

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 27 June 1984****The Council met at half past two o'clock****PRESENT**

HIS HONOUR THE DEPUTY TO THE GOVERNOR (*PRESIDENT*)
THE HONOURABLE THE CHIEF SECRETARY
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR. DOUGLAS WILLIAM ALFRED BLYE, C.M.G., O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL
MR. MICHAEL DAVID THOMAS, Q.C.

THE HONOURABLE ROGERIO HYNDMAN LOBO, C.B.E., J.P.

THE HONOURABLE DAVID AKERS-JONES, C.M.G., J.P.
SECRETARY FOR DISTRICT ADMINISTRATION

DR. THE HONOURABLE HARRY FANG SIN-YANG, C.B.E., J.P.

THE HONOURABLE LO TAK-SHING, C.B.E., J.P.

THE HONOURABLE FRANCIS YUAN-HAO TIEN, O.B.E., J.P.

THE HONOURABLE ALEX WU SHU-CHIH, C.B.E., J.P.

THE HONOURABLE CHEN SHOU-LUM, C.B.E., J.P.

THE HONOURABLE LYDIA DUNN, C.B.E., J.P.

THE REVD. THE HONOURABLE PATRICK TERENCE MCGOVERN, O.B.E., S.J., J.P.

THE HONOURABLE ALAN JAMES SCOTT, C.B.E., J.P.
SECRETARY FOR TRANSPORT

THE HONOURABLE PETER C. WONG, O.B.E., J.P.

THE HONOURABLE WONG LAM, O.B.E., J.P.

DR. THE HONOURABLE THONG KAH-LEONG, C.B.E., J.P.
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE ERIC PETER HO, C.B.E., J.P.
SECRETARY FOR TRADE AND INDUSTRY

THE HONOURABLE CHARLES YEUNG SIU-CHO, O.B.E., J.P.

THE HONOURABLE JOHN MARTIN ROWLANDS, C.B.E., J.P.
SECRETARY FOR THE CIVIL SERVICE

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.

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

THE HONOURABLE HU FA-KUANG, J.P.

THE HONOURABLE WONG PO-YAN, O.B.E., J.P.

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

THE HONOURABLE WILLIAM CHARLES LANGDON BROWN, O.B.E., J.P.

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

THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.

THE HONOURABLE COLVYN HUGH HAYE, C.B.E., J.P.
DIRECTOR OF EDUCATION

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, J.P.

THE HONOURABLE CHEUNG YAN-LUNG, M.B.E., J.P.

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE MARIA TAM WAI-CHU, O.B.E., J.P.

THE HONOURABLE PIERS JACOBS, O.B.E., J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE HENRY CHING, C.B.E., J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE CHAN NAI-KEONG, J.P.
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE CHAN YING-LUN

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN

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

THE HONOURABLE YEUNG PO-KWAN, C.P.M.

THE HONOURABLE JAMES NEIL HENDERSON, O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

DR. THE HONOURABLE JAMES WILLIAM HAYES, J.P.
COMMISSIONER FOR LABOUR (*Acting*)

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E., J.P.
SECRETARY FOR HOME AFFAIRS (*Acting*)

THE HONOURABLE JAMES JOHN O'GRADY
LAW DRAFTSMAN (*Acting*)

ABSENT

THE HONOURABLE ANDREW SO KWOK-WING, O.B.E., J.P.

DR. THE HONOURABLE HENRIETTA IP MAN-HING

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MRS. JENNIE CHOK PANG YUEN-YEE

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Buildings Ordinance. Building (Administration) (Amendment) Regulations 1984	153
Buildings Ordinance. Building (Refuse Storage Chambers and Chutes) Regulations 1984.....	154
Smoking (Public Health) Ordinance. Smoking (Public Health) (Amendment) Regulations 1984	155
Smoking (Public Health) Ordinance. Smoking (Public Health) (Specification of Newspaper Circulation) Notice 1984 .	156
Holidays Ordinance. General Holidays (No. 2) Order 1984	157
Public Health and Urban Services Ordinance. Public Health and Urban Services (Designation of Libraries) (No. 3) Order 1984	158
Public Health and Urban Services Ordinance. Public Health and Urban Services (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 4) Order 1984	159
Public Health and Urban Services Ordinance. Declaration of Markets in the New Territories (No. 4)	160
Antiquities and Monuments Ordinance. Antiquities and Monuments (Declaration of Monuments) (No. 3) Notice 1984	161
Antiquities and Monuments Ordinance. Antiquities and Monuments (Declaration of Monument) (No. 4) Notice 1984	162
International Organizations and Diplomatic Privileges Ordinance. Diplomatic Privileges (The International Refugee Organization) (Revocation of Declaration) Notification 1984	163
Smoking (Public Health) (Amendment) Ordinance 1984. Smoking (Public Health) (Amendment) Ordinance 1984 (Commencement) Notice 1984	164
Interpretation and General Clauses Ordinance. Environmental Protection Advisory Committee (Change of Title) Notice 1984....	165

Sessional Papers 1983-84:

No. 58—Report of the UMELCO Police Group 1983.

Other

Text of the Speaking Note used by Sir S. Y. CHUNG, Miss Lydia DUNN and Mr. Q. W. LEE during their meetings with Chairman DENG Xiaoping and Mr. Ji Pengfei in Beijing on 23 June 1984.

Oral answers to questions

Potential hazards to residents of Tsing Yi Island

1. MRS. CHOW asked:—*Is Government satisfied that residents on Tsing Yi Island are adequately protected from the potential hazards posed by LP gas tanks, oil installations and toxic chemical works on the island?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, all the installations referred to are constructed in accordance with conditions prescribed in the law and operate under the provisions of the Dangerous Goods Ordinance and are therefore subject to issue of an annual licence, following inspections by the Specified Authority, the Fire Services Department, to ensure compliance with safety standards. The Government now also has available the expertise of the Gas Adviser's Office. Inspections carried out by their offices identified several areas where improvements were desirable. These are now being implemented by the companies as a condition of licence.

In addition to this, the Government appointed consultants to review the possible dangers to the public on Tsing Yi with the request that recommendations be made to Government on any action required. This study concluded that the risks to the general public for today's situation on Tsing Yi are comparable with internationally accepted levels and further stated that no reason of public safety exists to halt the overall development of Tsing Yi.

However, the consultants also said that the proximity of Mayfair Gardens to the Mobil Terminal gives rise to circumstances which are considered to be on the border-line of acceptability. Their recommendations on this have been considered by Executive Council and, as a result, a Working Group has been set up under my Chairmanship to consider what combination of measures can be taken to improve this particular situation. The Working Group will report back with its recommendations to the Executive Council on this within three months.

MRS. CHOW:—*Sir, what are the improvements being implemented mentioned in paragraph one?*

SECRETARY FOR DISTRICT ADMINISTRATION:—*Sir, the most important improvements have been in terms of reducing further the risk of fires. In particular improvements have been made to water drenching systems which are activated in case of fire and spray water over oil tanks and LPG spheres to keep them cool and to prevent the fire from reaching them. Other measures such as the building of the circular road around Tsing Yi and getting on with building the second bridge to Tsing Yi and the pressurized water mains are included.*

MRS. CHOW:—*Sir, will Government publish the consultants' report which I understand was produced at the conclusion of this study as mentioned in paragraph two?*

SECRETARY FOR DISTRICT ADMINISTRATION:—*Sir, this will be considered by the Governor in Council when I make my report at the end of the working group's deliberations in three months time. However I should say at this time that the report does contain information provided to the consultants in confidence by companies operating on Tsing Yi, and it would be necessary to obtain their agreement before the report could be made public. However, should it not be possible to publish the report, we do expect to have a detailed presentation of the results of the study to put to the Tsuen Wan District Board.*

Traffic signs

2. MR. WONG LAM asked in Cantonese:—

政府在答覆本人一九七九年十月十七日所提出的問題時，答應全面複查所有交通標誌的豎立地點及位置，以免誤導駕駛人士，請問這項複查有何進展？七九年距今約有五年，政府認為一般交通和地面標誌，特別是那些與限制區和禁止上落客貨區有關的標誌是否已足夠？

(The following is the interpretation of what Mr. WONG Lam asked.)

What progress has been made since the undertaking was given in reply to my question on 17 October 1979 that a comprehensive review be carried out of the location and positioning of all road traffic signs so as to avoid misleading motorists, and is Government now satisfied, nearly five years having elapsed, with the adequacy of traffic signs and road makings in general and those relating to prohibited/restricted zones in particular?

SECRETARY FOR TRANSPORT:—*Sir, following the undertaking given in 1979, a comprehensive review of traffic signs has been carried out. This review considered not only guidelines for the location and positioning of signs, but also methods of making the signs clearer and more conspicuous for motorists.*

Useful steps have subsequently been taken, especially in connection with new road projects, and remedial work on existing roads has been carried out at sites identified by traffic engineers, and suggested by motoring bodies and by interested members of the public.

However, in 1979 it was clear that more comprehensive improvement would flow from a substantial revision of the Road Traffic legislation. This has been a long and complicated exercise with implementation finally scheduled for August this year. There will therefore be significant improvements during the next three years, particularly as the spirit of Mr. WONG Lam's question in 1979 has been very much borne in mind in the revision of road traffic signs, and Unofficial Members have been much involved—and most helpfully so—at both the policy and detail levels.

We have moved away from the old tradition that *more* traffic signs means *better* information for motorists. For example, rather than trying to put over great quantities of information by means of traffic signs we shall, after August, have general rules relating to speed limits, parking, and loading and unloading. Fewer signs will be needed because they will clearly inform motorists of the exceptions allowed to the rules, rather than all about the rules themselves. The new regulations also allow more than one sign to be erected on a pole, which will make it possible to reduce some of the 'forests' of signs which we all know so well. Another example is in regard to box junctions at present indicated by a traffic sign as well as the yellow cross-hatched road markings; the box junction marking is now a familiar concept, and the box junction sign can be removed.

Getting information over to motorists by means of traffic signs will be improved by using pictures instead of words (where practicable); by making Chinese characters twice as large as the English lettering; and by using reflective materials on signs facing motorists.

Turning now, Sir, to the particular question of restricted zones; that is, zones where on specified days or for specified hours the driver of any motor vehicle is prohibited from picking up or setting down passengers and from loading or unloading goods. Three complaints have been evident here: *first*, that the start of such zones have not been obvious enough because signs were placed parallel to the road; *second*, some drivers forget the restriction when they are midway through a zone, or so they claim; and *third*, that there is too much variation in the times set for the beginning and end of the restrictions. Under the new Road Traffic legislation, the start of the restricted zone will be marked by the large yellow 'Urban Clearway' signs which will face motorists. Signs parallel to the road will still be necessary on roads where traffic can approach the restricted zone from other directions. Motorists will be reminded of the restrictions by repeated signs along the roads. Yellow line road markings will be used as a further reminder to motorists about the restricted zone: double yellow parallel lines for a 24-hour restricted zone, and a single yellow line for a shorter period. The time periods for restricted zones will be reduced to three only.

With regard to prohibited zones it would be easy to arrange signs for a total prohibition, but practically, we need only to prohibit certain classes of vehicles at specified times. Signing will be improved by the use of separate signs with pictures of PLBs and goods vehicles, the vehicles most often involved, with clearer supporting signs, to indicate the time periods of the prohibition.

Legal and illegal abortions

3. MR. PETER C. WONG asked:—*Since the amendment of the Offences Against the Person Ordinance in February 1981, relaxing the requirements for abortion, has there been—*

- (i) any appreciable increase in legal abortion cases;*
- (ii) any appreciable decrease in illegal abortion cases; and*
- (iii) any assessment made of the social consequences of such relaxation?*

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, in answer to Mr. WONG's questions:

- (i) The number of termination of pregnancy cases for the years 1981, 1982 and 1983 respectively are 10 622, 12 219 and 13 382 with the corresponding rates of increase over the preceding year being 13%, 15% and 10%.

Thus, it can be seen that while there has been an upward trend in the numbers of these cases in the past three years, the rates of increase over the previous year since the amendments to the Offences Against the Person Ordinance in February 1981 have not shown any appreciable change.

- (ii) According to available records from the Royal Hong Kong Police Force, the number of illegal abortion cases for the years 1981, 1982 and 1983 are five, one and five respectively.

Again, there is no appreciable change in the numbers which, in any case, are very small and it is not possible to draw any definite conclusions from these figures to determine the effects, if any, of the amendments of the Ordinance on the number of illegal abortions.

- (iii) I am not aware of any specific assessments which have been made on social consequences since the amendments to the law were made.

However, I might add that from the statistics on the numbers and rates of increase of legal and illegal termination of pregnancy cases, the amendments to the law do not appear to have resulted in any significant changes in this respect.

Provision of laboratory technicians in schools

4. MR. YEUNG PO-KWAN asked:—*With regard to the provision of laboratory*

technicians in Government and aided secondary schools, will Government inform this Council:—

- (a) how many Government and aided secondary schools have four science laboratories which entitle them to employ not more than two laboratory technicians;*
- (b) how many of such schools, on a five-day week and a six-day cycle respectively, are actually able to employ more than two laboratory technicians as a result of the introduction of the new manning scale of laboratory technicians;*
- (c) on what basis the new manning scale for laboratory technicians in schools operating on a six-day cycle is justified; and*
- (d) what measures will be taken to ensure that the objective of providing reasonably sufficient laboratory technicians in secondary schools can be achieved?*

DIRECTOR OF EDUCATION:—Sir, there are at present 177 Government and aided secondary schools with four laboratories. Of these, 134 are entitled to not more than two laboratory technicians.

