading partners as a means of encouraging trade and investment and as a means of supporting the reversal of the "brain drain"?

FINANCIAL SECRETARY: Sir, we have been giving some preliminary consideration as to whether Hong Kong could benefit from tax treaties with our major trading partners. We need to examine what we might wish to seek to include in such treaties, and whether such provisions would find favour with the overseas tax territories with whom we might wish to negotiate. Most important of all, we must be satisfied that there is some tangible advantage for Hong Kong. The main potential advantage identified lies in attracting investment to Hong Kong, and in easing any tax problems of local companies with dividends and royalties from overseas.

MR PAUL CHENG: Sir, what consideration has Government given to surveying the major Hong Kong companies to establish what impact the absence of a tax treaty network has on the questions of relocating certain operations outside Hong Kong and of maintaining closer connections to Hong Kong for their global businesses?

FINANCIAL SECRETARY: Sir, we have not carried out any survey of companies who might be interested in tax treaties. We have gathered quite a lot of information about the possible benefits. I do not think a survey is necessary at this time.

MRS FONG: My understanding is that entering into a tax treaty with another country involves the exchange of information on the taxpayers between the two tax jurisdictions. Can the Financial Secretary clarify whether the secrecy provision in our existing Inland Revenue Ordinance would have to be removed if Hong Kong were to enter into tax treaties with other countries?

FINANCIAL SECRETARY: Sir, as I said in my main answer, our studies or our considerations are at a preliminary stage. The fact that tax treaties or tax agreements might involve the exchange of information is, of course, something that we have to take into account. It is possible that an obligation to exchange information might not work to Hong Kong's advantage, but, as I said, this is something we have to take into account and we have to work out all of the implications.

MR LAU WAH-SUM: Sir, given that Singapore is actively marketing the advantage of a substantial tax treaty with them to the international business community, when will the Government decide on whether or not we should begin to negotiate tax treaties?

FINANCIAL SECRETARY: The tax structure of Singapore is, of course, rather different from the tax structure of Hong Kong and their tax rates are often significantly higher than those of Hong Kong. The timing of our consideration is something that I cannot comment on this afternoon, but certainly the fact that a great deal of interest has been expressed in this subject will prompt us into more urgent action.

MR MCGREGOR: Sir, since China has a significant tax treaty network that excludes Hong Kong entirely, has Government had any discussions with the People's Republic of China in relation to the possibility of Hong Kong negotiating a tax treaty network?

FINANCIAL SECRETARY: No, Sir, not as yet. I do not think our system and theirs are sufficiently comparable to make that sort of discussion productive.

MR PETER WONG: Sir, can the Secretary please inform us what financial resources are needed in order to negotiate tax treaties?

FINANCIAL SECRETARY: I am afraid I have no idea this afternoon. Certainly there would be resources needed. We would need extra staff to do this. A lot would depend on the agreements or treaties we were negotiating at any one time.

MR PAUL CHENG: Sir, since current tax regulations permit United Kingdom companies operating in Hong Kong to take advantage of the United States/United Kingdom tax treaty to avoid US withholding tax, for example, on interest, whilst companies incorporated under Hong Kong law cannot enjoy this benefit, what is Government's view on extending such tax advantages to Hong Kong incorporated companies?

FINANCIAL SECRETARY: Sir, that question is rather too detailed for answer this afternoon. There are aspects of it, obviously, that we will consider in looking into any further arrangements. I cannot give details this afternoon.

MR LAU WAH-SUM: Sir, has the Government been approached by other countries with regard to the possibility of a tax treaty being negotiated and, if so, how has the Government reacted to such requests?

FINANCIAL SECRETARY: We have had various suggestions made to us, Sir, mainly by professional bodies, or by individual professionals. As far as I can recollect, we

have had no direct approach from any country acting officially.

MRS FONG: With Hong Kong's taxation assessed on a territorial base -- that is to say, only income earned in Hong Kong is taxed 序 and with the absence of a withholding tax on income or interest remitting outside of Hong Kong, can the Financial Secretary clarify what we can offer by way of benefit or advantage to other tax jurisdictions for them to enter into a tax treaty with us?

FINANCIAL SECRETARY: Sir, Mrs FONG has put her finger on the problem. We have not a great deal to offer to other tax jurisdictions. It is something that we would examine. It is possible that tax agreements or tax treaties could be useful in fostering trade between ourselves and another party.

MR PAUL CHENG: Sir, how does Government view the use of tax treaties to encourage former Hong Kong residents to retain strong social and economic ties with Hong Kong by addressing the difficulty of taxation on worldwide income?

FINANCIAL SECRETARY: That is obviously a benefit that might flow from the successful negotiation of a tax treaty; if it made Hong Kong more attractive for potential returnees, well and good.

Loan sharking activities in new towns

3. MRS TAM asked (in Cantonese): Will Government inform this Council whether there is any indication that the increase in loan sharking activities in new towns is higher than that in other urban areas and if so, what measures the Administration will take to tackle the problem ?

SECRETARY FOR SECURITY: Sir, there is no indication that loan sharking activities in new towns are higher or increasing at a greater rate than in the urban areas.

Police statistics indicate that reported loan sharking cases in new towns accounted for 22% of the total number of such cases in the territory in 1989 and 18% thus far this year. Indeed there has been a steady decline in the number of reported loan sharking cases in the territory over the past three years.

Sir, may I take this opportunity to remind the public that loan sharks are unscrupulous and ruthless. Once in their clutches, a debtor rarely recovers. The public is therefore urged not only to stay away from loan sharks but also to report their activities to the police to help crack down on such crime syndicates.

MRS TAM (in Cantonese): Sir, I agree with the Secretary that we need to call upon the public to report loan sharking activities, but is the Government aware that loan sharking syndicates will press for the repayment of debts by putting up posters or intimidating debtors and thereby deterring the public from reporting? Will the Government consider taking measures to further encourage people to report such activities so as to protect their interests?

SECRETARY FOR SECURITY: Sir, where loan sharking involves the use of other forms of intimidation, the people involved will be charged with those crimes as well. The police do watch places such as housing estates and various other places and also newspapers where advertisements are placed publishing loan sharking activities and they do follow up on it. They also use normal criminal intelligence to find out where loan sharking activities are taking place, because quite often the victim is quite content and does not wish to tell the police.

MRS TU: Sir, has the Secretary for Security considered that the reduction in reports on loan sharking could have resulted from fear of arson and murder, of which there has been one instance recently, and can the Secretary advise the public what protection there is for those persons who are indebted to loan sharks?

SECRETARY FOR SECURITY: Sir, there have been a number of recent cases under investigation; one recent arson case has been referred to by Mrs TU. I am advised by the police that this case was outright triad-influenced extortion and was not particularly loan sharking.

