

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 30 April 1986

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR EDWARD YOUDE, G.C.M.G., M.B.E.

THE HONOURABLE THE CHIEF SECRETARY
SIR DAVID AKERS-JONES, K.B.E., C.M.G., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN HENRY BREMRIDGE, K.B.E., J.P.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE CHAN YING-LUN, J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, J.P.

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN, J.P.

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

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

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

THE HONOURABLE KIM CHAM YAU-SUM, J.P.

THE HONOURABLE JOHN WALTER CHAMBERS, J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, O.B.E., J.P.
SECRETARY FOR TRANSPORT

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

THE HONOURABLE CHENG HON-KWAN

DR. THE HONOURABLE CHIU HIN-KWONG

THE HONOURABLE CHUNG PUI-LAM

THE HONOURABLE THOMAS CLYDESDALE

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

THE HONOURABLE HUI YIN-FAT

THE HONOURABLE RICHARD LAI SUNG-LUNG

DR. THE HONOURABLE CONRAD LAM KUI-SHING

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

THE HONOURABLE LEE YU-TAI

THE HONOURABLE LIU LIT-FOR, J.P.

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

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

THE HONOURABLE POON CHI-FAI

PROF. THE HONOURABLE POON CHUNG-KWONG

THE HONOURABLE HELMUT SOHMEN

THE HONOURABLE SZETO WAH

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING

THE HONOURABLE ANDREW WONG WANG-FAT

THE HONOURABLE JOHN RAWLING TODD, C.V.O., O.B.E., J.P.
SECRETARY FOR HOUSING

ABSENT

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

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

THE HONOURABLE HILTON CHEONG-LEEN, C.B.E., J.P.

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

THE HONOURABLE TAI CHIN-WAH

THE HONOURABLE TAM YIU-CHUNG

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

IN ATTENDANCE

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

Papers

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

<i>Subject</i>	<i>L.N. No.</i>
Subsidiary Legislation:	
Merchant Shipping (Safety) Ordinance.	
Merchant Shipping (Safety) Ordinance (Amendment of Schedule) Order 1986	107
Small Claims Tribunal Ordinance.	
Small Claims Tribunal (General) (Amendment) Rules 1986	108
Small Claims Tribunal Ordinance.	
Small Claims Tribunal (Fees) (Amendment) Rules 1986	109
Travel Agents Ordinance 1985.	
Travel Agents Ordinance 1985 (Commencement) (No. 2) Notice 1986	110

Sessional Papers 1985-86:

- No. 53—Regional Council Estimates of Revenue and Expenditure for the year ending 31 March 1987
- No. 54—Report by the Trustee of the Correctional Services Children's Education Trust for the period 1 September 1984 to 31 August 1985

Miscellaneous:

Written answer to parliamentary question regarding the requests made by the Legislative Council concerning the draft Hong Kong (British Nationality) Order 1986.

Oral answers to questions**Loan for redevelopment of 26 sub-standard public housing blocks**

1. MR. LAI asked (in Cantonese): *In regard to the Government loan of \$800 million to the Housing Authority for the redevelopment of the 26 sub-standard public housing blocks, would Government inform this Council:*

- (a) *in providing this loan to the Housing Authority, would Government follow the usual practice of charging an interest on this loan;*

- (b) *if interest is to be charged, would it be met by the tenants' rental or by some other means; and*
- (c) *how would Government make use of the interest accrued?*

SECRETARY FOR HOUSING: Sir, both the Housing Authority and the Government regard the redevelopment of the 26 sub-standard blocks as an extension of the authority's on-going programme to redevelop its Marks I and II estates. Thus the terms of this \$800 million loan from the Development Loan Fund are no different from other loans to the authority.

Interest of 5 per cent is charged on these loans but it is only a notional charge. That is to say the charge is included in the authority's accounts to portray clearly the Government's contribution, in addition to free land, towards the provision of housing, but no cash payment is made in respect of this interest. There is therefore no question of Government making use of the interest on the loan.

Dr. LAI will also be pleased to know that the extended redevelopment programme will not affect rent levels. They are not related to the costs of construction, but are essentially determined by the location and the amenities of the estate, as compared with existing comparable estates and, above all, the tenants' ability to pay.

MR. LAI (in Cantonese): *Sir, could the Government inform this Council whether the rental will come down if the Government does not really get interest and if the loan does not have to be repaid?*

SECRETARY FOR HOUSING: Sir, Government does not, as I have said, get interest on the loan but the capital sum has to be repaid and is repayable over 40 years. It is repaid from the Housing Authority's revenue which comes mainly from its rental income. The rental income can be divided into two sections, the domestic rental and the non-domestic rental, and perhaps to give some picture of the position I can quote the 1985-86 figures in which the domestic rental account showed a shortfall of \$205 million. In other words expenditure exceeded revenue by \$205 million. On the non-domestic side there was a surplus of \$471 million leaving a total of \$266 million revenue, part of which is used to repay Government loans.