Of the 177 schools with four laboratories, 43 are able to employ more than two laboratory technicians in accordance with the manning scale introduced in September 1981. Of these 43 schools, 32 operate on a five-day week and 11 operate a six-day cycle.

In the manning scale introduced in 1981, the number of laboratory technicians provided per school is based on the total number of practical science periods per week for the whole school. This replaced the original provision of laboratory technicians based entirely on the total number of laboratories per school.

Whether the school operates on a five-day week or a six-day week is immaterial since in both cases provision of laboratory technicians is based on the total number of practical science lessons over the same period of time.

The 1981 manning scale gives full recognition and support to the introduction of the new science syllabuses which place more emphasis on practical work. It is based on the number of practical lessons and fully takes into account increased workload per school, while allowing schools to continue to operate either a five-day week or a six-day cycle.

In brief, the 'new' manning scale for laboratory technicians, to which Mr. YEUNG refers, is not new: it was introduced three years ago to reflect the work actually done in school laboratories, and is deemed to be an improvement.

MR. YEUNG PO-KWAN:—*Sir, will Government consider whether there could be further improvement on the existing manning scale for laboratory technicians which I fully understand was first introduced in September 1981?*

DIRECTOR OF EDUCATION:—We are prepared to consider almost anything, Sir, but we have not had any complaints other than Mr. YEUNG's to date.*(laughter)*

Re-issue of identity cards

5. MRS. FAN asked:—*Will the Government make a statement on the present progress of the scheme for the re-issue of identity cards?*

SECRETARY FOR SECURITY:—Sir, the scheme for the re-issue of identity cards started on 2 May 1983. Its aim is to replace some 4.5 million old identity cards with new cards which are much more difficult to forge than the old ones.

The scheme was originally scheduled to be completed in four and a half years, that is by the end of 1987. In fact, the Immigration Department is ahead of schedule and is planning to complete it by April 1987, at least six months earlier than expected. As at 20 June 1984, 1 260 000 persons has obtained new identity cards, including 1 053 000 men between the ages of 18 and 35 and 207 000 women between the ages of 19 and 21. The Department is now 28% of its way through the project in the sense that 28% of the people who need new identity cards have now been issued with them.

Sir, it is a dangerous comment to make before a scheme is completed, but I think this story is one of remarkable success in difficult circumstances. The credit must go to the staff of the Immigration Department and of all the other departments involved in setting up the re-issue scheme. I have been round two of the offices where the cards are being issued. I was most impressed by the pleasing way the offices were laid out, by the effective systems being used and by the efficient way the staff were working. Great credit must also go to the public who have reacted so well as their turn comes round.

MRS. FAN:—*Sir, what action is being taken against people who do not renew their identity card within the periods stipulated in the Gazette, and in this connection what arrangements have been made for people who are unable to renew their identity card on time because they are abroad for various reasons?*

SECRETARY FOR SECURITY:—Sir, the law provides that any person who, without reasonable excuse, fails to comply with the requirement to replace his or her old identity card with a new one is liable on conviction to a fine of \$3,000. So far about 14 500 people arrived late to get their new cards. About 4 500 of these had excellent reasons for missing their allotted time, for example, they were out of Hong Kong. The excuses of the other 10 000 were not so good, but the Immigration Department gave them the benefit of the doubt and has prosecuted no-one so far. But now that the project is well known, some of the more feeble excuses are wearing somewhat thin, and the Department will probably have to take some of the offenders to court. As regards the second half of my

honourable friend's question, for those who are unable to comply with the statutory requirements because they are outside Hong Kong, the law requires that they must apply for a new identity card within 30 days of returning to Hong Kong. The Immigration Department, Sir, has so far processed 3 800 applicants of this order.

MRS. FAN:—*Sir, has any forgery of the new identity cards been discovered since the introduction of the scheme?*

SECRETARY FOR SECURITY:—Sir, as has been reported in the press recently, four persons suspected to be involved in a syndicate trying to forge the new identity card have now been charged. But in actual fact the security forces have not yet come across anyone actually using a forged identity card.

Unauthorized building works

6. MRS. NG asked in Cantonese:—

政府可否告知本局，本港有多少已知的未經許可樓宇加建工程，和在過去三年內，政府採取了甚麼行動處理這事，又計劃將來如何應付這個問題？

(The following is the interpretation of what Mrs. NG asked.)

Will Government inform this Council of the number of known unauthorized building works throughout the territory, of the action it has taken to deal with them over the past three years, and of its plans to deal with the problem in the future?

SECRETARY FOR LANDS AND WORKS:—Sir, it is difficult to quote a precise figure for the number of unauthorized building works known to the Buildings Ordinance Office, because case files are opened on the basis of individual buildings, or building complexes, and may refer to only one, or to several, illegal works within that particular building or complex. There are, however, nearly 18 000 such case files on reported illegalities.

Over the past three years 6 041 inspections were carried out, and 1 763 orders were made for the removal of illegal works and reinstatement. The majority of these orders related to cases of serious breaches giving rise to hazards to life and limb, these being given greatest priority.

The Lands Department, Sir, has also been assisting in the control of illegal building works in cases where lease conditions allow re-entry as a sanction in respect of breaches of the Buildings Ordinance, and this has led to 45 cases of illegalities being remedied.

In response to the growing problem, a Control and Enforcement Branch dedicated to the task of enforcing compliance with the Buildings Ordinance, was formed within the Buildings Ordinance Office in January this year.

As to the future, Sir, it is intended to continue immediate action against illegal building works which pose an obvious and immediate danger to life and limb. It is also hoped to be able to enlarge the Control and Enforcement Branch in the Buildings Ordinance Office, to enable it to exercise greater control, and the Lands Department will continue to assist as far as possible.

Apart from this, proposals have been formulated, and are being considered within Government, for legislation aimed at more effective control over illegal building works.

MRS. NG asked in Cantonese:—

請問在一千七百六十三宗通知裏，政府已執行清拆的有多少宗？

(The following is the interpretation of what Mrs. NG asked.)

Out of the 1 763 orders issued, in how many cases has removal actually been carried out?

SECRETARY FOR LANDS AND WORKS:—Of the 1 763 orders, Sir, approximately 75% of them were complied with voluntarily by the building owners. The 25% outstanding necessitated the employment of the Buildings Ordinance Office's contractors to carry out the required remedial work.

MRS. NG asked in Cantonese:—

在本年一月管制執行組成立以來，政府發出的清拆通知有幾多，而着實執行清拆的又有幾多宗？

(The following is the interpretation of what Mrs. NG asked.)

Since the setting up of the Control and Enforcement Branch in January this year, how many orders have been issued and how many removals have been carried out?

SECRETARY FOR LANDS AND WORKS:—I don't have readily available the statistics for all the months from January to June this year. I do have the statistics for April 1984. The number of removal orders issued in that month is 39; the number of removal orders voluntarily complied with is 47. If that is taken as the average and multiplied by six, you will get around 240 orders issued in the six months.

MRS. NG asked in Cantonese:—

地政工務司可否詳細解釋在最後一段所提出的建議的細則？

(The following is the interpretation of what Mrs. NG asked.)

Sir, can the Secretary for Lands and Works explain in detail the proposals mentioned in the last paragraph of the reply?

SECRETARY FOR LANDS AND WORKS:—Sir, this proposal involves, firstly, the amendment of the Ordinance in such a way that any non-compliance with an order issued under sections 24 and 25 for the removal of illegal building works would be deemed to be a breach of the lease condition, thereby enabling the land authority to take re-entry action. Secondly, we are considering legislation requiring building owners to submit annually a certificate to the effect that their property has been inspected by a competent person and that no alteration work has been carried out which contravenes the Buildings Ordinance.

It is proposed initially to introduce this requirement for new buildings sometime in the future. Once the position regarding new buildings has been secured, the requirement can then be applied to other buildings in a very gradual and phased manner so that eventually all buildings will be covered. As can be gathered these proposals constitute a fundamentally new approach and therefore require very careful consideration. Details will take sometime to finalize. Once this is done, relevant bodies will be consulted including the District Boards.

Service at public enquiry counters

7. MR. CHEUNG YAN-LUNG asked:—*How does Government assess whether members of the public are satisfied with the quality of services provided by public enquiry counter staff in departments such as the Immigration, Labour and Social Welfare Departments?*

SECRETARY FOR HOME AFFAIRS:—Sir, the Government does attach importance to the provision of a good service at public enquiry counters in all Government offices which deal directly with the public. To this end efforts are made to ensure not only that the facilities are adequate and the staff well briefed, but also to assess whether or not people are satisfied with the service provided.

Apart from the day to day monitoring carried out by Heads of Departments, Civil Service Branch has carried out studies on the delivery of Government services to the public in selected offices of the Post Office, Medical and Health and Immigration Departments. These studies included a survey in which members of the public were asked to express their views on the level of service provided at the counters they were using. The results indicated a generally high level of satisfaction among the respondents, and where shortcomings were pinpointed improvements have been introduced. I understand that similar studies have been organized by the Urban Services, Labour and Housing Departments and that other departments are likely to follow suit.

I think it fair to say that gradually a much higher standard of public reception facility is being provided. However whilst I can assure Mr. CHEUNG that the Government is concerned to ensure a good level of service and that this is generally being achieved, I have no doubt that, as always, there is room for improvement. This is likely to be the case where departments are expanding rapidly into developing areas and standards of service and supervision have not fully settled down. If Mr. CHEUNG will let me have details of specific complaints he is aware of I can promise that these will be drawn to the attention of the departments concerned and will be dealt with constructively.

Provision of community centre facilities

8. Mr. CHAN YING-LUN asked:—*In the light of the standards prescribed in the Town Planning Division's publication 'Hong Kong Planning Standards and Guidelines' regarding the provision of community centres and community halls, will Government state*

- (a) the planning shortfall in each of the 18 districts;*
- (b) how it proposes to meet the deficiency in the next five years; and*
- (c) whether there are any temporary facilities which could be made available to the public during the interim?*

SECRETARY FOR DISTRICT ADMINISTRATION:—Sir, the standards recommended in the 'Hong Kong Planning Standards and Guidelines' for the provision of social welfare facilities are:

- (a) one community hall to every 20 000 to 50 000 persons in public housing estates;*
- (b) one estate community centre to every 50 000 persons in public housing estates;*
and
- (c) one community centre to every 100 000 persons in areas not provided with estate community centres, or community halls.*

The requirement for these facilities is estimated by examining the population build-up and geographical distribution, area by area and year by year. For public housing estates, the ultimate population capacity is used in assessing demand.

Using the criteria I have indicated, the present requirement for community centre facilities, together with those estimated for the next five years, is 35 community centres, 24 estate community centres, and 40 community halls. To meet this requirement, 24 community centres, 14 estate community centres and 22 community halls have already been provided throughout Hong Kong. In addition, nine community centres, eight estate community centres and 17 community halls are included in the Public Works Programme for completion,

if funds are available, over the next five years. One community centre, one estate community centre and three community halls will be completed within this financial year. The planning shortfall by 1989 would therefore be two community centres, two estate community centres and one community hall. One of these community centres is expected to be completed by 1990, and construction of the other facilities could proceed if sites and funds are available.

Information relating to each of the 18 districts is too detailed for me to present verbally and I have arranged for a breakdown to be tabled for the information of Members (see *Appendix*).

The situation, I have described, is certainly much better than some years ago and we can look forward to further improvement in the years ahead. Nevertheless as the question suggests, interim measures can be taken before the full completion of these standard facilities. Firstly, we should make full use of our many fine assembly and school halls so that they can serve as additional venues for meetings and larger scale events; secondly, alternative accommodation can be sought for welfare services such as nurseries and day-care centres in places where these services are not yet provided in purpose-built community centres; thirdly, where possible, voluntary agencies can be assisted to upgrade and convert their buildings so as to provide more services and facilities, such as the Lut Sau Hall in Yuen Long and Tsim Sha Tsui Kaifong Association building; and fourthly, the service catchment area of existing community centre facilities can be expanded.