Age limit and medical checks for public transport company employees

4. MRS LAM asked (in Cantonese): Will Government inform this Council whether employees of public transport companies, especially drivers, are subjected to annual medical examinations and maximum age limit? If not, will Government consider imposing or strengthening control over these two aspects?

SECRETARY FOR TRANSPORT: Sir, the management practice concerning retirement age and medical checks is not uniform throughout public transport companies.

In general the normal retirement age for employees set by most companies is 60. In some cases annual extension of service up to 65 may be allowed, subject to medical checks.

All major companies provide free medical service for their staff, but arrangements for compulsory medical checks differ. For example, the Kowloon Motor Bus (KMB) and the China Motor Bus (CMB) require all drivers over 60 to be subject to annual medical checks. Younger drivers are also checked if the company has doubts on their fitness to drive. Others such as the Star Ferry, Hong Kong Tramways and Peak Tramways require all staff to be medically examined each year from the age of 55. Employees of the two railway corporations are subject to annual chest X-ray examinations and more thorough medical checks on doctor's advice.

The present arrangements are considered adequate and generally satisfactory. Government will continue to monitor the situation and encourage public transport companies to pay due attention to the health and welfare of their staff.

MRS LAM (in Cantonese): In most cases, drivers of public transport companies have to operate large and heavy vehicles. So, apart from being required to have a certain standard of driving, drivers also need to be strong enough for their work. Moreover, their performance does not only affect the safety of passengers but also pedestrians. If the present system is to continue, that is, public transport companies can decide on their own the upper age limit and frequency of medical checkups for their drivers, will the Government have any measures to monitor the health conditions of these drivers so as to determine whether they are fit to operate such vehicles?

SECRETARY FOR TRANSPORT: Sir, while in theory the retirement age is 60, in practice the majority of companies employ staff under 60. For example, the two major bus companies have a total of 6 800 drivers of whom only 72 are over 60. For the non-franchised bus companies none of the drivers is over 60. As regards the drivers and operators of the two railways, all of them are under 50 and some under 45. Hence under the present system there is no cause for concern regarding the age of drivers. Moreover, there is a system of annual checks to enable the companies to identify staff who are unfit. We therefore think that there is adequate monitoring of health conditions to ensure the safe performance of drivers. And, finally, existing evidence does not suggest any connection between the age of drivers and the standard of driving. Indeed, the reverse is the case. Most accidents involve drivers who are in their thirties and forties and very few, in fact, are near 60 years of age.

MISS TAM: Sir, this is a follow-up on Mrs LAM's question. Considering that the Star Ferry, Hong Kong Tramways and Peak Tramways require their staff to be medically examined each year from the age of 55, will the Secretary for Transport tell this Council what powers of persuasion the Government can exert over the other franchised carriers, such as CMB and KMB, to adopt a higher standard of medical checkups for their staff?

SECRETARY FOR TRANSPORT: Sir, I will be very happy to persuade the two bus companies to introduce medical checkups for staff over 50.

MR MCGREGOR: My question follows on from Miss Maria TAM's. Given the very poor record of at least one public transport company in relation to the others, will the Government accept some responsibility for advising all public transport companies on what might be termed "ideal social welfare conditions" which can be applied by all?

SECRETARY FOR TRANSPORT: Sir, as I said earlier on, it would not be correct to assume that elderly drivers have a poor safety record. Indeed, the reverse is the case. On transport grounds, I see no need to impose more control at the present time. As regards the question of general health and welfare, that is in fact a labour matter,

not a transport matter.

MR TIEN: Sir, will the Secretary please inform this Council whether there is any evidence which would relate traffic accidents to drivers' health?

SECRETARY FOR TRANSPORT: Sir, I do not think we have got statistics on accidents in relation to drivers' health. We do have statistics on age but not health.

MRS LAM (in Cantonese): The Secretary for Transport has only made reference to franchised public transport companies like the two bus companies, the tramways and the ferry. Does the Government have any information concerning drivers of other public transport companies such as school bus and coach services? If so, is the Government content with the present arrangement of these companies? If not, what will the Government do to monitor their operation?

SECRETARY FOR TRANSPORT: Sir, as I said earlier on, the non-franchised bus companies, which operate bus and residential coach services in some areas, have 3 500 drivers and none of them is over 60. Hence the situation does not give rise to concern with regard to age.

Debts owed to Hong Kong by UNHCR

5. MR LI asked: Will the Government inform this Council what plans are in hand to recover from the United Nations High Commissioner for Refugees the outstanding recurrent costs incurred by the Hong Kong Government for the care, maintenance and social services required by Vietnamese refugees and boat people in detention and closed centres?

SECRETARY FOR SECURITY: Sir, the Hong Kong Government, in conjunction with Her Majesty's Government, has taken every opportunity to remind the UNHCR of its obligations to discharge its debts to us. We have also frequently and consistently reminded the main donor countries that UNHCR requires additional contributions to enable the Commission to meet its obligations in Hong Kong. The Vietnamese boat people (VBP) problem is an international problem and has been recognized as such

repeatedly in international conferences. Hong Kong has contributed more than its fair share financially towards the resolution of this problem. It is only right that the international community should do the same.

MR LI: Sir, what is the total cumulative indebtedness to date? Is interest being charged on all such arrears, and if so, what is the rate being charged, and if not, why not?

SECRETARY FOR SECURITY: Sir, the total cost for Vietnamese boat people since 1979 comes to \$3,456 million. The net cost to the Hong Kong Government has been \$2,655 million. The UNHCR's share of the total is \$456 million; of that they still have to pay \$260 million; that is to say \$260 million remains outstanding at this moment. No interest is charged on this outstanding sum.

MR POON CHI-FAI (in Cantonese): Sir, the UNHCR enjoys a certain position internationally. By merely reminding it to repay the debts owed to us, is the Government underestimating the ability of the UNHCR, and does the Government agree that this means of debt recovery will, in fact, have little effect? Will the Government therefore consider adopting a more practical way to get the money back? And if no progress is made, will the Government, in the interest of the general public, consider suspending approval for the allocation of funds for the refugees?

SECRETARY FOR SECURITY: Sir, the UNHCR can only pay what is due and owing to us when donor countries pay them. Until the donor countries do that, there is little that the UNHCR can do. But clearly we will continue, as I have said in my main answer, to persuade donor countries to continue their support so that the UNHCR will be able to meet the outstanding debts to us. Recently, the UNHCR has written to us to acknowledge their debts and to make a commitment to use all possible means to meet those debts.

MR PETER POON: Sir, since the Secretary for Security has informed us that the obligation of the UNHCR to discharge their duty is subject to the availability of funds, what action will Government take to recover the debts apart from trying to

persuade donors to, hopefully, give more, and will Government consider a change of policy if recovery of such debts is not successful?