MR. HUI: *Sir, from what the Secretary for Housing has just replied, I understand that the repayment will not come from the rental of the local estates but from the commercial sector. So could I ask whether it is fair and reasonable to require those commercial sector people to pay for the redevelopment of the 26 sub-standard public housing blocks when they have no part to play and are not responsible for the sub-standard structures?*

SECRETARY FOR HOUSING: I think, Sir, the non-domestic tenants are operating in a commercial atmosphere and I see no reason why they should not be charged rents approximating to commercial rents.

MR. HU: *Sir, can the Secretary for Housing advise this Council what is the total Government contribution in public housing up to the end of 1985?*

SECRETARY FOR HOUSING: I am afraid, Sir, I have not got the figure readily available. Perhaps I can supply it to Members. (Annex I)

MR. HUI: *Sir, I am sorry to ask the Secretary for Housing again. My question was that was it fair and reasonable to ask the commercial sector tenants to pay for the redevelopment of the 26 sub-standard structures who have no part in developing such structures. I am not asking for the rental of the commercial sector.*

SECRETARY FOR HOUSING: I am sorry, Sir, I thought I had answered the question. As I say, I don't think we are imposing upon the commercial tenants at all in that we are not asking them to pay anything in excess of the commercial rent.

Banning of growth promoting chemical compounds

2. DR. HO asked: What measures will Government propose:

- (i) to ban the possession and use of growth promoting chemical compounds in the poultry industry; and
- (ii) to prohibit the sale, importation and distribution of any poultry (including frozen chickens) containing hormone residues?

SECRETARY FOR HEALTH AND WELFARE: Sir, when the Secretary for Economic Services replied to a similar question in this Council in June 1983 on the use of growth promoting chemical compounds in the local poultry industry, he stated the Government's intention to consider measures to prevent the use of synthetic hormones in locally bred poultry and to prohibit the sale of meat containing hormone residues.

With effect from 19 July 1983, synthetic hormones, or stilbene derivatives, which were used as growth stimulants in the poultry industry, were deregistered under the Pharmacy and Poisons Regulations. As a result, the importation, sale and distribution of these hormones are now prohibited. Further amendments to the Pharmacy and Poisons Regulations to prohibit the use and possession of unregistered pharmaceutical products, including the proscribed synthetic hormones, are being considered and it is hoped that they will be introduced within the current year.

Consideration is also being given to amending the Harmful Substances in Food Regulations, made under the Public Health and Municipal Services

Ordinance (Chapter 132), to prohibit the importation, delivery or sale for human consumption of fish, meat, poultry (including frozen chickens), and the retail sale of live poultry which contains certain harmful synthetic hormones.

DR. HO: Sir, last year food hygiene officers took less than 100 chickens at retail level for testing for hormone contamination whereas Hong Kong imported more than 34 million kilograms of live chickens from abroad in the same year. Is Government satisfied that such a small sample is adequate to indicate the seriousness of the problem?

SECRETARY FOR HEALTH AND WELFARE: Sir, given the very large quantity of poultry that is imported, I think it would be quite impracticable for the health inspectors to check anything approaching a large proportion of these. I presume that the checks are done when there is suspicion that the particular chickens in question have been injected with these hormones, but I will put this point to the Director of Urban Services and ask him to consider whether further resources can be made available.

DR. CHIU: *Sir, will the Government inform this Council whether there are any local factories manufacturing these hormones for export purpose? If so, what is the rationale for this double standard of control?*

SECRETARY FOR HEALTH AND WELFARE: Sir, this question has hitherto been approached from the point of view of safeguarding food on sale in Hong Kong but it is the intention, as I mentioned in my answer, to amend the Pharmacy and Poisons Regulations to prohibit the use and possession of unregistered pharmaceuticals of this kind. But I will check that the proposed amendments will cover the point raised by Dr. CHIU.

DR. HO: *Sir, with regard to the amendments to the harmful substances in food regulations as mentioned in the last paragraph, when will the draft amendments be presented to this Chamber for consideration?*

SECRETARY FOR HEALTH AND WELFARE: Sir, this particular amendment has proved particularly difficult to draft but I am assured by the Secretary for Municipal Services that he hopes to have regulations ready for enactment within six months.