Appendix to question 8

PROVISION OF COMMUNITY CENTRE FACILITIES

<i>District</i>	<i>Accumulated Demand (Existing & estimated for 1984-89)</i>			<i>Existing Provisions (as at 22.6.84)</i>			<i>Planned Provisions (1984-89)</i>			<i>Shortfall</i>		
	<i>CC</i>	<i>ECC</i>	<i>CH</i>	<i>CC</i>	<i>ECC</i>	<i>CH</i>	<i>CC</i>	<i>ECC</i>	<i>CH</i>	<i>CC</i>	<i>ECC</i>	<i>CH</i>
	Central & Western	3	—	—	3	—	—	—	—	—	—	—
Wan Chai	2	—	—	—	—	—	1	—	—	1	—	—
Eastern	5	—	3	2	—	2	3	—	1	—	—	—
Southern	2	—	3	2	—	1	—	—	2	—	—	—
Yau Ma Tei/Mong Kok	3	—	—	2	—	—	—	—	—	1	—	—
Sham Shui Po	3	—	3	2	—	3	1	—	—	—	—	—
Kwun Tong	2	7	1	2	6	1	—	1	—	—	—	—
Wong Tai Sin	1	5	2	1	3	—	—	1	1	—	1*	1
Kowloon City	5	—	—	2	—	—	3	—	—	—	—	—
Sai Kung (include Junk Bay)	—	1	3	—	—	—	—	1	3	—	—	—
Tsuen Wan/Kwai Chung	3	4	8	3	3	6	—	1	2	—	—	—

District	Accumulated Demand (Existing & estimated for 1984-89)			Existing Provisions (as at 22.6.84)			Planned Provisions (1984-89)			Shortfall		
	CC	ECC	CH	CC	ECC	CH	CC	ECC	CH	CC	ECC	CH
Sha Tin	1	4	8	—	1	4	1	3	4	—	—	—
Tai Po	1	—	3	1	—	2	—	—	1	—	—	—
North	1	—	2	1	—	1	—	—	1	—	—	—
Tuen Mun	2	2	2	2	1	2	—	1	—	—	—	—
Yuen Long	1	1	1	1	—	—	—	—	1	—	1	—
Islands	—	—	1	—	—	—	—	—	1	—	—	—
Total:	35	24	40	24	14	22	9	8	17	2	2	1

Note: *To be completed in 1990/91

MR. CHAN YING-LUN:—*Sir, whilst admitting the current shortfall of community facilities depends on the availability of funds, what is Government's plan to further improve the utilization of existing facilities in case funds are not available?*

SECRETARY FOR DISTRICT ADMINISTRATION:—*Sir, of course the estate community centres are at present I should say very heavily used, but there is also, of course, a shortage of trained social workers at the same time. Their services are very heavily required for social welfare work, so more effort is being made to divide the work into that which doesn't require specialist ability so as to free the social welfare and social workers for their specialist tasks and to leave the operation of the non-specialist facilities to non-specialists.*

MR. STEPHEN CHEONG:—*Sir, the Secretary has told us that the 14 estate community centres have been widely used. May I ask then whether the 24 community centres and the 22 community halls have been widely used as well? If not, what is the reason?*

SECRETARY FOR DISTRICT ADMINISTRATION:—*I would say, generally speaking, that all the centres have been widely used. Sometimes there is a lag between the actual construction of a centre and the provision of staff in order to get it running, and in those cases of course there is a time lag.*

MR. ALEX WU:—*Sir, has Government made plans for manpower resources corresponding to the facilities to be provided so that these halls will be managed and used efficiently?*

SECRETARY FOR DISTRICT ADMINISTRATION:—*Yes, Sir. But there is on occasion a time lag as I indicated between the construction of a hall or a centre in one year perhaps, and the provision of staff and its recruitment in the following year.*

Professional standards of optometrists

9. DR. HO asked:—*What steps are taken by Government to ensure that optical shops generally are competently staffed to offer services advice to the public on the prescription and fitting of contact lenses, especially the extended-wear type?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the most important step being taken is the drafting of a bill to amend the Supplementary Medical Professions Ordinance so as to bring optometrists within the ambit of that Ordinance. It is hoped to introduce the bill into this Council later this year.

The enactment of this legislation will enable a board to be appointed to promote adequate standards of professional practice and conduct among members of the profession of optometry, and to carry out certain statutory functions for the registration and discipline of persons in the profession.

Drafting is also proceeding on new regulations, to be made by the Governor in Council following the passage of the bill, and these regulations will give details of the basic qualifications required of persons seeking registration as optometrists. The regulations will recognize the need for acceptable qualifications required of persons wishing to undertake any contact lens work, including soft contact lenses and those of the extended wear type.

As I indicated in reply to a similar question in this Council last November, some difficult policy issues remain to be resolved. To enable expert advice to be obtained on these issues, and on the preparation of the new regulations, an advisory committee has been established under the chairmanship of Professor Joseph C. K. LEE of the Chinese University of Hong Kong, pending the appointment of a statutory board.

It would, Sir, be appropriate for this advisory committee to be consulted on the particular matter of contact lenses, and on whether there is a need to take earlier regulatory action in respect of such lenses. Steps have accordingly been taken to consult the advisory committee having regard to the concern that has been publicly expressed.

DR. HO:—*Sir, I understood that there are about 40 qualified optometrists and there are some 500 optical shops in Hong Kong. Given this manpower shortage, I wonder how the proposed legislation would provide adequate safeguard against eye damage to the public, and I also wonder whether the Government would consider in the interim restricting the dispensing of soft contact lenses, especially the extended wear type, to those optical shops where there are qualified optometrists employed?*

SECRETARY FOR HEALTH AND WELFARE:—Sir, the legislation which we have in mind will not in itself solve the problem unless it is accompanied by a programme of training to enable as many people in the profession as possible to obtain the necessary qualifications as quickly as possible. But, as Dr. Ho quite rightly implies, that will take time; and until the necessary number of trained

optometrists can be supplied it is doubtful if any real immediate improvement can be brought about. That is precisely why I said in my original reply that the Advisory Committee is being consulted on the question of whether earlier regulatory action is needed, and I would not like to anticipate the advice that we will get from that Committee.

DR. HO:—*Sir, I did not get an answer to the second part of my question which says: in the interim would Government consider restricting the dispensing of soft contact lenses to those optical shops where qualified optometrists are employed?*

SECRETARY FOR HEALTH AND WELFARE:—I think, with respect, Sir, I did answer that question. The Advisory Committee is being consulted and I would not wish to anticipate the advice that they will give.

Written replies to questions

Prosecution procedure

10. DR. IP asked:—*With the enactment of the Magistrates (Amendment) Ordinance in May this year, will Government provide a list of minor offences under various Ordinances, which hitherto Government had difficulty in bringing to court but the prosecution of which are now facilitated by the amendment enacted?*

THE ATTORNEY GENERAL:—The Magistrates (Amendment) Ordinance received the assent of the Governor on 3 May 1984 but will not come into operation until a day to be appointed by the Governor.

It is important to be clear about the purpose of the legislation. The Ordinance does not create any new offences, nor is it intended to facilitate the prosecution of offences which hitherto might have been difficult to prosecute. The Ordinance merely provides a procedure intended to facilitate the process of prosecution. For those minor offences to which it applies, the new system enables fines to be paid without the necessity for personal attendance in court.

It is not really practicable to list *all* those minor offences under the many ordinances to which the new procedure could be applied. The system could be used for any offence for which the maximum penalty prescribed by law is not more than a fine of \$10,000 and imprisonment for six months. This may apply to all such offences currently dealt with under the summons procedure where in future an arrest is deemed inappropriate and where a court would not require details of a defendant's previous criminal convictions to be produced.

In any case dealt with under the new procedure where the court on reading the papers considers that the appropriate penalty might be custodial, the defendant will be notified and summoned to attend in person.

The new procedure will be implemented as expeditiously as possible. It is intended that initially there should be a trial exercise involving a police division in Hong Kong Island and another one in Kowloon, in addition to the traffic department of the Royal Hong Kong Police Force. For the duration of this exercise, it is proposed that all minor offences to which the legislation applies will be processed under the new procedure. So far as the traffic department is concerned, the initial exercise will only involve careless driving offences. The procedure will be reviewed after about three months. If it is found to be working satisfactorily, it will be widely implemented thereafter and extended to offences prosecuted by other bodies responsible for minor prosecutions.

Funding of school places

11. DR. IP asked:—*With reference to the comments relating to the English Schools Foundation (ESF) Schools at:—*

- (a) para. 20 of the 1965 White Paper on Education policy; and,*
- (b) para. 83 of the Director of Audit's report in 1978;*

and the view expressed in 1979 by the Committee to review the application of the parity principle to the English-speaking schools that 'the comparison with ESF schools must be made with aided schools', will Government explain, with the aid of an in-depth accounting analysis if possible, the reasons for the differences in Government funding for Government, ESF, aided and private school bought places which is understood to be \$8,651, \$7,941, \$6,650 and \$2,276 per junior secondary school place per year, respectively?

DIRECTOR OF EDUCATION:—Sir, the figures were the *average* annual cost per place to the Government at the junior secondary level in 1983-84. The cost of a Government school place comprises the various expenses incurred by Government in running Government schools. The cost of an aided school place comprises the various grants paid by Government to aided schools under the Code of Aid and any other approved arrangements. The cost of an ESF school place represents the rate of the Basic Grant per pupil per annum which is determined in accordance with the arrangements approved by Government in May 1979 and December 1980. The cost of a bought place in private independent schools represents the average tuition fee per place paid by Government and comprises the various expenses incurred by and the returns to the operators in running such schools.

An analysis of the various elements making up the costs is shown in the *Appendix*. The cost per place in Government schools is higher than that in the aided schools mainly because of the difference in the staff related benefits. In the case of Government schools these include passage, pension, quarter, education allowances, etc. whereas those for the aided schools include passage and Government contributions to staff provident fund schemes only. The cost per

place in the aided schools is close to that in the ESF schools because under the parity of subsidy principle the ESF receives Government grant calculated on the basis of the notional subsidy per place payable to standard size aided secondary schools. However the cost of an ESF school place is higher because the salary element in the Basic Grant has to reflect the qualifications and experience of the teachers employed. A large number of the staff in the English schools qualify for salaries at or near the maximum points. The Basic Grant formula also includes an allowance for an assumed under-enrolment of 15% because ESF schools are traditionally subject to greater fluctuations in enrolment levels due to the more transitory nature of the expatriate population. If the elements of staff related benefits and the allowance for fluctuations in enrolment are removed, the differences will be smaller as illustrated below:

	<i>Government</i>	<i>Aided</i>	<i>E.S.F.</i>	<i>Private independent schools with bought places</i>
	\$	\$	\$	\$
Cost per place per annum	8,651	6,650	7,941	2,276
Staff related benefits	(2,880)	(648)	(386)	—
Allowance for fluctuations in enrolment	—	—	(1,191)	—
	<u>5,771</u>	<u>6,002</u>	<u>6,364</u>	<u>2,276</u>
Comparison against a Government school place in percentage terms	100%	104%	110%	39%

The cost per bought place in the private independent schools is the lowest mainly because of less expenditure on staff salaries. These schools usually employ less well qualified teachers and have a lower teacher to pupil ratio.

Appendix to question 11

COST PER SCHOOL PLACE TO THE GOVERNMENT AT THE JUNIOR SECONDARY LEVEL IN 1983-84

	<i>Government</i>	<i>Aided</i>	<i>E.S.F.</i>	<i>Private independent schools with bought places</i>
<i>Recurrent Expenses</i>				
Salary	\$5,298	\$5,527	\$6,063	\$1,413
Staff related benefits	<u>\$2,880</u>	<u>\$ 648</u>	<u>\$ 386</u>	<u>—</u>
	\$8,178	\$6,175(Note 1)	\$6,449	\$1,413
Administration expenses	\$ 187	\$ 195(Note 2)	\$ 198	\$ 203
Textbook assistance scheme	\$ 81(Note 3)	\$ 81	N/A (Note 4)	—(Note 3)
Rent, Crown Rent and Rates	—	\$ 91	—(Note 5)	\$ 301
Returns to operators of bought place schools	—	—	—	\$ 231
	<u>\$8,446</u>	<u>\$6,542</u>	<u>\$6,647</u>	<u>\$2,148</u>
<i>Non-recurrent Expenses</i>				
Repairs and maintenance	\$ 205	\$ 108	\$ 103	\$ 128
	<u>\$8,651</u>	<u>\$6,650</u>	<u>\$6,750</u>	<u>\$2,276</u>
<i>Allowance for fluctuations in enrolment</i>				
Cost per place	<u>N/A</u>	<u>N/A</u>	<u>\$1,191 (Note 6)</u>	<u>N/A</u>
	<u>\$8,651</u>	<u>\$6,650</u>	<u>\$7,941</u>	<u>\$2,276</u>
Comparison of costs in percentage terms	100%	77%	92%	26%

Notes

- Grant payments to aided schools include salaries of teachers and laboratory technicians and two block grants, namely the Administration Grant (at \$201 per pupil per annum) and Janitor/Cleaning Grant (\$456 per pupil per annum) to cover the clerical and menial staff respectively.
- Grant payments include Capitation Grant (at \$175 per pupil per annum) and Library Grant (at \$20 per pupil per annum).
- Payments under the Textbook Assistance Scheme are made to needy parents (at the maximum full grant rate of \$325) and the total expenditure under the scheme is not to exceed the full grant equivalents of 25% of the total enrolment. The tuition fees charged by private independent schools for bought places do not include this element.
- The Textbook Assistance Scheme does not cover ESF schools.
- The Crown rent and rates of ESF schools are separately subsidized by Government outside the Basic Grant.
- Allowance for greater fluctuations in enrolment levels of ESF school is calculated with an assumed under-enrolment of 15% as included in the approved arrangement. For 1983-84 this allowance is $\$6,750 \times \frac{100}{85} - \$6,750 = \$1,191$.

Combined Screening Programme

12. DR. IP asked:—*Regarding the results of the Combined Screening and Group Testing Programme at Primary 2 level conducted by the Education Department since September 1982, would Government inform this Council:*

- (i) *the total number of Primary 2 level students screened in the academic years 1982-83 and 1983-84, and the total enrolment in Primary 2 in Hong Kong in these two years;*
- (ii) *the total number of students identified through the combined screening and group testing programme as having problem in the area of hearing, vision, speech, learning and other aspect;*
- (iii) *the average duration required before the identified problem was further diagnosed, and confirmed or repudiated; and,*
- (iv) *the number of cases in the respective problem areas who have been confirmed after further diagnosis, and the types of treatment, support and follow up services provided cases?*

DIRECTOR OF EDUCATION:—

- (i) Sir, the total number of Primary 2 students enrolled and the number screened by the Combined Screening Programme are as follows:

<i>School Year</i>	<i>Enrolment in P. 2</i>	<i>Number Screened</i>
1982-83	89 274	88 082
1983-84	88 139	77 775

(up to end of May 1984)

The difference between number enrolled and number screened in 1982-83 was due to absentees during screening and some schools choosing not to participate in the programme.