SECRETARY FOR SECURITY: Sir, since we have a moral obligation to continue to feed, clothe and look after the Vietnamese boat people, if the UNHCR cannot do so, the Government must do so on its own.

MR PETER WONG: Sir, what is the Administration's realistic estimate as to the amount recoverable out of the \$260 million which is outstanding at the moment?

SECRETARY FOR SECURITY: Sir, at this stage we are not sure. The UNHCR has just informed us in the last few weeks that they are going to pay us shortly a further \$22 million.

MR MARTIN LEE: Sir, as Hong Kong is a dependent territory of the United Kingdom, and as the United Kingdom is a member of the United Nations and also a donor country, is the Hong Kong Government going to ask Her Majesty's Government to repay the debt if we fail to get it back from the UNHCR?

SECRETARY FOR SECURITY: Sir, the United Kingdom Government has made general contributions to the UNHCR. Some of these have been used to meet the costs reimbursable by the UNHCR to Hong Kong. Apart from that, Her Majesty's Government has contributed to the capital costs of a number of our camps, including Pillar Point and Tai A Chau, and emergency accommodation. In addition to that, Her Majesty's Government has funded a 50% share of the cost of our repatriation programme.

MR TIEN: Sir, could the Secretary please inform this Council of the rationale for not charging reasonable interest on the debt that the UNHCR currently owes us?

SECRETARY FOR SECURITY: Sir, the inability of the UNHCR to continue to meet their share of the costs both for last year and this year does not make it practical to charge interest at the present time.

MR LI: Sir, unlike the previous years, why has no formal agreement been signed between the Hong Kong Government and the UNHCR to secure the reimbursement of the recurrent costs for the care of the Vietnamese refugees and the boat people?

SECRETARY FOR SECURITY: Sir, formal agreements are normally concluded only at the time when the accounts have been fully settled. Because the UNHCR has indicated that they are unable to discharge all of their obligations during 1989, no formal agreement was signed in 1990; instead a Letter of Intent was signed. The Letter of Intent constitutes an agreement without being specific about details.

MR MARTIN LEE : Sir, without going into the rights or wrongs of whether the United Kingdom Government should pay for the entire refugee programme or the boat people programme in Hong Kong, will the Administration please answer my question: Is the Hong Kong Government going to ask the United Kingdom Government to repay this debt or not -- yes or no, please?

SECRETARY FOR SECURITY: Sir, the answer is no.
Satellite television policy

6. MISS LEUNG asked: In the light of the decision of the Hong Kong Cable Communications to abandon the cable television project, will the Government state its position on satellite television policy?

SECRETARY FOR HOME AFFAIRS: Sir, the Governor in Council has established a policy framework to govern the reception and broadcast of television signals by satellite. This policy has been designed to enable Hong Kong people to have access to a wide range of television programming offered by modern technological development and to ensure equitable treatment in the degree of competition between existing and potential television broadcasting franchisees. This policy framework was announced on 31 October 1990 and remains unchanged.

As regards the reception of satellite television signals the general rules are

that individual television receive-only (TVRO) dishes, connected to single television set, are exempt from licensing. That is, systems where television signals received by a dish are distributed by an internal wired network to more than one television set within one building or development will require to be licensed. An appropriate licence under the Telecommunication Ordinance is now being drafted. The principal provisions of the licence will include:

- (a) only signals intended for general reception should be distributed through the system;
- (b) no subscription fees or packaging of programmes will be allowed; and
- (c) compliance with any direction from the Governor in Council prohibiting the distribution of proscribed programme services.

On the satellite broadcasting side, individual applications to establish satellite broadcasting operations in Hong Kong will be considered on a case by case basis, having regard to the following main conditions:

- (a) the signals should not be targetted principally at a Hong Kong audience;
- (b) financing through advertising revenues should not rely principally on Hong Kong's local TV advertising market;
- (c) no subscription fee may be levied by the licensee for reception of programmes in Hong Kong;
- (d) no Cantonese language programming will be permitted except that after 30 October 1993 programmes in Cantonese previously broadcast in Hong Kong could be rebroadcast;
- (e) the licensee must comply with the relevant television programming and advertising standards as laid down by the Broadcasting Authority; and
- (f) the licensee to be responsible for taking all reasonable steps to ensure that his programmes are acceptable to receiving countries.

MISS LEUNG (in Cantonese): Sir, since the Hong Kong Cable Communications Limited had

abandoned the cable television project, why does the Administration not conduct a comprehensive review on its television broadcasting policy, which may include seeing whether it is worthwhile to substitute satellite television for cable television so that Hong Kong people may have a wider choice of television programmes at an early date?

SECRETARY FOR HOME AFFAIRS: Sir, we have already decided to issue a licence to a company for satellite uplinking and transmission on a regional basis. As I said in my reply to a similar question last Wednesday, the Administration at the moment is considering how to take the exercise forward, and, in taking the exercise forward, we will look at both the establishment of satellite television in Hong Kong and cable television in Hong Kong; all options are open.

MR MARTIN LEE: Sir, in the light of the commercial benefits that would accrue to the Hong Kong entertainment industry and the opportunity for Hong Kong to project itself abroad if locally produced Cantonese programmes were broadcast on satellite, will the Administration reconsider its ban on the uplinking of locally produced Cantonese programmes from Hong Kong to a satellite until 1993?

SECRETARY FOR HOME AFFAIRS: Sir, this question must be addressed in the context of the overall exercise in deciding how to take the matter forward. If we should decide, for example, that cable television would be a viable proposition in Hong Kong, then we must not pre-empt the situation so that we remove the environment in which a cable television franchisee might wish to establish its operation in Hong Kong. At this moment, as I said, Sir, all options are open.

MR CHEONG: Sir, can the Administration confirm that the rationale for most of the conditions, for example, for not allowing subscription fee or packaging of programmes, is to offer protection to potential cable television operators? If so, can the Administration further inform this Council whether this policy will be reviewed if no takers are forthcoming to operate cable television within the next couple of years?

SECRETARY FOR HOME AFFAIRS: Sir, I am afraid I am unable to sally forth into the realm

of speculation because whether or not there is going to be another taker for cable television remains to be seen.

DR LEONG: Sir, with the collapse of the cable television consortium, will the Government state whether it will review the exclusivity in subscription television that has been previously granted to that consortium?

SECRETARY FOR HOME AFFAIRS: Sir, the Government is reviewing all matters relating to television broadcasting, cable, satellite and so on and we are looking at all options.

MR PAUL CHENG: Sir, will the Administration inform this Council whether the Government intends to call for tenders for a cable television system, and if so, when; and whether there will be any change in the conditions, and if not, why not?