Failure by police officers to attend court as prosecution witness

3. DR. LAM asked (in Cantonese): *Will the Government inform this Council:*

- (a) *how many criminal court cases in the last three years have been dismissed because police officers failed to attend court on time to serve as prosecution witnesses; and*

(b) *what measures will Government take to improve the situation?*

ATTORNEY GENERAL: Sir, over 875 000 cases* were initiated by police in magistrates' courts during the last three years. In nearly all of them, police officers were required to attend as prosecution witnesses. Of these cases, 28 were dismissed because police officers were not present in court when they were called to give evidence. I am not aware of any cases dismissed in the higher courts for this reason during the last three years.

Sir, the Commissioner of Police takes a very serious view of a police officer failing to attend a court when required to do so. When appropriate, disciplinary action is taken. As a result, the incidence of such cases is low. The Government does not consider it necessary to introduce any additional measures at this time.

DR. LAM (in Cantonese): *Sir, may I ask, among the 28 cases of dismissal because of the police officers' failure to be present in court, how many were disciplined?*

ATTORNEY GENERAL: Sir, in respect of the 28 cases to which I have referred, 11 police officers have so far been found guilty of disciplinary offences. They have been either reprimanded or served with written admonishments. One has been cleared, in that he was prevented from attending by circumstances that were outside his control. The other cases are still under investigation.

MR. HUI: *Sir, it is public knowledge that a charge against a well-known businessman for illegal bookmaking was dismissed owing to the expiry of the statutory period for the prosecution of a summary offence. Could the Government inform this Council first....*

HIS EXCELLENCY THE PRESIDENT: I think this must be put down as a separate question. It does not arise from policemen not being present.

MR. HUI: Thank you, Sir.

Traffic congestion in Western and Central Districts

4. MR. LIU asked (in Cantonese): *In view of the aggravating problem of traffic congestion between the Western and Central Districts which has remained unresolved for a long time, will Government inform this Council of the present situation concerning the development of the Western Corridor (Route 7) project?*

SECRETARY FOR TRANSPORT: Sir, Route 7 to which Mr. Liu refers is a major new trunk road which is identified in the Long Term Road Study and subsequent reports as being needed by the mid-1990s. It runs from Western District to

Note: *These cases exclude fixed penalty tickets which are *not* contested

Aberdeen along the coast. Present planning does not envisage this project starting until some time after the completion of the upgraded Connaught Road project being embarked upon now and the programme of improvements for Pok Fu Lam Road. Tenders for the Connaught Road project which will greatly improve traffic flows between Western and Central will shortly be invited, and indeed traffic management arrangements and utilities diversion works for it have already begun in advance of the main contracts. This project and the widening of the final section of Pok Fu Lam Road and other improvements at the Pokfield Road junction are all due for completion in 1989.

I should also add that further improvements are being planned to the most important junctions in Pok Fu Lam corridor such as those at Western Street, Pokfield Road, Bonham Road, Sassoon Road, and Mount Davis Road. Planning for these improvements is in hand and it is hoped to complete them in stages between now and the early 1990s.

It is very much cheaper to make such improvements than to build a major new trunk road such as Route 7 which is estimated to cost about \$1 billion. Only when additional capacity cannot be squeezed out of the existing road system can such a large investment be justified. However, it is recognised that by the early 1990s this may be the only feasible way of increasing road capacity in this corridor.

MR. LIU (in Cantonese): *Sir, may I ask whether the Government can bring forward the project of Route 7 to ease the road congestion?*

SECRETARY FOR TRANSPORT: Sir, I have indicated that it would be very difficult to justify that in respect of Route 7. What I do think we might, and think we must, do is consider the section between Central and Kennedy Town rather than the whole of this route. I think we could well consider this possibility as part of the detailed feasibility studies for the Green Island reclamation, and those studies are expected to take between 18 months—two years to complete. In addition I think we could examine the alternatives of less costly improvements to existing roads in Kennedy Town and Sai Ying Pun.

MISS TAM: *Sir, other than the upgrading of the Connaught Road project, will the Secretary for Transport inform this Council whether measures will be taken in the near future to improve the traffic conditions in Central and Western?*

SECRETARY FOR TRANSPORT: Sir, the upgraded Connaught Road project which I referred to does, of course, extend through to Pedder Street where there will be an underpass, and indeed to Harcourt Road where there are to be major improvements. Completion of the whole project will enable there to be free flowing traffic right from Hill Street in Western through to Wan Chai. Apart from that, the Transport Department has been requested by the Western District Board to do a traffic study of the whole of Western District and has agreed to undertake that later this year.

MR. SOHMEN: *Sir, would the Secretary for Transport be able to give us an idea of the total costs projected for the interim projects that he has mentioned in his original reply?*

SECRETARY FOR TRANSPORT: Yes, Sir, I think the total costs of that system going right through from Rumsey Street to Harcourt Road is in the order of \$500 million. The Rumsey Street flyover is about \$200 million.