- (ii) Students identified as having problems in the various screening tests are as follows:

<i>Problems identified</i>	<i>Number identified in 1982-83</i>	<i>Number identified in 1983-84 (up to end of May)</i>
(a) Hearing	8 749	5 683
(b) Speech	9 198	7 647
(c) Learning	8 410	6 525
(d) Vision	5 479	5 556

- (iii) Average duration required before the problems identified were further diagnosed varies with the kind of follow-up assessment required, where the parents wish their children to have follow-up assessment and the available manpower resources in that particular area. In general the following are the average durations required for further assessment:

(a) For full scale audiological assessment at the Special Education Services Centres	11 to 15 weeks
(b) For speech re-assessment at schools	3 to 4 weeks
(c) For psychological assessment at schools	14 to 16 weeks
(d) For ophthalmic assessment at the Government Ophthalmic Clinic	33 weeks

For cases requiring early attention e.g. children showing signs of infections and pains, the Education Department advises teachers and heads to seek medical consultation as soon as possible.

(iv) After further assessment, the following numbers of children were confirmed to have problems in 1982-83:

(a) Hearing	3 060
(b) Speech	7 170
(c) Learning	765
(d) Vision	2 570

As the Combined Screening Programme has not yet been completed for 1983-84 and any follow-up assessments may vary according to the types of re-assessment required, no results can be given at this stage.

The types of treatment, support and follow-up services for cases with problems are as follows:

(a) *Cases with hearing impairment*

- (i) For very mild cases of hearing impairment, schools are informed that special seating should be arranged for the pupils.
- (ii) For children with moderate hearing impairment who can be integrated in ordinary classes, peripatetic teaching service is arranged for them at the schools to help them to adjust.
- (iii) For children whose hearing loss is such that they require to be educated in special classes for partially-hearing children, special educational placement is arranged for them with parents' consent. Hearing aids and specially made ear-moulds are provided free of charge to those with moderate to severe hearing loss. The parents and children are also given hearing aid therapy by audiologists of the Department.

(b) *Cases with speech impairment*

- (i) For mild cases, follow-up treatment is given in schools, involving the class teachers whenever possible.
- (ii) For the moderate and severe cases, the initial session of treatment is given in schools. Further follow-up treatment sessions are given at the Special Education Services Centre with their parents involved as often as possible.

(c) *Cases with learning problems*

Following further assessment in the schools the educational psychologists give feed-back and advice to teachers on the individual needs of the children and recommend appropriate treatment and follow-up services from a broad spectrum of services available according to the degree of the learning difficulty experienced by the children:—

- (i) Children with more severe learning difficulties due to mental handicap and requiring placement in special schools are referred to special schools according to their need.
- (ii) Children whose learning difficulties are such that they can benefit from intensive remedial teaching are referred to revised resource classes operated in ordinary primary schools.
- (iii) Peripatetic teaching services are provided for children in schools which do not as yet have revised resource classes.
- (iv) Those with less severe weaknesses are recommended to receive remedial support in individual subjects available in their own schools.
- (v) Remedial groups and individualized programmes (e.g. perceptual training, study skills and precision teaching programmes) are also provided individually or in small groups to children at the Special Education Services Centres.
- (vi) For children in schools not yet assessed by educational psychologists, the heads are informed of the test findings with guidelines for remedial help.

(d) *Cases with vision problems*

- (i) As further assessment or diagnosis is given either by ophthalmologists of the Medical and Health Department or ophthalmologists in private practice, they will give prescriptions for spectacles for correcting refractive errors or medical treatment whenever necessary.
- (ii) Ophthalmologists in both cases are requested to provide the Education Department with results of their diagnosis so that children diagnosed to be visually impaired can be provided for in special classes for partially-sighted children with parents' consent.

Statements

Report of the UMELCO Police Group for 1983

MR. LO:—Sir, included in the papers before you is the Report of the UMELCO Police Group for 1983. It reviews in some detail, in the customary style, the work of the Group during the year.

It will be seen that the Group examined a record number of police investigation reports in continuation of the trend which has developed since the Group was first established in 1977. I can only add that the same pattern is evident from the opening months of the current year.

This increasing workload and the limited audit role of the Group has been a matter of growing concern to us. In concert with the Attorney General's Chambers, the Security Branch and the Police, a Working Party has been set up to consider new and improved working procedures for monitoring the handling of public complaints by the police.

With other proposals the Group is attracted to a scheme which provides for the informal resolution of some minor and trivial complaints. The scheme would contain an element of conciliation, on similar lines to that proposed for the U.K. under the Police and Criminal Evidence Bill, which is currently before Parliament. It is felt that a scheme of this sort, to allow the prompt resolution of complaints which often arise from a very simple misunderstanding, could do much to improve further police public relations. We hope that recommendations to enhance public confidence in the monitoring system will emerge shortly from the Working Party's studies.

Finally, I would like to reiterate my appreciation for the co-operation and assistance the Group has continued to receive from the Commissioner of Police and all officers of the Complaints and Internal Investigations Branch. Particularly, I would also like to express my appreciation for the dedicated support my colleagues have given to the work of the Group during the year.

Text of the Speaking Note used by Sir Sze-yuen CHUNG, Miss Lydia DUNN and Mr. Q. W. LEE in their meetings in Beijing on 23 June 1984

MISS DUNN:—Sir, I am grateful to have received your permission to lay before the Council this afternoon the text of the Speaking Note used by Unofficial Colleagues on the Executive Council, Sir S. Y. CHUNG and Mr. Q. W. LEE, and myself in our meetings in Beijing last week with Chairman DENG Xiaoping and Mr. Ji Pengfei.

My colleagues and I have given a full account of these meetings in the press conference which we held on our return, and we have made the text of the Speaking Note available to the public. I do not think I need to say anything further about it in this Council. My purpose in laying it before the Council now is to have the original Chinese text and its English translation incorporated in the record of the proceedings of this Council as a matter of public interest. (*see Annex at pages 1137 to 1142*).

Government Business**Motions****DUTIABLE COMMODITIES ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion:—Under section 4 of the Dutiable Commodities Ordinance that, with effect from 2.30 p.m. on 29 February 1984, the resolution made and passed by the Legislative Council on 27 April 1983 and published as Legal Notice No. 148 of 1983 be amended, in Part I—(European-type Liquors) under the heading DUTIES ON LIQUORS, by deleting ‘Duty shall be payable on the following types of liquor at the following rates per litre measured at a temperature of 20 degrees Celsius—’ and all that appears immediately thereunder up to and including ‘Intoxicating liquors in this Part above the strength of 45% alcohol by volume, for every 1% above such strength in addition to the duties specified above 1.30’ and substituting the following—

‘Duty shall be payable on the following types of liquor at the rate of 20% of the value of the liquor (in accordance with section 26A of the Dutiable Commodities Ordinance) and, in addition, at the rate specified against that type of liquor, per litre measured at a temperature of 20 degrees Celsius—

<i>Type of Liquor</i>	\$
Brandy	60.00
Liqueurs, Whisky, Gin, Rum, Vodka and other spirituous liquors	43.00
Champagne and other sparkling wines	27.00
Still wines above 15% alcohol by volume	18.00
Still wines not more than 15% alcohol by volume.....	15.00
Intoxicating liquors in this Part above the strength of 45% alcohol by volume, for every 1% above such strength in addition to the duties specified above	1.20’

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

The proposed resolution provides that duty on European-type liquors specified in the resolution shall be at the rate of 20% of the value—the value to be assessed in accordance with section 26A of the Dutiable Commodities Ordinance—and, in addition, at the rate specified in the Resolution. As explained in paragraph 107 of the Budget Speech, the modified system of

levying duty involves a uniform reduction of approximately 10% of the specific rate, coupled with the imposition of a uniform ad valorem rate of 20%. The changes will not apply to non-European type wines and spirits, industrial type alcohol, cider, perry or beer.

The modified system came into effect on 29 February 1984 as a result of a Public Revenue Protection Order signed by His Excellency. The proposals should produce revenue of the order of \$50 million for 1984-85.

Sir, I beg to move.

Question put and agreed to.

FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:—

(a) That the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance be amended by deleting items 1 to 80 inclusive and substituting the following—

(Cap. 374.) (75 of 1982.)	<i>Road Traffic Ordinance</i> 1982		
	1. Section 41	Driving in excess of speed limit by 15 km/h or less	\$140
	2. Section 41	Driving in excess of speed limit by more than 15 km/h	\$200
	3. Section 42(1)	Driving with an expired driving licence	\$140
	4. Section 42(2)	Failing to carry driving licence when driving	\$140
	5. Section 43(3)	Failing to produce driving licence	\$140
	6. Section 52(1)	Driving unlicensed vehicle	\$200
	7. Section 52(8)	Driving a private car which is carrying goods weighing more than 200 kg	\$140
	8. Section 52(9)	Contravening condition of a vehicle licence	\$200
(L.N. 292/83.)	<i>Road Traffic (Traffic Control) Regulations</i> 1983		
	9. Regulation 10(1)	Unlawfully entering box junction	\$140
	10. Regulation 11(1)	Crossing continuous double white line or white line with a broken white line	\$200

11.	Regulation 14(5)	Driving in prohibited zone	\$200
12.	Regulation 14(6)	Picking up/ setting down passengers in restricted zone	\$200
13.	Regulation 14(7)	Loading/ unloading goods in restricted zone	\$200
14.	Regulation 18	Failing to comply with traffic signals	\$200
15.	Regulation 27(4)	Driving on closed road without permit	\$140
16.	Regulation 31	Failing to give precedence to pedestrians on a zebra crossing	\$200
17.	Regulation 38(2)	Failing to stop for school crossing patrol	\$200
18.	Regulation 42(d)	'U' turn causing obstruction	\$140
19.	Regulation 43	Sounding audible warning device unnecessarily	\$140
20.	Regulation 45	Unauthorized stopping at bus top/public light bus stand/taxi stand/public light bus stopping place	\$140
21.	Regulation 47(1)(a)	Driving without necessary lights illuminated	\$140
22.	Regulation 47(1)(b) and (c)	Light other than permitted illuminated lights showing to rear	\$140
23.	Regulation 53(3)	Excess passengers	\$200
24.	Regulation 54	Overloading	\$200
25.	Regulation 57	Insecure load	\$200
26.	Regulation 59	Failing to comply with traffic signs	\$200
27.	Regulation 59	Failing to comply with road markings	\$200

(L.N. 286/83.)

*Road Traffic
(Construction and
Maintenance of Vehicles)
Regulations 1983*

28.	Regulation 5(4)	Defective direction indicator	\$140
29.	Regulation 31(1)(a)	Excess smoke or visible vapour	\$200
30.	Regulation 90(2)	Defective or inadequate dipping mechanism	\$140

(L.N. 290/83.)	<i>Road Traffic (Registration and Licensing of Vehicles) Regulations 1983</i>	31. Regulation 8(2)	Registration mark not displayed/lit/adequately fitted	\$140
		32. Regulation 18(1)	Failing to report change of vehicle particulars	\$140
(L.N. 287/83.)	<i>Road Traffic (Driving Licences) Regulations 1983</i>	33. Regulation 25	Failing to display valid licence	\$140
		34. Regulation 17(4)	Contravening condition of driving licence	\$140
		35. Regulation 30(3)(b)	Failing to display 'L' plates	\$200
		36. Regulation 30(4)	Contravening condition of learner's driving licence	\$200
(L.N. 291/83.)	<i>Road Traffic (Safety Equipment) Regulations 1983</i>	37. Regulation 3(1)	Driving motor cycle without protective helmet	\$140
		38. Regulation 7(1)(a)	Driving private car without being securely fastened with seat belt	\$140
		39. Regulation 7(3)	Driving private car when front seat passenger not securely fastened with seat belt	\$140
(L.N. 289/83.)	<i>Road Traffic (Public Service Vehicles) Regulations 1983</i>	40. Regulation 35(1)(a)	Driver of first or second public light bus at public light bus stand leaving vehicle	\$140
		41. Regulation 35(1)(b)	Driver of first or second public light bus at public light bus stand not ready/willing to drive from public light bus stand	\$140
		42. Regulation 35(2)(a)	Public light bus driver not moving forward at public light bus stand	\$140
		43. Regulation 35(2)(b)	Public light bus obstructing other public light bus at public light bus stand	\$140

44.	Regulation 35(2)(c)	Public light bus driver at stand not obeying directions given by police officer/traffic warden	\$140
45.	Regulation 36(2)	Taxi driver not moving forward at taxi stand	\$140
46.	Regulation 36(3)(b)	Taxi driver at stand accepting fare out of turn	\$140
47.	Regulation 45(1)(d)	Driver not taking all reasonable precautions to ensure safety of passengers of a public bus, public light bus or taxi	\$140
48.	Regulation 45(1)(h)	Stopping public bus, public light bus or taxi longer than necessary when picking up/setting down passengers	\$140
49.	Regulation 49(2)	Not setting taxi meter to recording position	\$140'.