SECRETARY FOR HOME AFFAIRS: Sir, as I said earlier on and also last week, we are taking this matter forward and in so doing we will be considering whether or not cable television should be revived.

MISS LEUNG (in Cantonese): Will the Government consider partially relaxing the control of satellite television broadcasting as soon as possible, such as permitting the transmission of Cantonese educational and informative programmes at an early date so as to supplement such programmes offered by the two existing television stations?

SECRETARY FOR HOME AFFAIRS: Sir, again, as I have stated earlier on, until a final decision is taken as to which type of television should be allowed in Hong Kong -- and that includes satellite and cable -- we would not wish to pre-empt the environment which would be desirable in inducing the establishment of both satellite television and cable television.

MR MARTIN LEE: Sir, does the Administration believe that cable or satellite television is better able to bring wider and higher quality choice to television viewers in Hong

Kong and will it give the major reasons for its conclusions?

SECRETARY FOR HOME AFFAIRS: Sir, cable and satellite televisions are not mutually exclusive, as borne out by overseas experience. The optimum situation is one in which they are complementary. The withdrawal of HKCC from the cable television project does not affect this conclusion; our conclusion, simply stated, is that we would like to have the cake and eat it.

MR CHEONG: Sir, while applauding the Secretary's skilful ducking of my last question, may I respectfully ask him to tell this Council whether the Administration can confirm that the rationale for not allowing subscription fees or packaging of programmes is to offer protection to future cable television operators?

SECRETARY FOR HOME AFFAIRS: Sir, the answer is yes. As I said, we would not wish to do anything at this stage to pre-empt the environment which would be conducive to the establishment of all forms of television.

Tax reduction for charitable donations

7. MR PETER WONG asked: Will the Administration inform this Council whether consideration will be given to raising the present limit, which is 10% of assessable income, on the maximum amount of charitable donations that can be deducted from assessable income with the aim of encouraging greater contribution by the public towards charitable causes which would otherwise be subvented by Government?

FINANCIAL SECRETARY: Sir, we consider that the present restriction of the tax deduction to 10% of assessable income is reasonable. Within the context of a low tax system, we need to keep the number and indeed the cost of concessions and exceptions to the minimum. It should also be borne in mind that in Hong Kong, dividends, interest and offshore income, out of which donations may well be made, are not chargeable to tax at all.

Not all bodies receiving charitable donations are in the subvented sector, and

increased receipts through donations do not always result in a reduction in the subvention. An increase in donations, therefore, would not necessarily guarantee a drop in the Government's contribution.

MR PETER WONG: Sir, would the Financial Secretary agree with me that a new building costing \$100 million and needed by, say, the newly formed Hospital Authority, of which I am a member, will cost the Government only \$16.5 million if the full amount were to be deductible by a corporate taxpayer, assuming the taxpayer has such assessable profits, against the cost of the full \$100 million if funded entirely by the Government?

FINANCIAL SECRETARY: Sir, obviously it is possible to find examples that prove Mr WONG's point. The point that I was trying to get over was that in my opinion the level of the donor's income and the extent to which he identifies with a particular charity are the factors that determine the amount of a donation, not so much the tax benefit he will receive.

MR ARCULLI: Sir, would the Financial Secretary inform this Council what percentage of assessable income is in fact donated and claimed as tax deductible to enable us to see whether or not the 10% that is allowable is in fact utilized by all taxpayers to its optimum?

FINANCIAL SECRETARY: Sir, I do not have that figure. I will find it out and give Mr ARCULLI an answer in writing. (Annex I)

MR POON CHI-FAI (in Cantonese): Sir, will the Government consider extending the tax deduction for donations to cover organizations that promote community activities, like the mutual aid committees and owners' corporations, so as to chime in with Government's policy in promoting community activities, which in turn can lead to a corresponding reduction in the amount of subvention for this purpose, particularly in light of the fact that recently the Government, due to resource constraints, has drastically reduced the allocation of funds for district activities organized by district boards?

FINANCIAL SECRETARY: No, Sir, I do not think that we will give that proposal consideration. As I have indicated, we wish to keep the number and cost of the concessions and exceptions to our tax system to a minimum.

Consular protection for Hong Kong permanent residents travelling abroad

8. MR MARTIN LEE asked: Will Government inform this Council:

(a) (i) whether the British or Hong Kong Government has in the past provided protection similar to consular protection to Hong Kong permanent residents -- both Certificate of Identity and British Dependent Territories Citizen passport holders -- when they are in Taiwan; and

(ii) what kind of protection, if any, it plans to offer in the future to Hong Kong permanent residents in Taiwan; and

(b) whether there are any territories or countries where the British or Hong Kong Government is not prepared to offer consular or similar protection to Hong Kong permanent residents?

SECRETARY FOR SECURITY: Sir, consular or consular type protection is a matter for Her Majesty's Government. The answer to part (a) of Mr LEE's question is that Her Majesty's Government has no diplomatic relations with or consular representation in Taiwan, and there are no plans for this position to change in future.

As for part (b) of the question, consular protection is provided by British Diplomatic Missions to Hong Kong residents travelling abroad on Hong Kong travel documents in the same way as to British citizens or other British nationals. However no such protection can be provided by Her Majesty's Government in countries or territories with which Her Majesty's Government has no diplomatic or consular relations or where it has no interests section in another country's embassy. Currently countries or territories in this category include Taiwan, North Korea and Albania.

MR MARTIN LEE: Sir, does the Administration mean that no protection or help of any kind whatsoever can and will be given to Hong Kong permanent residents who should find themselves in trouble in Taiwan, North Korea or Albania?

SECRETARY FOR SECURITY: Sir, Her Majesty's Government can provide no such assistance.

MR ARCULLI: Sir, would the Secretary for Security please inform us of the true meaning of the words "consular protection"; whether that includes the cost of repatriation from a country where such protection is in fact offered; and whether, in that context, the holder of a United Kingdom British Passport is treated in any different way from the holder of either a Hong Kong British Passport or, indeed, a Hong Kong Certificate of Identity?

SECRETARY FOR SECURITY: Sir, if I can deal with the third part of the question first. There is no difference in treatment between a holder of a British passport and a holder of a BNO or BDTC passport.

With regard to the first part of the question, Article 5 of the Vienna Convention on Consular Relations defines consular functions to include protecting in the receiving state the interests of the sending state and of its nationals, both individuals and bodies corporate, within the limit permitted by international law. Article 3 of the Vienna Convention on Diplomatic Relations defines the functions of a diplomatic mission to include protecting in the receiving state the interests of the sending state's nationals within the limits provided by international law. It is slightly different. Would Mr ARCULLI care to repeat the second part of this question?

HIS EXCELLENCY THE PRESIDENT: Mr ARCULLI, this is the penalty for asking multi-barrelled questions. The second part again please.

MR ARCULLI: Sir, I think the Secretary has in fact answered the question by saying that there is no difference, but I still have a supplementary which I will put later.

MR ANDREW WONG: Sir, God certainly works in mysterious ways, and I am quite sure nations do so too. Are there any third countries that represent British and Hong Kong interests in Taiwan, and if so, which country may it be?

SECRETARY FOR SECURITY: Sir, there are no such countries. I believe previously Australia was, but Australia now no longer has diplomatic relations with Taiwan.

MR LI: Sir, apart from Taiwan, North Korea and Albania, are there any other countries or territories with which Her Majesty's Government has no diplomatic or consular relations, or where it has no interests section in another country's embassy?

SECRETARY FOR SECURITY: Sir, the answer is that there are no other countries or territories.

MR MCGREGOR: Sir, if a problem arises in one of these three countries, or in any other country where Britain does not have consular representation for Hong Kong residents or British residents, could not the British Government utilize the services of another friendly government, and does that not in fact take place in these circumstances?

SECRETARY FOR SECURITY: Sir, normally Her Majesty's Government will use the offices of another friendly government. In the cases of these three countries concerned, I understand there is no such friendly government.

DR LEONG: Sir, could the Secretary for Security inform this Council, and for that matter the public, what his advice would be to Hong Kong residents if they do get into trouble in these three countries, namely, Taiwan, North Korea and Albania?

SECRETARY FOR SECURITY: Sir, in these unfortunate circumstances there is nothing that Her Majesty's Government can do.

MR ARCULLI: Sir, if in fact there is no difference in treatment for the holder of a United Kingdom passport as opposed to a BNO or BDTC passport holder, would the Secretary perhaps clarify why there are certain countries that require visas for holders of BDTC and BNO passports, and not United Kingdom passports?

HIS EXCELLENCY THE PRESIDENT: That goes rather wider than the original question and should be put down as a separate question, please.

Written answers to questions

Legal aid for non-Hongkong residents

9. MRS LAM asked: Will Government inform this Council of the number of cases of non-Hongkong residents who have received legal aid in the past three years, the countries they came from and the total cost to the taxpayer?

CHIEF SECRETARY: Sir, anyone involved in proceedings in the District or High Court is eligible to apply for legal aid, regardless of residence or nationality. This is the normal practice elsewhere in the world and it is not unique to Hong Kong. All applicants are subject to a means test. In civil cases there must also be reasonable grounds for litigating, and in criminal cases it must be in the interests of justice for legal aid to be provided.

Residence in Hong Kong is not therefore a factor in determining eligibility, and separate statistics are not maintained on non-Hongkong residents to whom legal aid has been granted. I regret therefore that the information Mrs LAM is seeking is not immediately available. Extracting such statistics from the Legal Aid Department's case files would be a huge task, requiring the diversion of staff resources better used in assisting applicants for legal aid.

Statistics on the total number of applications for civil and criminal legal aid, the number of legal aid certificates issued, and details of the expenditure and revenue of the Department in each of the last three years, are annexed for information.

APPLICATIONS

Applications Legal aid
for legal aid certificates Issued

 Criminal Criminal
Civil cases cases Civil cases cases

1989-90	15 810	4 849	5 541	2 906
1988-89	15 186	4 810	4 559	2 593
1987-88	15 726	3 503	5 158	2 100

The expenditure on legal aid was:

EXPENDITURE

Civil Criminal Total
\$ \$ \$

1989-90	47,201,783.31	41,938,821.68	89,140,604.99
1988-89	47,857,298.72	27,927,625.27	75,784,923.99
1987-88	38,070,790.42	38,199,620.32	76,270,410.74

The revenue to Government from recovery for costs in legal aid cases conducted by the Department, was:

REVENUE

Civil Criminal Total
\$ \$ \$

1989-90	38,690,115.53	215,947.70	38,906,063.23
1988-89	32,637,156.76	918,299.90	33,555,456.66
1987-88	23,136,526.65	264,107.20	23,400,633.85

Introduction of minimum tax

10. MISS LEUNG asked: In view of the disturbing effect on the general public of some highly controversial tax measures recently proposed for adoption in the next financial year by the Hong Kong Society of Accountants, particularly on those from the lower income group, who have become worried and resentful in the belief that some of the proposals, including minimum tax on all income earners, will be adopted by the Government, will Government inform this Council whether there is any plan to introduce minimum tax and, if not, whether consideration will be given to dispelling these doubts by clarifying the matter?

FINANCIAL SECRETARY: At around this time of year, a number of organizations send me suggestions for consideration in my forthcoming Budget. Many of these suggestions generate some degree of public debate. Generally, I allow the debate to continue without my stepping in too early to knock it on the head. But, by not dismissing a proposal, I am by no means implying that I support it. Many proposals we receive prove to be unacceptable for one reason or another. Clearly, in considering any tax proposal, the effect on various income groups, including the lower income group, is a factor we take into account.

Government disposal of confiscated counterfeits

11. MRS TU asked: Will the Government inform this Council of the type and quantity of confiscated goods that have been destroyed in the past two years because they are counterfeits and whether it will consider making better use of the goods, for example, removing the brand names on such goods and donating them to charitable organizations or third world countries?

FINANCIAL SECRETARY: In the past two years, the Customs and Excise Department confiscated and disposed of a wide variety of counterfeit goods. These are shown in the attached Appendix.

Counterfeit goods are confiscated under the Copyright and Trade Descriptions Ordinances in order to:

(a) safeguard the rights of intellectual property owners; and

(b) protect consumers against counterfeit merchandise which could be substandard or endanger public health.

The goods are disposed of in the following ways:

(a) by auction through the Director of Government Supplies; or

(b) made available to the Commissioner of Correctional Services for Vietnamese boat people; or

(c) donated to charity; or

(d) destroyed.

The method of disposal has regard to the types of goods and the reasons for confiscation. For example, pirated computer software and fake computer manuals and counterfeit watches, medicine and leatherware would be destroyed. Theoretically, counterfeit audio/video cassette tapes could be wiped clean and made available for auction. However, this would be uneconomical and such items are therefore also destroyed.

For garments, as a general rule, where it is possible to remove the offending trade mark or where the product is otherwise unidentifiable, arrangements would be made for the goods to be auctioned or made available to the Correctional Services Department or donated to charity.

However, for some confiscated garments, the offending trade mark forms an integral part of the article, and its removal would have rendered the garments unusable. In this case, destruction remains the only viable option.