(b) that this resolution shall come into operation on a day to be appointed by the Governor in the *Gazette*.

He said:—Sir, I rise to move the resolution standing in my name under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Chapter 240). It seeks to amend the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance, to take account of the implementation of the Road Traffic Ordinance (1982) in August this year. For the uninterrupted operation of the fixed penalty system the Schedule must be amended so that it refers not to offences in the existing Road Traffic Ordinance, but to the sections of and regulations made under the Road Traffic Ordinance (Chapter 374). The resolution also amends the description of offences as appropriate, which includes the metrication of measurements.

The opportunity has been taken to rationalize the list of fixed penalty offences. The main function of the fixed penalty system is to reduce the time required of motorists, the police and the courts, when summons action is taken for the less serious but frequent offences. Several offences in the current schedule attract relatively few tickets, and a review was accordingly carried out to examine whether they should be retained in the Schedule. There are various reasons for offences attracting few tickets. Police officers may not have the technical or detailed knowledge of the Construction and Maintenance Regulations to identify some offences, such as the incorrect positioning of front and rear lamps. Some offences involve subjective or extenuating circumstances which require a hearing from both sides; for instance, a taxi driver refusing a hire may be genuinely concerned that the hirer is drunk and likely to be disorderly. A fixed penalty may also fail to tackle a problem effectively: for example, in a case of irregularities involving trade plates, a full investigation and summons action are likely to have more effect than the issue of a fixed penalty.

In the light of this review and where no resulting upsurge in offences is expected, offences attracting less than 50 tickets per annum are proposed for deletion from the Schedule.

However, there are some offences which it is considered should be added into the fixed penalty system: failure to wear a seat belt is one example. This offence may be frequently committed—fortunately, it is not, I may say, and it is clearcut for a police officer to identify and for a motorist to acknowledge.

Further additions to the schedule result from the splitting of the existing item of ‘disobeying traffic signs’ into three separate items, namely: crossing a double white line or a white line with a broken white line; failing to comply with traffic signs; and failing to comply with road markings. It is proposed to add the offences of driving with an expired driving licence, overloading vehicles, failing to report changes of vehicle particulars and contravening conditions of driving licences. Even with these additions, the list of offences for which the fixed penalty procedures may be used would be reduced from 73 to 49 items.

There is now a significant anomaly in the fixed penalty system, as regards level of fines. The penalty for illegal parking is \$140, which exceeds the fixed penalty of \$100 set for certain criminal offences. This is inappropriate because even the less serious criminal offences are at least as serious as the parking offences referred to. To correct this, it is proposed that the \$100 penalties be increased to \$140 except in respect of vehicles emitting excess smoke or visible vapour. It is proposed to increase this penalty from \$100 to \$200, following a recommendation of the Environmental Protection Committee, which considers that the level of the present penalty does not sufficiently encourage owners to maintain their vehicles properly in this regard. The penalty of \$200 for the remaining offences remains unchanged.

Sir, I beg to move.

Question put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR SECURITY moved the following motion:—That the provisions of the Dangerous Goods Ordinance mentioned in column 1 of the Schedule be amended by deleting the amounts mentioned in column 2 and substituting the amounts mentioned in column 3.

SCHEDULE

1	2	3
<i>Provision amended</i>	<i>Deletion</i>	<i>Substitution</i>
Section 5(2)	eight thousand dollars	twenty five thousand dollars
Section 9(7)	one thousand dollars	ten thousand dollars
Section 13E (2)	eight thousand dollars	twenty five thousand dollars

<i>Provision amended</i>	<i>Deletion</i>	<i>Substitution</i>
Section 14(1)	eight thousand dollars	twenty five thousand dollars
Section 14(3)	two thousand dollars	twenty thousand dollars

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

The *maximum* penalties for offences under the Dangerous Goods Ordinance were last reviewed in 1956. In late 1980, the Judiciary drew attention to the view expressed by a number of magistrates that the *maximum* penalties provided for a number of offences under the Dangerous Goods legislation were inadequate to produce the desired deterrent effect. As a result, the Police, Fire Services, Marine and Labour Departments carried out a review to determine how the existing levels of penalties should be revised. They took into account

- (a) the nature of the offences;
- (b) the possible hazards arising from the offences; and
- (c) the present deterrent effect of the penalties.

The proposed increases in the level of penalties vary from just over 200 percent to 900 percent. Representatives of the trade and the Dangerous Goods Standing Committee have endorsed these proposals, as listed in the resolution before this Council.

It is proposed that the increases be introduced by resolution of this Council under the Interpretation and General Clauses Ordinance.

Sir, I beg to move.

Question put and agreed to.

First reading of bills

FOREIGN NOTES (PROHIBITION OF CIRCULATION) (REPEAL) BILL 1984

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1984

CONVEYANCING AND PROPERTY BILL 1984

COMPANIES (AMENDMENT) (NO. 2) BILL 1984

BANKRUPTCY (AMENDMENT) BILL 1984

EMPLOYMENT (AMENDMENT) (NO. 3) BILL 1984

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order 41(3).

Second reading of bills**FOREIGN NOTES (PROHIBITION OF CIRCULATION) (REPEAL) BILL 1984**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to repeal the Foreign Notes (Prohibition of Circulation) Ordinance’.

He said:—Sir, I move that the Foreign Notes (Prohibition of Circulation) (Repeal) Bill 1984 be read the second time.

The purpose of the Bill is to repeal the Foreign Notes (Prohibition of Circulation) Ordinance, which has become obsolete. That Ordinance, which was enacted in 1913, prohibits the use of foreign notes in transactions other than where a banker or a licensed money-changer is involved. One of the main reasons for the enactment of the Ordinance was to prevent foreign notes from competing unfairly with local notes, on the issue of which stamp duty was then levied. By restricting the circulation of foreign notes to transactions through bankers and money-changers stamp duty was collected on the foreign exchange transactions. This reason has become irrelevant since stamp duty is no longer payable on either the local note issued or foreign currency transactions. The reference in the Ordinance to a licensed money-changer is also out of date as, with the enactment of the Miscellaneous Licences (Amendment) Ordinance in 1978, money-changers are no longer required to be licensed.

It is now not uncommon for businesses, particularly those in the tourist trade, to take payments in foreign currency—a practice which is in principle entirely acceptable. It is clearly anomalous that a shopkeeper is technically acting unlawfully if he receives foreign notes, but not if he takes travellers cheques. Furthermore, the Government has not for many years resolutely enforced the prohibition.

Last September when confidence in the Hong Kong dollar was at its most fragile there were reported instances of retailers demanding payment in foreign currency. Pressed to comment on, among other things, the legality of such action, the Government was obliged to point to the existence of this Ordinance. I must emphasize, however, that the Government never believed that this Ordinance would significantly protect the public from the eventual consequences of a depreciating exchange rate, nor alternatively, that it provided a viable means to support the exchange rate. Indeed, in certain respects that episode served merely to highlight the obsolescence of the Ordinance. The stability of the exchange rate since October stems from the introduction of the new exchange rate system with the linkage to the U.S. dollar and owes nothing to the limelight given to this obsolete Ordinance.

Sir, the original purposes of this Ordinance are no longer relevant; it is not significantly observed or enforced; there is a clear case for repeal.

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

Motion made. That the debate on the second reading of the Bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1984

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Inland Revenue Ordinance and the Tax Reserve Certificates Ordinance’.

He said:—Sir, I move that the Inland Revenue (Amendment) (No. 2) Bill 1984 be read a second time.

Historically it has always been the policy of Commissioners of Inland Revenue to allow, under section 71 of the Inland Revenue Ordinance, for the payment of tax to be held over pending the result of an objection or appeal, unless the objection or appeal is considered to be frivolous or to have little merit or if there are circumstances which may, with delay, create doubts as to ultimate collection of the tax. In practice, it is rarely possible to state with conviction that an objection or appeal is frivolous or of little merit and, as a result, tax has been held over in the vast majority of cases.

There is, regrettably, a growing tendency amongst taxpayers to abuse the generous provision accorded to tax under objection or appeal. The amount of tax held over has increased from \$891 million at 31 March 1981 to no less than \$2,984 million at 31 March 1984.

This unsatisfactory situation should not be allowed to continue. The Inland Revenue (Amendment) (No. 2) Bill 1984 seeks to permit the Commissioner of Inland Revenue to require in the future an appellant taxpayer to purchase tax reserve certificates in an amount equal to the tax to be held over. In the event of a successful objection or appeal, interest will be paid on that certificate. On the other hand, where the objection or appeal is unsuccessful, the certificate will be accepted in settlement of the tax due and no interest will be payable. The Commissioner will continue to have the power to allow the payment of tax to be held over without requiring the taxpayer to purchase a tax reserve certificate where he considers the circumstances so warrant, or to require payment of tax in full notwithstanding any notice of objection or appeal.

The additional powers given to the Commissioner under the Bill, if approved by this Council, will discourage fractious appeals and will ensure that in future the amount of tax held over is substantially covered by supporting tax reserve certificates. The proposed amendment will protect General Revenue, and there are no additional staffing or resource implications.

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

Motion made. That the debate on the second reading of the Bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

CONVEYANCING AND PROPERTY BILL 1984

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to make provision relating to conveyancing and the law of property; to make provision concerning agreements and deeds relating to land and other agreements; to make provision for the acquisition and holding of land and other property; to provide for standard agreements and deeds relating to land; to imply certain covenants and other provisions in agreements and deeds relating to land; to revise and consolidate certain miscellaneous provisions relating to land and other matters; and for connected purposes’.

He said:—Sir, it is with pleasure that I rise to move the second reading of the Conveyancing and Property Bill 1984.

As long ago as January 1885 a draft Conveyancing Bill was presented to this Council. We are now approaching January of 1985. I am inclined to think that 100 years is wholly sufficient, even for lawyers, to give due consideration to the reform of conveyancing in Hong Kong. (*laughter*)

Members may be interested to know that conveyancing in Hong Kong still follows the law and practice as it was in England in 1844. A.D. (*laughter*) None of the major reforming measures in that country of the nineteenth century or of 1925 have been introduced into the laws of Hong Kong. Our backwardness, however, did not go unnoticed. Apart from the measure in 1885, attempts were made in 1966 and in 1973 to bring our law up-to-date, but these foundered because there was no consensus within the profession on what was required.

Sir, in October 1982, a working group consisting of the Registrar General, one of his legal officers, four practising conveyancers from a Sub-committee of the Law Society and the Deputy Law Draftsman was formed and began consideration of the contents of a new Bill. This group was later joined by the Director of Professional Legal Education of the Hong Kong University's School of Law and a member of his staff. The working group met on no less than 35 different occasions.

Last July, a Bill was published in the *Gazette* for information purposes, and the working group thereafter considered many representations and suggestions that followed publication.

An amended Bill was printed and circulated in February 1984 and, on the 15th of that month, a seminar on the Bill was held at the Hilton Hotel.

Since that seminar, the working group has considered and agreed yet further amendments which have been incorporated in the Bill now before this Council. The Registrar General and the Deputy Law Draftsman have also had several meetings with Mr. Peter C. WONG who has, on several occasions, reminded this Council of the need for this legislation.

The group satisfied itself that all those interested have had the opportunity to make their views known and I can now say with confidence in the light of their achievements that the Bill has the support of the legal profession generally as well as the Hong Kong Association of Banks and the Public. I am very grateful, Sir, to all those who have put so much time and effort into this important set of proposals that is so much overdue.

The Bill is a highly technical measure and I do not think any purpose would be served by an attempt on my part to recount its details. I believe it is sufficient for me to say that the more important clauses of the Bill make provision for the following matters:

- (a) A simplified and expeditious court procedure for resolving disputes relating to land (clause 12);
- (b) The simplification of the vendor's obligation to provide proof of title of land purchased (clause 13);
- (c) The implication of covenants for title to land which should reduce the length of conveyancing documents (clause 35);
- (d) The incorporation of covenants and conditions into conveyancing documents by reference, also for the purpose of reducing the length of legal documents relating to land (clause 36);
- (e) The introduction of standard conveyancing documents in a short and simplified form (clause 37); and
- (f) A new system of mortgaging by way of charge in place of the artificial assignment of the legal estate, with increased protection for lenders (Part V).

Sir, it is proposed that the Bill, if passed, should come into operation on 1 November 1984. This will give practitioners time to reorganize their procedures in the light of these reforms.

Sir, I move that the debate on the second reading of this Bill be now adjourned.

Motion made. That the debate on the second reading of the Bill be adjourned—THE ATTORNEY GENERAL.

Question put and agreed to.

COMPANIES (AMENDMENT) (NO. 2) BILL 1984

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Companies Ordinance’.

He said:—Sir, I move that the Companies (Amendment) (No. 2) Bill 1984 be read the second time.

The purpose of this amendment is to reinstate section 296(2) of the Companies Ordinance, which was repealed by section 208(b) of the Companies (Amendment) Ordinance 1984.

The Companies Law Revision Committee recommended the repeal of section 296(2) of the Companies Ordinance on the grounds that the sub-section served no useful purpose. However, the implications of its repeal have been further considered by the Registrar General, who has now advised that the subsection does serve the purpose of ensuring that rules made under section 296 of the Companies Ordinance cannot be questioned by any court. Deletion of section 296(2) could create grounds for challenging the validity of the rules. It is therefore desirable that this sub-section be reinstated before the Companies (Amendment) Ordinance 1984 comes into operation.