Appendix

Confiscation and Disposal of
Counterfeit and Copyright Infringed Goods
January 1989 - November 1990

I. Confiscated

- (a) Garments (Jeans, T-shirts, Pullovers,
Jackets and Trousers, etc.) : 356 945 pcs
- (b) Watches : 30 466 nos
- (c) Leatherware (Handbags, Sport shoes,
Belts, etc.) : 15 725 pcs
- (d) Audio/Video Cassette Tapes : 128 008 nos
- (e) Computer Software : 89 285 nos
- (f) Computer Manuals : 117 132 nos
- (g) Publications : 5 304 nos
- (h) Foodstuffs : 3 008 kgs
- (i) Chinese Patent Medicines : 30 217 kgs
- (j) Plastic Goods : 29 101 nos

II. Disposal other than destruction

- (a) Offered to the Correctional Services
Department for the Vietnamese Boat
People -- Garments : 186 874 pcs
(52% of total
Qty confiscated)
- (b) Donated to the Little Sisters of
the Poor -- Rice : 1 695 kgs
- (c) Public auction through the Government
Supplies Department -- Garments : 55 448 pcs
(15.5% of total
Qty confiscated
and auctioned for
approx \$150,000)

Vietnamese boat people

12. MR POON CHI-FAI asked: In view of the number of Vietnamese boat people not resisting repatriation under the non-voluntary repatriation scheme dropping from the initial group of over 100 to only 23 persons, will Government inform this Council

of the major reasons for their withdrawal; and consequent upon recent remarks by some legal practitioners alleging injustice in the screening process and the large number of appeals to the courts by the boat people, what far-reaching implications are there for our overall boat people policy as well as for the progress of the repatriation schemes; and in response to the above problem, what effective measures are available to repatriate the boat people and resolve the boat people problem at an early date?

SECRETARY FOR SECURITY: Sir, the number of withdrawals from the initial group of Vietnamese boat people to be repatriated in the category of those who did not oppose repatriation was disappointing. But it was not entirely unexpected that some would choose to withdraw. Each person had his own reasons for withdrawing. Our experience with the initial voluntary repatriation flights showed a similar pattern, but once well established the drop-out rate quickly declined. We hope a similar pattern will emerge with this new category.

I cannot at this stage comment on the outcome or the implications of the judicial review currently before the Court, relating to the determination of status of nine asylum seekers.

The numbers returning to Vietnam are increasing. Both we and the United Nations High Commissioner for Refugees (UNHCR) are working hard to achieve a rate of return of at least 1 000 per month. The overall population is also gradually but steadily reducing. We are doing everything we can in conjunction with UNHCR to build upon this trend, and increase the momentum of the repatriation programme.

Second Reading of Bill

BUILDINGS (AMENDMENT) (NO. 2) BILL 1990

Resumption of debate on Second Reading which was moved on 7 November 1990

Question on Second Reading proposed.

MISS TAM: Sir, on 26 October 1990 a canopy slab collapsed in To Kwa Wan, killing six and injuring more than 10 passers-by who were walking below it. On 25 November, another illegal structure -- also a canopy -- collapsed. It fell on the street and

fortunately no one was injured. After that there were questions filed in this Council as to how to deal with illegal structures, and we realized that there is a shortage of manpower. We also painfully realized that there is insufficient legislation to give teeth to the Building Authority. Hence this Bill before Council -- the Buildings (Amendment) (No. 2) Bill 1990 -- will be a great help because, if enacted, it will enable the Building Authority to effect the immediate demolition or alteration of unauthorized buildings and building works without having to serve an order in writing (under S24(1) of the Building Ordinance) to the owner or a responsible person which would allow him to carry out the demolition or alteration himself. Instead, the new procedures proposed in this Bill will empower the Building Authority to post a copy of the notice of application for a court order upon a conspicuous place in the building in which demolition work has to be quickly carried out and at the same time the Building Authority will apply for a court order for priority demolition of building or building works under the following prescribed circumstances:

- (a) where there is an imminent danger to life or property;
- (b) when the unauthorized building is erected or the building works are being carried out with a view to sale, letting or disposal;
- (c) where the building is situated, or the unauthorized building works are being carried out, in a common area of a building or on land in multiple ownership and such building works are seriously detrimental to the amenities of the neighbourhood; and
- (d) where the unauthorized building or building works constitute a public nuisance.

Set against the background of widespread public concern, the Legislative Council has put the task of examining this Bill to an ad hoc group which met twice among its own members and twice with the Administration. The aim is to have the legislation in place before 1 January 1991 so that the Building Authority will have the power to deal with emergency cases.

The ad hoc group also invited public comments and representations on the proposals contained in this Bill. There are three points that we had raised with the Administration. The first one is on clause 3 of the Bill over the question of priority demolition of unauthorized works.

The ad hoc group members were in general concerned about the absence of any

statutory requirement to inform the owners concerned of the court hearing. There was no provision in the Bill for a personal notice or newspaper advertisement and the owners' rights may not be adequately protected. The Administration's reply was that the essence of the proposed Bill was to demolish the unauthorized building works at the earliest possible opportunity as there might be imminent danger to life or property. Having the background of the two incidents that we have mentioned, we were in great sympathy as to the measures that the Administration wished to take. They also pointed out that the search for the building owners could be a very lengthy administrative task especially for unauthorized building works in common parts, and in some cases, the urgency was such that no time should be wasted in searching for complex ownership information. As regards the posting of the notice of the application for the court order upon a conspicuous part of the building, not only would it serve as a notification to the owners and occupiers, but also it would give a warning to any innocent prospective purchasers of the premises concerned. Also, measures would be taken to serve the court order on the occupiers to protect their security of tenure and another copy of the court order will be posted by the Building Authority again at a conspicuous part of the building and serve as notice to all interested persons including the owner. We accepted that we were dealing with situations of emergency and therefore we agree that no personal service to the owner is necessary.

The second point we looked at is the appeal procedure. Members of the ad hoc group were of the general opinion that all inquiries should be held in public as far as possible and decisions made by the Tribunal should be published as a matter of rule. The Administration replied that there were pros and cons regarding the proposal of holding all the inquiries in public. It was pointed out to us that some professional institutions, such as the Chartered Surveyors Association of Hong Kong, had made the point that in many tribunal hearings the inquiries centred on the factual circumstances of the property development which might be considered as commercial secrets. In such cases, it would be in the interests of the parties concerned to have such inquiries held in private. So, the ad hoc group finally agreed with the Administration's view that the Appeal Tribunal should be given the discretion to determine whether to hold its inquiries in public or in private.

The final point we considered is a possible amendment to clause 3 which is now the new section 24B(20).

Under the new procedures in the Bill, the Building Authority is required to post

a notice of the application for a court order upon a conspicuous part of the building concerned depending on the circumstances. If it is a matter of urgency it could be three days' notice; in other cases it could be seven days' notice before the court hearing.

We felt that a legal mechanism should be built in the legislation whereby any person who wished to vary or discharge an order under subsection (9) should be required to give a notice of his application to do so at least three to seven days before the court hearing of the application, therefore having similar provisions to the procedure described in the above section. In this regard, the Administration accepted our suggestion and a new section 24B(20) will be proposed and I shall move an amendment to that effect at the Committee stage.

Sir, accepting that there is no one simple answer to solving a complex problem, I believe joint efforts by the Building Authority, or members of owners' incorporation or committee or district board can make special efforts to identify and remove illegal structures, and I understand my colleagues will have more to say on this. I hope this Bill will pass into law today, thus making it possible to take quick action where it is needed to demolish or alter building works which threaten the life and safety of members of the community.

Sir, I support the Bill.

MR CHENG HON-KWAN: Sir, the problem of unauthorized buildings and building works in Hong Kong has a long history and has never been solved satisfactorily. Owing to the limited resources within Government and lack of effective legislation, the Building Authority has great difficulty in ordering demolition or alteration of such buildings or building works and indeed, in many instances, the process has been time-consuming and even without success.

The recent unfortunate incidents of collapse of some unauthorized building works have alerted us to the utmost importance of ensuring structural safety to the public and the urgent need to demolish all kinds of unauthorized buildings and building works which would impose immediate or potential danger to life and limb. As a professional structural engineer, I would reckon more incidents of collapse may be forthcoming if we do not have an effective legislation to remedy the present situation in good time.

Sir, I fully support the Buildings (Amendment) (No.2) Bill 1990 which, when enacted, will enable the Building Authority to take prompt action to remove dangerous illegal and unauthorized buildings and building works. This legislation will serve the purpose of alleviating the risk of structural danger to the innocent public.

In the Bill, particular emphasis is also placed on unauthorized buildings erected or building works carried out with a view to sale, letting or disposal. In this connection, I would suggest that, as a complementary measure, the Building Authority should register all known cases of such building works with the Land Office or record them in a special register within the Buildings Ordinance Office for information of the authorized persons, registered structural engineers and lawyers responsible for conveyancing. This information not only assists the professionals in advising their clients but also serves to deter the owners or landlords from retaining the unauthorized buildings or building works before sale or leasing.

After the enactment of the Bill, there will be a great deal of workload to be imposed on both the Buildings Ordinance Office and the District Courts. I do hope through good management and administrative measures any difficulty in sorting out the right priority from so many priority cases would be minimized. I am sure the general public will expect the Government to do a good job with this new legislation.

Sir, with these remarks, I support the Bill.*

MR CHUNG: Sir, I welcome wholeheartedly the introduction of this Bill into this Council, although it comes a little bit late. This Bill shows the first step of Government's determination to curb unauthorized buildings and building works. Although the effectiveness of this Bill, when enacted, is yet to be seen, I believe that the new procedure contained in the Bill would bring about the desired effect of more efficient and speedy enforcement on unauthorized buildings and building works in some special circumstances.

It is a conservative estimate that there are over 1 million unauthorized buildings and building works. Some of these are posing danger to life and property of the public pedestrians and must be removed with the utmost despatch. With the new procedure contained in this Bill, it is hoped that remedial measures can be done within a matter of days rather than a matter of months. Despite this, it is important that the

Building Authority should make itself aware of any unauthorized and dangerous building works before any action can be taken. There is no need for me to remind the Government of its duty to make the best endeavour to protect people's safety. Yet given the extent of the problem, I urge the Building Authority to look for, as a top priority, those unauthorized building works with imminent danger and, once identified, have them rectified. I also call upon members of the public who have come across unauthorized building works to report their existence to the Authority.

The Bill may also aim at curbing the sale, letting or other disposal of unauthorized buildings. This would protect the innocent public who may be cheated into buying, or taking on lease any unauthorized buildings or buildings with unauthorized building works. I refer particularly to those residential premises sub-divided into several units without regard to fire safety and carrying unauthorized drainage arrangements. Yet the potential home buyers should be on the alert and seek the assistance of the professionals.

The Bill would see a positive impact on the control of unauthorized buildings and building works falling within the categories specified therein. Yet it is still a long way before we can put the situation under proper control. Prevention is better than cure. Publicity and education may help. I think it is time for the Building Authority to consider stepping up penalizing those contractors who are caught erecting unauthorized buildings or carrying out any unauthorized building works. It is also the right time for the Building Authority to take appropriate measures to contain and tackle the problem of unauthorized buildings and building works not falling within the special circumstances as described in this Bill.

With these remarks, I support the Bill.

MISS LEUNG (in Cantonese): Sir, first I would like to make myself clear that I support the proposals contained in the Buildings (Amendment) (No. 2) Bill 1990. I will also support the amendment to be moved by Miss Maria TAM during the Committee stage.

If later on the proposals are approved by this Council and passed into law, much of the procedure for demolishing potentially dangerous illegal structures that constitute a public nuisance can then be simplified. The staff concerned thereafter can effect the demolition of illegal structures upon posting one week's notice at a conspicuous part of the illegal structure.

Sir, as we all know, potentially dangerous illegal structures that constitute a public nuisance are found all over the territory and the situation is getting more and more serious. What causes dissatisfaction is the Government's failure to provide as yet any effective measure to tackle the problem. Recently, incidents of collapses of illegal canopies occurred repeatedly, leading to deaths and injuries of the innocent public.

Though the proposals as contained in today's Bill are long overdue and their effects have yet to be seen, they are nevertheless a big step forward in the right direction in resolving the problem.

Sir, as the Buildings Ordinance Office has all along been understaffed and that the current policy is to restrain spending and to maintain zero growth within the Civil Service at large, my worry is that the authority concerned may lack sufficient manpower to demolish the illegal structures early enough. For the safety and peace of the general public, I stress that the Government should employ adequate manpower, including temporary staff and non-public servants to carry out investigations and other related work.

Furthermore, if this Bill is later approved by this Council and passed into law, it may be a cause of unnecessary conflicts between the authority concerned and the landlords/tenants, or between the landlords and tenants. In this connection, I think the Government should, upon enactment of this Bill, lose no time in widely publicizing the new procedures for demolishing illegal structures so that the public are made fully aware of them to avoid any misunderstanding. Furthermore, the Administration should, if necessary, consider adopting some special measures to help the landlords to recover from the tenants their share of the demolition costs.

Sir, with these remarks, I support the Bill.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I would like to thank Miss TAM, Mr CHENG, Mr CHUNG and Miss LEUNG for their support of the Buildings (Amendment) (No. 2) Bill 1990. I wish to assure them that the Buildings and Lands Department is fully prepared to take advantage of the improvements and procedure afforded by the amendments as from the date of commencement. Indeed, these amendments make the staff resources go further. I confirm also that the Administration is happy about the

amendments to be proposed by Miss TAM today.