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

Motion made. That the debate on the second reading of the Bill be adjourned—SECRETARY FOR ECONOMIC SERVICES.

Question put and agreed to.

BANKRUPTCY (AMENDMENT) BILL 1984

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—‘A bill to amend the Bankruptcy Ordinance’.

He said:—Sir, I move that the bankruptcy (Amendment) Bill 1984 be read the second time.

The purpose of this Bill is to amend the Bankruptcy Ordinance in order to bring it into line with the new winding-up provisions introduced by the Companies (Amendment) Ordinance 1984.

This measure is in accordance with the recommendations of the Second Report of the Companies Law Revision Committee, which stated that ‘company law on winding up is on many matters identical with the bankruptcy law, and it is clearly desirable that if the company law on such matters is amended in accordance with our recommendations, the corresponding provisions of the bankruptcy law should also be amended in the same way’.

The amendments proposed in this Bill are generally of a technical or procedural nature and match similar provisions contained in the Companies (Amendment) Ordinance 1984.

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

Motion made. That the debate on the second reading of the Bill be adjourned—SECRETARY FOR ECONOMIC SERVICES.

Question put and agreed to.

EMPLOYMENT (AMENDMENT) (NO. 3) BILL 1984

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to amend the Employment Ordinance’.

He said:—Sir, I move the second reading of the Employment (Amendment) (No. 3) Bill 1984.

This Bill includes a number of miscellaneous and unrelated amendments. These amendments, which are listed in the Explanatory Memorandum to the Bill, clarify some provisions of the Employment Ordinance which have been found by employers and employees, the Labour Department and Labour Tribunal, to be either ambiguous, outdated, difficult to enforce or in other ways inadequate. They do not alter the substance or spirit of the existing provisions of the Ordinance.

The Bill also introduces a new Part IIA which deals with end of year payments, a rather more precise description of annual bonuses. In view of the widespread practice of making end of year payments in one form or another, the new Part aims to clarify the obligations of an employer where there is an express or implied agreement for such a payment in the contract of employment, whether verbal or written. It does not, however, cover those end of year payments or annual bonuses which are of a gratuitous nature or which are payable at the discretion of the employer, or yet other incentive payments.

The new Part IIA also provides for an employee's entitlement to a proportion of end of year payment on termination, if he is entitled to such under the conditions of his employment, provided he has worked for the same employer for a continuous period of not less than 26 weeks in the payment period and his contract of employment was terminated through no fault of his own. However, an employee who resigns of his own accord or has been dismissed for cause by his employer during the payment period will not receive this protection.

The payment period is defined as the payment period specified in the contract of employment whether it runs according to the lunar or Gregorian reckonings. Where a payment period is not so specified, it is deemed to be the lunar year, because here in Hong Kong, for the purpose of end of year payments, the payment period is in most cases the lunar year.

An employee who is with his employer at the end of the payment period but who has been with him for less than a full payment period will also be entitled to a proportion of the end of year payment if he has worked for the employer continuously for more than 26 weeks by the end of the payment period. The provision mirrors existing practice, and indeed some employers provide *pro rata* end of year payments for employees who have served for less than the full payment period.

A time limit for the payment of the end of year payments is also specified in this new Part IIA. For serving employees, this limit is not later than seven days after the end of year payment is due or, in the case of an end of year payment to be calculated by reference to any profits of the employer, not later than seven days after such profits are ascertained.

When an employee has worked for over twenty-six weeks in the payment period but his contract is terminated without cause at any time before expiry of the payment period, the *pro-rata* payment due to him under these provisions must be paid not later than seven days after the termination of contract of employment, or, as in the case of the serving employee, not later than seven days after the profits for the year are known.

Finally, Sir, the proposed amendments to the Ordinance are for the most part clarifications of existing practice and have only limited economic implications. The extension of statutory protection to employees in respect of contractual annual bonuses seeks to clarify contractual obligations where they already exist. It establishes the entitlement of an employee to a proportion of annual bonus but, in general, does not seek to create new obligations, and should not, therefore, impose a significant additional financial liability upon employers.

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

Motion made. That the debate on the second reading of the Bill be adjourned—
COMMISSIONER FOR LABOUR.

Question put and agreed to.

PUBLIC OMNIBUS SERVICES (AMENDMENT) BILL 1984

Resumption of debate on second reading (2 May 1984)

Question proposed.

MISS TAM:—Sir, Members of the Community Services Working Group have examined this Bill in some detail together with the representations we have received on it. The franchised bus companies have expressed their fear that the operation of the private bus operators on residential routes and multiple transport services will infringe on their most profitable routes.

The working group therefore examined the restrictions on the granting of licences to these two types of services and came to the conclusion that the existence of these services is in the best interest of the community, provided that sufficient care is taken to ensure that the private operators do not contravene the conditions of their licence. We are of the view that both franchised and private operators can co-exist satisfactorily and provide high quality service to the public.

The Secretary for Transport has agreed to speak on the licensing conditions for the residential and multiple transport services and move some amendments to this Bill at the committee stage. I and my Unofficial Colleagues are in full agreement with these amendments as they provide a fair balance between the interests of the two franchised bus companies and the interests of the people of Hong Kong.

Sir, I have pleasure in supporting the motion.

SECRETARY FOR TRANSPORT:—Sir, in taking full note of Miss TAM's remarks on this Bill following the usual meticulous attention given to it by Unofficial Members in their Community Services Working Group, I hope what follows will satisfactorily meet the points raised both by the Group and by Miss TAM.

Clause 5(c) of the Bill providing for residential coach services evoked concern from the two major bus companies, in that residential coach services might be an infringement of their franchises. These residential coach services are intended to complement, not to compete with, the franchised services. Approval of them is subject to strict conditions to avoid infringement on the existing franchises. The scheme was in fact fully discussed and agreed with the two franchised bus operators before its introduction in 1982. Before licensing any such service, discussions are held with either the franchise holder concerned. It is not intended to change the scheme or the consultative procedures.

However, in order to avoid any doubt on this point and to reflect existing practice fully, I shall at the committee stage propose to amend clause 5(c), new paragraph (f), by inserting, after 'the Commissioner', the words 'after considering the interests of any grantee franchised to operate over any part of the route to be covered by the service or any other relevant matter, ...'.

A related concern expressed by the two major bus companies is that the licence conditions of residential coach services be adequately enforced. On this point, the Transport Department regularly monitors these services; since August 1982, the Commissioner has issued 48 warning letters to 18 operators.

However, the law as it stands is not wholly satisfactory for enforcement purposes. These services are at present authorized under regulation 4 of the Road Traffic (Public Omnibus, Public Light Bus and Public Car) Regulations. Under regulation 5, the Government may cancel the authorization for a service, if the operating conditions are breached. But power is not provided to revoke the vehicle licence at the same time, so the operator may be tempted to run an illegal service. He could of course then be prosecuted for running a 'pak pai' service, but such a charge is often difficult to prove to the satisfaction of a court.

When the new Road Traffic Ordinance (Cap. 374) comes into effect in August this year, a passenger service licence under section 27 of Cap. 374 will be required for the operator of a residential coach service. Under sections 30 and 31, the Commissioner for Transport may appoint a public officer to inquire into the operation of a residential coach service, and the passenger service licence may be suspended or cancelled if the licence conditions are found to have been contravened. When the passenger service licence is suspended or cancelled, the vehicle licence may also be cancelled under section 25(b)(vii). Thus, the vehicle concerned would effectively be put off the road, and the operator could only continue the operation as it were doubly illegally. We believe that under the new Ordinance, enforcement will be more effective.

Sub-paragraph (g) in clause 5(c) of the Bill deals with multiple transport services. The franchised companies are anxious that this might allow an infringement of franchise. Members will have noted the substantial safeguards provided for the franchised operators, but I would add that multiple transport service is intended mainly for recreational and special events, and should not therefore affect commuter routes run by the franchised operators.

Nevertheless, I shall at the committee stage move an amendment specifically to avoid such a service being introduced which would parallel a regular commuter service.

I shall also, Sir, propose some minor amendments, as already tabled before Council. Of these, may I mention:

First, an amendment to clause 8, which will enable a disagreement between the grantee and the Commissioner to be put to the Secretary for Transport for resolution, not only in regard to the five-year programme itself, but also in regard to subsequent proposed alterations.

Second, the deletion and replacement of clause 17, to provide a necessary amendment further to clause 4 of the Bill which amends section 3 of the Ordinance. This provides for an appeal against a decision of the Secretary for Transport, as he has now reluctantly also got into the act, in the same way as already provided in respect of decisions by the Commissioner and other public officers involved.

Question put and agreed to.

Bill read the second time.

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

**ANTIBIOTICS, PHARMACY AND POISONS (MISCELLANEOUS AMENDMENTS)
BILL 1984**

Resumption of debate on second reading (13 June 1984)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

Committee stage of bills

Council went into Committee

PUBLIC OMNIBUS SERVICES (AMENDMENT) BILL 1984

Clauses 1 to 4, 6, 7, 10 to 22 were agreed to.

Clauses 5, 8 and 9

SECRETARY FOR TRANSPORT:—I move that clauses 5, 8 and 9 be amended as set out in the paper circulated to Members for the reasons given a moment ago.

Proposed amendments

Clause 5

That clause 5 be amended—

(a) in paragraph (a), in new paragraph (b) by deleting ‘transport’ and substituting the following—

‘similar’;

(b) in paragraph (c)—

(i) by deleting new paragraph (f) and substituting the following—

‘(f) a residents’ service, that is to say, a service approved by the Commissioner, after considering the interests of any grantee franchised to operate over any part of the route to be covered by the service and any other relevant matter, and provided by or on behalf of the management, residents or owners of any residential development for the carriage of passengers to or from the residential development;’; and

(ii) in new paragraph (g) by deleting ‘or housing estate’ and inserting before ‘approved’ the following—

‘in which no passenger is a person who frequently or as a matter of routine travels, at or about the time of day at which the journey is to be made, to or to the vicinity of a place from or through which the journey is made,’.

Clause 8

That clause 8 be amended in new section 12A(4) by inserting after ‘year’ the following

—
‘,or fail to mutually agree any alterations under subsection(3),’.

Clause 9

That clause 17 be deleted and replaced by the following—

‘Amendment
of section 33.

17. Section 33(1) of the principal Ordinance is amended by inserting before “Commissioner” the following—
“Secretary for Transport, or a public officer given directions under section 3, or the”.’.

The amendments were agreed to.

Clauses 5, 8 and 9, as amended, were agreed to.

ANTIBIOTICS, PHARMACY AND POISONS (MISCELLANEOUS AMENDMENTS) BILL 1984

Clauses 1 to 3 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

ANTIBIOTICS, PHARMACY AND POISONS (MISCELLANEOUS AMENDMENTS)
BILL

had passed through Committee without amendment and the

PUBLIC OMNIBUS SERVICES (AMENDMENT) BILL

had passed through Committee with amendments, and moved the third reading of each of the Bills.

Question put on the Bills and agreed to.

Bills read the third time and passed.

Adjournment

Motion made. That this Council do now adjourn—THE ATTORNEY GENERAL.

3.52 p.m.

LEGAL SYSTEM AND THE FUTURE OF HONG KONG

MISS TAM:—Sir, in spite of the total lack of natural resources Hong Kong has become a prosperous international city. This would not have been made possible without the hard work of her people; and without a legal system which has won the confidence of the individuals who live here, and the confidence of our international trading partners who have observed the working of this system.

To those of us who have made Hong Kong our home, we have always enjoyed a sense of security in the belief that as long as we do not infringe the law, we are free to pursue the realization of our aspiration. The importance of the rule of law in Hong Kong has been stressed again and again in this Council in the debate on the Governor's policy speech of October 1983, and the Lobo Motion in March 1984. Members of this Council had vividly described the need of the separation of power between the executive, the legislature and the Judiciary; of establishing a final court of appeal in Hong Kong; of listing the freedoms and rights of the individual in the Sino-British agreement on the future of Hong Kong; of ensuring that the executive is not above the law; and of continuing to appoint eminent judges from other Common Law countries to sit in our high court bench after 1997. Their concerns and observations are widely shared by the Hong Kong community, and in the many representations we have received from organizations and individuals these points are repeatedly mentioned. One only needs to read the newspaper report on views expressed on the 'Basic Law' and editorials to see the public's desire in maintaining the rule of law in Hong Kong after 1997 for at least 50 years.

Hong Kong is also a stable and open cosmopolitan society. This would not have been made possible without the tolerance of her people and their desire to live in peace with each other, whatever his race, creed or colour; and it would not have been made possible without a legal system which is fairly and justly administered, so that justice is not only done but is also seen to be done, and in which the law enforcement bodies are also subjected to the law.

We have won the confidence of our international trading partners because in our legal system they can identify sources of the principles and practice of our law which are internationally recognized. These are the rules of equity, the common law, and the international treaties. Also they have access to our 374 chapters of ordinances in Hong Kong with the subordinate legislations and have observed how they are interpreted, tested and applied in our open court. They have found a quality in the administration of justice in Hong Kong that is compatible with the long established common law countries of the world, and certainly many competent lawyers and eminent judges from those countries have come to work here.

In order to maintain international confidence in Hong Kong our legal system must be allowed to freely function beyond 1997.

It is a declared intention of the Government of China that the prosperity and stability of Hong Kong will be maintained. It is also publicly stated that the present legal system of Hong Kong will continue after 1997, with the proviso that all reference to the colonial tie will be severed. For external defence and foreign affairs, the Chinese Government will be responsible for the Hong Kong Special Administration Region. It will remain a free port, and the people will enjoy freedoms of speech, of the press, of strike, of assembly etc. under the 'Basic Law', subject to which the Hong Kong Special Administration Region will enact laws of our own.

Sir, it is absolutely essential that when we talk about maintaining the freedoms and rights of the individual under the law, we can in fact maintain the quality of such freedoms and rights as we know them now. The test of the quality of such freedoms and rights lies not only in the importance of the document in which the words are written, but also in the actual practice of the law, and in giving the individual maximum protection from the violation or deprivation of such rights and freedoms.

To give such protection we must define the rights and obligation according to the authorities and principle deriving from the sources of law which I have earlier mentioned. For example, a man is free to say what he believes in as long as it is not defamatory, seditious or obscene. The Common Law precedents are rich in examples of how the various rights of the individual may be exercised and protected even against the state. To that we must adhere.

The judges and lawyers who are charged with the task of protecting such rights and freedoms must do so without fear or favour. Independence of the judiciary and impartiality in the judges' decision is essential to ensure a fair trial. The removal and appointment of our judges must rest on the strength of his judicial quality. Lawyers must be allowed to act for his client and advise him in confidence. He will defend his client on the merits of his case even against the Government without fear of retribution. A man cannot be arrested and prosecuted except on the strength of the evidence against him and not for political reasons.

In order to maintain the quality and integrity of our legal system and practice I propose that the final court of appeal must remain in the Hong Kong SAR; that our courts will interpret the laws enacted in the HKSAR and that the legislature of the SAR will be free to enact the laws governing its trade, economy, finance, etc. in all aspects except foreign affairs and external defence. The legislature of the SAR alone can repeal its law or in any way remove it from our statute books, and the sources of our law shall be those that I have earlier on mentioned.

Sir, I believe there will be opportunities for this Council to express views on the 'Basic Law' which will take sometime to draft. The people of Hong Kong and the world will be looking to the Sino-British agreement to see what is going to be our future. There must be sufficient details in the agreement to uphold local and international confidence. It is, therefore, our view that in order to preserve the integrity of our legal system the proposals made by Members here to-day must be reflected in sufficient details in the Sino-British agreement over the future of Hong Kong, and eventually in the contents of the Basic Law.

REVD. MCGOVERN:—Sir, today the lawyers among us deal learnedly with legal matters as befits their profession. I intend to deal with broader and more general matters which must also be enshrined in the proposed Basic Law.

Not only in Hong Kong, but all over the world, one of the most fundamental yearnings of peoples' hearts is the desire for freedom. The idea of freedom has inspired poets and patriots of all nations down through the centuries. It is hard to define freedom, but people know when they have it and when they have not. A vivid witness to that fact is the movement of thousands of refugees in recent decades especially in Europe, Africa and Asia.

In this century the world community has clarified its collective thought and has come nearer to defining or describing what freedom is. The best effort so far is contained in the 'Universal Declaration of Human Rights' adopted and proclaimed by the General Assembly of the United Nations on 10 December 1948.

We are all now familiar with those concepts: ‘Everyone has the right to life, liberty and security of person’; ‘the family is the natural and fundamental group unit of society and is entitled to protection by society and the State’; and so on to freedom of thought, conscience and religion; freedom of expression; freedom to join an association or not to join an association; freedom to work; free choice of employment; just and favourable conditions of work; equal pay for equal work; the right to rest and leisure; the right to a standard of living adequate for the health and wellbeing of one’s self and one’s family; special protection for sickness, widowhood, old age, motherhood and childhood; a right to education directed to the full development of the human personality; and so on through the 30 Articles of the Declaration. These things are basic human rights. They do not come from the law, but they must be protected by the law. I am tabling the Declaration as an appendix to this speech. (*Appendix not published in Hansard.*)

Some of the broad principles of the Declaration of Human Rights have been spelt out in greater detail in other United Nations documents. Naturally, my professional interest and knowledge lies in articles in the original Declaration which specify religious belief. I use this merely as an illustration of what is no doubt true of other professional interests also. There is a follow up document to the original Universal Declaration entitled the ‘Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief’. The difficulties in getting an agreed draft were such that it took twenty years to arrive at the version published in 1981. This gives in Article One not merely ‘freedom of belief’ but ‘the right individually or in community with others and in public or private to manifest one’s religion or belief in worship, observance, practice and teaching’. Every word has a meaning and significance broadening the application of the general principle of the original Universal Declaration. I give this as an illustration of the sort of detail which must be spelt out and guaranteed in the proposed Basic Law if human rights are to be protected. In the case of religious freedom it is clear that from religious belief and motivation flows the consequent freedom of practice in such things as the contribution which various religious bodies have made to education, hospitals and a host of other social services which have helped to improve the quality of life of our community. Similar detail is necessary in almost any other field you can think of such as Commerce, Navigation or Nationality. For those interested in the subject in fuller form, I will make the two documents referred to available in the UMELCO library.

I end with a word of caution. In the particular circumstances of the proposed Basic Law for Hong Kong the meaning of words is particularly important. Words must be used in their internationally accepted meaning. For example words like ‘patriotism’ or ‘patriotic’ should not be twisted out of their ordinary meaning so that the virtues enshrined in those words become the monopoly of any particular party or ideology. ‘Democracy’ is another word open to abuse, as indeed are such simple words as ‘people’ or ‘person’. A person must be protected against being arbitrarily declared a ‘non-person’ on account of non

conformity with some factional rule or law. A final example among many is 'freedom of association'. Internationally that means the freedom to join an association of ones choice whether it be a Trade Union or a Management Association or a Chamber of Commerce or a Club. It excludes the idea of being forced to join an association whose objectives may be repugnant to ones judgement or conscience.

These are examples of the sort of details which must be attended to and the individual rights the exercise of which must be safeguarded. I commend them, among others, to the lawmakers.

MR. SWAINE:—Sir, I believe it to be well accepted that the preservation of the Rule of Law and of the independence of the Judiciary is essential to the continued well-being, stability and prosperity of Hong Kong.

It is not enough however to pay lip service to these principles: they must be translated into practical measures for inclusion in the arrangements for our future. I stand by the proposals I made in this Council on 27 October 1983 and 14 March 1984 that we must have provisions incorporated which would:—

- (a) safeguard the rights of individuals and rights of property
- (b) subject the Government of the territory to the jurisdiction of the ordinary courts
- (c) enable the ordinary citizen to question the executive acts of the Government before the ordinary courts in so far as they affect his person or his property, and
- (d) safeguard the independence of our Judiciary and our legal profession.

These proposals recognize the fundamental right of the ordinary citizen to seek redress in the Courts for the executive actions of the Government where these put at risk his life, liberty or property; and as a necessary consequence his further right to the services of a fearless, independent legal profession, whose communications with him would be privileged.

On the other side of the coin, we must ensure that prosecutions are conducted on the well-established principle that the prosecutor is a minister of justice, whose job it is to bring the facts before the Court and to ensure that justice is done. Professionalism, integrity, and freedom from external influence are essential.

The ultimate safeguard of a free society is of course an independent judiciary, and specific provision must be made to ensure this object is never in jeopardy.

We have already a Judicial Service Commission which advises the Governor on judicial appointments. We must ensure the adoption of a similar independent body after 1997, whose integrity and competence must be beyond reproach. It should be charged with the duty of advising the Chief Executive of

this territory on appointments to and advancement within the judicial service. Appointments must be on the basis of merit, free of external influence and nonpolitical.

Security of tenure is essential in order to preserve judicial independence, and the underlying theme of the present Article 16A of the Hong Kong Letters Patent should be adopted in our future arrangements. This would permit removal of our judges only on the grounds of inability (through physical or mental infirmity) to perform the functions of their office, and of misbehaviour. It is *not* misbehaviour for a Judge to arrive at a decision which is unpopular or at variance with official policy. He rules on the view he takes of the law.

Dismissal of the Judge or of any judicial officer should only be sanctioned after investigation by and on the recommendation of an independent tribunal; perhaps the same body that advises on appointments. But there must be no external influence, and no subverting of this body.

To ensure that our judicial decisions command respect, not just in Hong Kong, but also internationally because of our trading links all over the world, we must ensure that our judges are of the highest calibre. And I revert to the suggestion made in my speech on 14 March 1984 that members of the English Bench be invited to sit in Hong Kong under a system of renewable engagements.

That suggestion was made as a means of allaying fears about the quality or partiality of our judicial decisions after 1997, on the termination of appeals to the Privy Council in London. One consequence is the danger of Hong Kong becoming insular in its interpretation and development of the law. So we must ensure that our law keeps pace with the other Common Law jurisdictions of the world, particularly in the field of commercial law. We must be ready to embrace judicial precedents developed in the U.K. and other Common Law jurisdictions, so that we do not stagnate but remain part of the mainstream. Where, however, the issues are of a purely domestic nature, say in the areas of personal injury awards and family disputes, we can afford to develop a more Hong Kong accented set of precedents.

It must be apparent from the principles I have tried to outline that English must remain the language of the law, at least in the higher courts, so as to ensure precision and certainty, and in order to command international respect. My colleague Mr. Peter C. WONG likewise advocated that English be accorded legal status in his speech before this Council on 14 March 1984.

Other speakers have touched on specific areas of the law in which our various freedoms will need to be safeguarded. The right of travel outside Hong Kong is clearly essential to our well-being, stability and prosperity, particularly as Hong Kong is so export-oriented. The issue of a travel document which is internationally recognized is of vital importance.

I am already on record as advocating that the British nationals of Hong Kong should *not* be deprived of that status or of the right to a British-issued travel document. I am however now concerned with the purely Hong Kong style travel document for those who either do not have British national status or who wish to have an alternative document. Such Hong Kong travel documents should be issued by the governing authority of Hong Kong, recognizing the status of the holder as Hong Kong belonger with the right of abode here and the free right of entry into Hong Kong.

Recognition of the right of abode here carries with it the necessary implication, which is fundamental in a free society, that the Hong Kong belonger cannot be compelled to leave Hong Kong by some system of rustication or banishment. He too must have security of tenure, with the right to leave, if he so wishes, and the right to return. These are among the rights of the individual which an independent judiciary will be able to preserve and foster.

Implicit in all I have said and repeating the point made in my two earlier speeches before this Council on 27 October 1983 and 14 March 1984, is the imperative that the final Court of Appeal for Hong Kong is Hong Kong, *not* Peking. To contemplate otherwise is to destroy the edifice so carefully built up over the years and, with it, the notion of judicial independence and the rule of law.

4.12 p.m.

THE ATTORNEY GENERAL:—Sir, Members of this Council will wish me to express their gratitude to those Unofficials who have spoken in this debate. For I sense that the principal theme of their contributions is one that will command support throughout this Council Chamber and indeed throughout the length and breadth of Hong Kong. In essence, that message is that the legal system is important to Hong Kong and its future.

In any society, of course, the laws provide the rules and understandings which govern the relationship between individuals, and which also define and maintain authority within its appropriate limits. There can be no society in which the strong are held in check and the weak are protected, in which personal freedom exists alongside the force and power necessary for good order and Government, without laws that declare rights and duties and without courts that make them effective.

As Members have pointed out, the distinctive legal system of Hong Kong has served its people well. The territory has been transformed from a small undeveloped port of a few fishermen to a sophisticated centre of international finance and regional trade of 5½ million people. The laws that have taken root here have provided the basis for a society in which the freedom of individuals is taken for granted. where no-one is denied a fair trial and where no-one stands above the law, however strong or powerful he might be.

Systems of this kind, Sir, cannot be thrown together overnight. They are not achievements of hardworking committees. They are the product of history. They do not depend merely upon the letter of the law. Traditional concepts of fair dealing, rules of natural justice, principles of good administration, all come to be taken for granted when they derive from a mature and developed legal system in which generations of judges, lawyers and administrators have been brought up. And so, again to take up the point of Miss TAM's, both the spirit as well as the texts of a legal system determine the way of life that individuals enjoy and the manner in which they can expect to be governed.

Members in their contributions have emphasized particular features of the legal system that contribute to its importance. Father MCGOVERN has dwelt upon the respect that laws must accord to the life, the liberty and the rights and freedoms of ordinary people. He drew attention to the texts of the United Nations, and in particular the declarations of Human Rights of 1948. Sir, he might also have drawn attention to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which entered into force in 1976 and have been applied to Hong Kong. He will find, for example, in Article 18 of the former Covenant ample provision for freedom of religious belief and freedom of worship. Indeed I think that he will find that all the rights to which he attached particular importance are set out in the provisions of those Covenants which are part of international law which are applicable to this territory.

Miss TAM and Mr. John SWAINE have drawn attention to a number of matters: the remedies made available to ordinary people by the courts to secure protection from those who abuse power or infringe their rights, which undermine what we call the rule of law. They have cited, too, the importance to Hong Kong of that body of English mercantile and commercial law which has come to provide the foundation for Hong Kong's prosperity because it is now the law that facilitates banking, shipping, commerce and trade throughout the world. They have also drawn attention to the importance of having a body of detailed laws, published and understood, which judges are bound impartially to interpret and apply. They have stressed the need for all persons to have the right of access to the courts of Hong Kong, and to be able to take advantage of the services of legal practitioners. Attention has been drawn to the special importance of the Office of Public Prosecutor, and, perhaps above all else, they have demonstrated to this Council the overriding need for an independent judiciary appointed on merit, secure in its tenure of office, and immune from external pressures and influence. Sir, the Council, you may think, would do well to give weight to these views of fellow members who enjoy a distinguished status in the legal profession and who speak with such evident conviction and concern.