I would like to mention also, in reply to Miss LEUNG, that the drafting of the Bill started well before the two tragedies to which reference has been made today.

Sir, I support the motion.

Question on the Second Reading of the Bill 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.

BUILDINGS (AMENDMENT) (NO. 2) BILL 1990

Clauses 1, 2 and 4 to 9 were agreed to.

Clause 3

MISS TAM: Sir, I move that clause 3 be amended as set out in the paper circulated to Members, the reasons of which I have stated in my speech.

Proposed amendment

Clause 3

That clause 3 be amended, by adding after subsection (20) --

"(20A) The notice given under subsection (20) shall be given by the applicant at least -

(a) where the order under subsection (9) sought to be varied or discharged was made by the District Court on being satisfied that any circumstance described in paragraph (a) or (d) of subsection (1) existed, 3 days; or

(b) in any other case, 7 days,

before the day of hearing by the District Court of the application under subsection (19).".

Question on the amendments proposed, put and agreed to.

Question on clause 3, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

BUILDINGS (AMENDMENT) (NO. 2) BILL 1990

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.

Member's motion

WATER POLLUTION CONTROL ORDINANCE

MR PETER WONG moved the following motion:

"That, in relation to the Technical Memorandum Standards for Effluents Discharged into Drainage and Sewerage Systems, Inland and Coastal Waters laid on the table of the Council on 5 December 1990, the period referred to in section 21(5) of the Water Pollution Control Ordinance for amending the Technical Memorandum be extended under section 21(7) of that Ordinance for a further period of 21 days until 23 January 1991."

MR PETER WONG: Sir, I move the motion standing in my name on the Order Paper that the time for amendment of the Technical Memorandum provided for under section 21(7) of the Water Pollution Control (Amendment) Ordinance be extended for a further 21

days until 23 January 1991 to permit Members of this Council to consider its implications carefully.

When a technical memorandum was tabled on 5 December 1990, I was under the impression that we had 28 days to comment. However, due to the Christmas and New Year recess, the expiry date has to be advanced to 12 December 1990, that is, today, which does not give adequate time for thorough consideration.

I would thank you, Sir, for your indulgence to permit me to move this motion without a four-day notice but the implications of this Technical Memorandum are not easy to understand. I would also seek Members' understanding because the acute time constraint has not permitted me to go through the normal In-House consultation process to move this motion. Further time is needed to collect these views and consider them in depth.

Sir, I beg to move.

Question on the motion proposed.

MR MARTIN LEE: Sir, I recognize, of course, that if the motion is passed today, it would effectively cause a delay of 21 days to the date of commencement of the Technical Memorandum. This is of course a matter that has caused me some concern. But bearing in mind that although the law provides that we should have 28 days to study it, effectively because of the intervening Christmas holidays we have only seven days to look at it. I think we should support the motion to give Members a little more time to look at this very complicated matter a little more closely.

Sir, I would urge Members to support this motion.

MR EDWARD HO: Sir, during the examination stage by this Council on the Water Pollution Control (Amendment) Bill 1990, concerns have been expressed by industry on the Technical Memorandum as to the practicability in implementation and the likely impact on industry to such an extent that it might not have been envisaged by the Administration.

When the Bill was introduced to the Legislative Council on 25 July 1990, the Legislative Council ad hoc group on the Bill recommended that a Technical Standards Committee be set up to consider the Technical Memorandum which was part of the Bill

whose function was to set limits to the physical, chemical and microbial quality of effluents acceptable into foul sewers, storm water drains, inland and coastal waters. The proposed Technical Standards Committee was to enable industry and Government to jointly examine the standards to be included within the Technical Memorandum to take into account industry's concerns whilst maintaining water quality objectives.

As a result of that recommendation, a Technical Standards Committee was formed with a membership that is composed of a wide sector of the industrial community as well as various concerned government departments. A report of the Technical Standards Committee was made available to me as convener of the Legislative Council ad hoc group on 21 November 1990 and subsequently copies of the report were made to members of the ad hoc group on 23 November 1990. A joint briefing was given by the Administration on the report to the OMELCO Standing Panel on Environmental Affairs and members of the ad hoc group on 30 November 1990. Subsequent to that, the Technical Memorandum was laid on the table of the Legislative Council sitting on 5 December 1990.

On 10 December 1990, as a result of a representation from a concerned group, the OMELCO Standing Panel on Environmental Affairs referred a number of questions to the Administration on the Technical Memorandum. The Administration's reply was received on 11 December -- that is yesterday -- and was circulated to Members of this Council on the same day.

Although theoretically, this Council may, by resolution, amend the Technical Memorandum within a period of 28 days from 5 December 1990 when the Technical Memorandum was tabled, that is 2 January 1991, in actual fact, the latest date when Members can amend the Technical Memorandum -- unless a further period was resolved in Council -- is today due to the fact that this Council will be in recess until 9 January 1991. Thus, Members have only one week to consider the impact of the Technical Memorandum. This is rather unfortunate and I urge the Administration to take such factors into account on similar matters in the future.

Members would have been surprised at Mr Peter WONG's motion which only came to Members' notice this morning. Naturally, Mr WONG's motion has not been either discussed in the ad hoc group or in the Legislative Council In-House but, given the sequence of events and the fact that Members were not given sufficient time to determine whether or not they wish to amend the Technical Memorandum, I therefore support Mr WONG's motion to extend the period for amendment of the Technical

Memorandum for 21 days until 23 January 1991.

Finally, I wish to stress that it would be to the interest of the industrialists as well as all those who are concerned with the protection of the environment that the Technical Memorandum be adopted as soon as possible since the Water Pollution Control Ordinance as amended has already taken effect since 1 December 1990.

With these remarks, Sir, I support the motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, both the Administration and the Legislative Council ad hoc group convened by Mr HO have faithfully adhered to the processes and the timetable for consultation with industry regarding the Technical Memorandum, which were agreed before the Second Reading of the Water Pollution Control (Amendment) Bill 1990. And it is naturally disappointing that a deferment in their adoption should be proposed now. However, if non-government Members indicate their acceptance of this motion, the Administration will not oppose it.

Question on the motion put and agreed to.

Seasonal greetings

HIS EXCELLENCY THE PRESIDENT: This is the last sitting of this Council before the Christmas and the New Year holidays. I believe the festive season starts with the annual OMELCO Games very soon. Quite apart from any enjoyment Members may get from that, or others who are watching the Council at work, I do wish Members a very happy Christmas and a very prosperous New Year. And now in accordance with Standing Orders I adjourn the Council until 2.30 pm on Wednesday, 9 January 1991.

Adjourned accordingly at four minutes to Four o'clock.

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