It is apparent that in approaching their important negotiations both the British and the Chinese Governments have expressed a common intention to preserve the essential features of Hong Kong's legal system for the future:

Chinese leaders have made it clear that they envisage that Hong Kong's various systems should continue after 1997 and that the laws currently in force will remain basically unchanged. In his press conference in this Chamber on 20 April last, Sir, the Secretary of State, Sir Geoffrey HOWE, said that it was possible to foresee a situation after 1997 where Hong Kong's autonomy would include the maintenance of Hong Kong's own familiar system of justice: and the laws of Hong Kong, including the written and common law, would be based upon the present system.

Sir, this unity of purpose of the two Governments must surely be one of the most hopeful signs to the people of this territory that the continuation of their lifestyle and their way of life is assured beyond 1997: if the parties to the negotiations are able to reach agreement under which the people of Hong Kong may expect to enjoy the benefits of their own familiar legal system after that date, that will provide one of the most reliable guarantees to them that their freedoms and their rights will continue to be respected and enjoyed in the years ahead.

4.22 p.m.

Question put and agreed to.

Adjournment and next sitting

HIS HONOUR THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on 11 July 1984.

Adjourned accordingly at twenty-two minutes past four o'clock.

Annex

Full text of the Chinese Speaking Note used by Sir S. Y. CHUNG, Miss Lydia DUNN and Mr. Q. W. LEE during their meetings with Chairman DENG Xiaoping and Mr. Ji Pengfei in Beijing on 23 June 1984

一九八四年六月二十三日

香港行政立法兩局鍾士元鄧蓮如及利國偉三位非官守議員
應邀訪問北京拜會鄧小平主任姬鵬飛主任發言全文

我們此行來北京，能夠有機會拜見鄧小平主任和各位國家領導人，交換對香港前途問題的意見，感到十分榮幸。

收回香港主權乃屬國家統一大計，身為中國人，我們是衷心支持的。尤其是國家正式宣佈，在一九九七年將香港列為特別行政區，享有高度自治權，現行各種制度維持五十年不變，港人治港，保持繁榮，維護安定。

今年四月二十日英外相賀維在港的聲明，顯示英國會將香港主權在一九九七年歸還中國，使香港前途的局面更明朗化。但它顯然並沒有增強港人信心，港人繼續心存憂慮，人心動盪不安，確切是不移的事實。不是但資產階級心存疑慮，一般職工和小市民亦各有各的憂慮。我們坦誠率言，並不是危言聳聽。

目前港人的憂慮，相信主要分爲一九九七年前後的兩階段：

- (甲) 一般人相信九七年前要有十三年的繁榮安定，才能夠希望九七年後有五十年的繁榮安定。港人擔心中英雙方爲了儘快完成協議，致令協議內容十分空泛，港人失卻信心，人才外流，資金外移，投資不足，經濟衰退。港人亦擔心在未來十年內，權力鬥爭，對整體不能有不良後果，使香港不能維持繁榮安定，迫使中國不得不提早接管。
- (乙) 同樣地，一般人相信如果港人對九七年後的安排沒有信心，則九七年前十三年的繁榮安定亦絕對不能保持。九七年後港人有三個主要擔心。第一，擔心將來的「港人治港」實際上是「京人治港」，中國表面上不派幹部來港，但治港的港人都由北京控制，於是港人治港有名無實。港人第二擔心九七年後中國處理香港事務的中低級幹部，將來在執行上或不能落實中央的政策，不能接受香港的資本主義和生活方式，處處干擾。第三，雖然港人絕對信任鄧主任及現任的國家領導人，但擔心將來的領導人又走極左路線，改變現行的政策，否定「一個國家，兩種制度」的政策，使「五十年不變」的承諾，全部落空。

我們三人身爲香港行政立法兩局非官守議員，港人對我們此次來京和中國領導人交談的結果，非常關心及有極大的期望。故此荷蒙鄧小平主任及高層國家領導人接見，實負有重要的任務，我們此次來京晉謁，純爲大局整體着想，使香港能夠繼續繁榮安定，所以對於局部性的問題如地權，雙重國籍等，雖屬重要，仍略而不談。我們亦非爲個人利益而進言。因此我們詳細研究過去十個月來自各階層人士所發表的意見，構思如何能在國家收回主權大原則下，維持香港在九七年前後的繁榮和安定。

我們坦率誠懇向鄧主任和國家領導人表達我們的觀點，我們的主要建議有三：

- (一) 要保香港繁榮，就必須維護信心，要維護信心，則中英談判之管結果必不能不顧及港人（特別是投資和專業人士）的接受性。儘管港人無權參與談判，但談判的最後反應，及成敗的關鍵，卻在港人對協議的評價。爲使港人接受協議，將來中英達成的協議書必須具有確切不移的保障，在各種細節上儘量明確規定。二爲協議內容對雙方具有明確的約束性。三爲協議要包括一項條文使將來香港基本法係根據該協議有關條文而制訂。如此則可以避免港人將來不必有人認爲如協議內條文涉及基本法，即無異干涉中國內政。我們認爲這九七項看的是沒有根據的，中國政府已經很清楚公佈對香港一包括一後年的政策，而這些政策亦將在協議中列明。故協議內包括一項條文，明確指出基本法將根據協議內有關條款而制訂，此實貫徹中國既定對香港的政策，並不是干涉中國內政。
- (二) 爲增進港人信心，我們認爲基本法應在香港起草，交由人大常委會批准後，納入中國憲法內。查基本法係根據中國憲法第三十條規及制訂。但香港情況屬特殊，如在香港起草，不祇能增加港人目前信心，並可利用港人各項專才，與北京派來代表起草，呈交人大常委會核准，而成爲香港之基本法。如人大常委會對在港草擬之若干條款不同意，自可予以修改，無損於最後批准之權力。爲加強香港人對五十年不變的信心，將來基本法如必須修改，應效葡澳基本法先例，由香港提出而由人大核准。

- (三) 香港人對前途的憂慮，可以用一個比喻形容，有一個小鎮面臨徙置另一地方，而該地方在過去三十年內，每十年左右便有一次大水災，為使小鎮的人徙置後安居樂業，免受水災威脅，小鎮的人要求建築一條堤壩防洪。如中國領導人明瞭港人心理，而容許港人建立一個預防性的緩衝組織，就可使港人信心增強。我們建議香港將來成立一個基本法法制委員會，由中國委任國際知名及有地位的華人為其成員，其職權則為監察或諮詢基本法之制訂、修改及執行。

以上三項主要提議，如獲中國政府接納，照我們意見可安定香港民心，希望鄧主任及其他中國領導人加以考慮。如有指示，敬請賜教。

(Translation)

We are honoured to have the opportunity during our visit to Beijing to meet with Chairman DENG Xiaoping and other Chinese leaders to have an exchange of views about the future of Hong Kong.

Being Chinese, we support the recovery of the sovereignty of Hong Kong and China's reunification plan, especially since China has formally announced that after 1997, Hong Kong will become a Special Administrative Region having a high degree of autonomy and administered by local people; and that the existing systems will remain unchanged for fifty years.

The British Foreign Secretary, Sir Geoffrey HOWE announced on 20 April 1984 that Britain will return the sovereignty of Hong Kong to China in 1997. This has helped to clarify the future of Hong Kong. However, it has not helped to boost the confidence of the people of Hong Kong. People remain anxious and worried and they are filled with uncertainties. This anxiety is not limited to those with money. They affect workers and ordinary citizens alike. This is a fact and we feel it our duty to reflect this situation honestly.

The current worries of the people of Hong Kong concern the periods before 1997 and that after 1997.

As regards the period before 1997, most people believe that only if prosperity and stability are maintained in the next thirteen years can there be any hope that prosperity and stability would continue for fifty years after 1997. People are worried that in order to reach an early accord, the Governments of China and Britain may come to an Agreement which will be lacking in detail and meaningless. This would lead to a loss of confidence, an exodus of professional and talented people, an outflow of capital, a lack of investment; resulting in economic recession in Hong Kong. Furthermore, people are worried that the jostling for power in the next 13 years may threaten the stability and prosperity of Hong Kong, forcing China to interface or take over Hong Kong before 1997.

As regards the period after 1997, most people similarly believe that if there is no confidence in the arrangements after 1997, it would not be possible to maintain prosperity and stability in the 13 years before 1997. In particular, there are three main worries about post-1997 arrangements:

First, people are worried that instead of genuinely being administered by the people of Hong Kong, the future Government of Hong Kong would actually be administered from Beijing. Although China may not send any cadres to Hong Kong, the people administering Hong Kong in the future Government of Hong Kong may in fact be controlled by Beijing.

Second, people fear that the middle and lower level cadres who are responsible for the implementation of China's policy over Hong Kong may not be able to accept the capitalist systems and lifestyle of Hong Kong. They may not implement the policy of the central Government of China and they may interfere in the local administration.

Third, whilst people have faith in Chairman DENG and the present leadership, people are concerned that the future policy of China may change and that future leaders may revert to 'extreme left' policies. They may not recognize the 'one-country-two-systems' policy and renege on the promise that the existing systems in Hong Kong will remain unchanged for fifty years.

As we are Unofficial Members of the Hong Kong Executive and Legislative Councils, the people of Hong Kong have high expectations about our meetings with Chairman DENG and other Chinese leaders in Beijing. We are conscious of our responsibility. We are concerned with the overall interest of Hong Kong so that it would continue to remain prosperous and stable. We will not, therefore, raise for discussion on this occasion, individual sectional issues such as land ownership and dual nationality, vital though they are. Our proposals are also not made for our own personal interests. We have carefully studied the views expressed by all classes of Hong Kong society in the last ten months. We have thought through what would be necessary to maintain the prosperity and stability of Hong Kong before and after 1997, under the principle of the sovereignty of Hong Kong being returned to China in 1997. We will express our views frankly and honestly. We have three main recommendations:—

- (1) To maintain prosperity, confidence must be maintained. In order to maintain confidence, the Agreement between the two Governments of China and Britain must be found acceptable by the people of Hong Kong (especially by investors and professionals). The reaction to, and the success or failure of, the Agreement really depends on its acceptability to the people of Hong Kong. For the people to accept the Agreement, the Agreement:
 - must be very detailed; it must provide clear and precise definitions of all aspects of Hong Kong's existing systems.
 - must be mutually binding as between the two signing countries of China and Britain.
 - must contain a provision stipulating that the Basic Law of the Special Administrative Region of Hong Kong will be based on the terms in the Agreement. This would prevent unnecessary arguments

among the people of Hong Kong in future when the Basic Law is drafted. In addition, such a provision in the Agreement would help to give confidence throughout the period when the Basic Law is being drafted.

It is said that such a provision would be an interference into the internal affairs of China. We do not think that this argument has any validity. China has already made clear publicly its policies for Hong Kong after 1997. Such policies will also be stated in the Agreement. A provision stating that the Basic Law would reflect the terms of the Agreement is merely an extension of these stated policies.

- (2) In order to enhance confidence, we believe that the Basic Law should be drafted in Hong Kong. It should be included in the Constitution of China after the approval by the Standing Committee of the Chinese National People's Congress (NPC). It is appreciated that normally the drafting and approval of Basic Law of Special Administrative Regions should be the responsibility of the Standing Committee of NPC because Special Administrative Regions are established, where necessary, under Article 31 of the Constitution of China. However, in view of the special circumstances of Hong Kong, the drafting of the Basic Law in Hong Kong would help to enhance confidence, and at the same time the expertise and talents of the Hong Kong people can be made use of. We believe, therefore, that the Basic Law should be drafted in Hong Kong by the people of Hong Kong together with representatives from Beijing for the approval of the Standing Committee of NPC. The Standing Committee can, of course, make amendments to the draft. The authority of the NPC would not, therefore, be violated by this proposal. In addition, to give confidence even further that there would be no changes in the 50 years after 1997, it should be stipulated in the Basic Law that, following the precedent of Macau's Basic Law under Portugal, any future amendments to the Basic Law can only be initiated by Hong Kong.
- (3) Perhaps, we can best illustrate the worry of the Hong Kong people by an analogy. A small town is about to be resettled in a place where flooding has occurred about once every ten years in the last thirty years. In order to give confidence to the people being resettled there that their livelihood would not be threatened by flooding in the new place of residence the residents ask that a flood-protection dam should be built. If the Chinese leaders understand the anxiety of the people of Hong Kong and would agree to the establishment of an insulating mechanism, like a dam, between Hong Kong and China, confidence in Hong Kong would be greatly increased. We, therefore, propose the establishment of a Committee consisting of Chinese people of international standing and reputation. This Committee will be appointed by the Government of

China. Their responsibility would be to monitor or advise the drafting, and implementation of, and subsequent amendments, if any, to the Basic Law.

The above recommendations, if accepted and adopted by the Government of China, will, in our opinion, greatly help to give confidence to the people of Hong Kong, upon which the prosperity and stability of Hong Kong depend. We hope that they would be seriously considered by Chairman DENG Xiaoping and other Chinese leaders.