Public enquiry service in Water Supplies Department

5. MRS. FAN asked: *Regarding the public enquiry service of the Water Supplies Department, will the Government inform this Council:*

- (a) *whether it is aware that the public enquiry telephones are almost always engaged and that it is extremely difficult for a consumer to launch a complaint or an enquiry through this channel; and*
- (b) *what measures are being taken to improve this service in order to minimise inconvenience to the public?*

SECRETARY FOR LANDS AND WORKS: Sir, Mrs. Rita FAN is quite right in her comments on the overloading of the Water Supplies Department's telephone enquiry service. At present, the service as provided by nine enquiry lines is very heavily used with 10 000 enquiries per month. The problem is compounded by the overall restriction on all lines to the Water Supplies Department. A proposal for immediate improvement has now been put to the Hong Kong Telephone Company to establish a separate system for the nine enquiry lines. Consideration will also be given to increasing the number of enquiry lines.

To complement the telephone enquiry service, enquiry centres have been established, and explanatory literature made available. Six centres exist and their success can be judged by the fact that they handle 22 000 enquiries a month. Two additional centres are planned for this financial year, and a further six in following years.

Pamphlets are produced to explain various aspects of water supply procedures and accounting matters. These are regularly updated and improved for wider distribution. On each occasion when charges are revised, an explanatory leaflet is sent with the bill.

The expansion in the number of enquiry centres, together with the improvement in distribution and content of explanatory pamphlets should help offset the increasing load on the telephone service.

MRS. FAN: *Sir, may I ask the Secretary for Lands and Works whether he is aware of the undertaking made by the representative of the Water Supplies Department to the UMELCO Public Relations Panel on 19th February 1986 to consider various measures to improve the situation including:*

- (a) *the referral of more complicated telephone enquiries to enquiry centres;*
- (b) *the use of tape recording messages to advise users to use enquiry centres or to wait or to telephone later; and*
- (c) *seeking assistance from the Consumer Council for some of the enquiries to be handled by the public enquiry centres of the council.*

And, if the answer is affirmative, what progress has been made?

SECRETARY FOR LANDS AND WORKS: Sir, I am aware that there has been a meeting in the UMELCO office attended by the Director of Water Supplies on this very question of overloading of the telephone enquiry service of the Water Supplies Department. With regard to referrals to enquiry centres, of course, this is automatically done when the enquiry cannot be answered completely directly by the telephone operator. In respect of tape recording answers, this requires additional lines because at the moment there are nine lines and these are all over-loaded, but if you dedicate one of the lines to be manned by an automatic answering machine then you only have eight lines left to deal with the general enquiries. So the proposal now is to ask the Telephone Company to increase the number of lines for the enquiry service and that should be implemented within the next six months. As regards the referral to or seeking assistance from the Consumer Council, certainly I will make sure that the Water Supplies Department does contact the Consumer Council.

MISS DUNN: *Sir, I am going back to the original answer given by the Secretary for Lands and Works. Given that nine enquiry lines are obviously inadequate, why is the obvious remedy of increasing the number of lines still a matter for consideration?*

SECRETARY FOR LANDS AND WORKS: Well, it is a matter of cost and resources! Not only do you need to expand the physical equipment, you also need to man these lines and of course you need extra clerical staff and that is why it needs to be considered.

MR. YEUNG: *Sir, actually a part of my question has been answered by the Secretary for Lands and Works. Sir, will Government make enough provision of manpower to man the additional centres as planned, and how long will it take to establish the other six centres?*

SECRETARY FOR LANDS AND WORKS: Most certainly adequate manpower will be requested to man the centres. The two additional centres for this financial year will be that one will be at Kwun Tong, the other will be at Stanley. The six others are planned for the financial year 1987-88.

MRS. CHOW: *Sir, is the Secretary for Lands and Works aware that subsequent to the UMELCO meeting the Consumer Council in fact took the initiative to contact Waterworks and in fact the offer for assistance was turned down, and in fact the*

only response to the offer made was that pamphlets would be sent off to the Consumer Council which to date has not received them?

SECRETARY FOR LANDS AND WORKS: It looks as if I need to contact the Director of Water Supplies and let him know of the situation!

MR. CHAN YING-LUN: *Sir, may I ask whether the nature of enquiries at the enquiry centres and at the enquiry lines are the same and is the Government satisfied that opening more centres is a cheaper alternative to installing more enquiry lines?*

SECRETARY FOR LANDS AND WORKS: They serve a slightly different purpose. There are certain enquiries that can best be dealt with on a face to face situation and of course for very standard enquiries such as how to close an account and some queries on why is my water bill so high this quarter, and so on and so forth, these can be answered fairly quickly by the telephone operator because in front of him he has a video screen linked to the Water Supplies computer on which he can punch in the account number and then the accounts over the last few billing periods could be shown on the screen so that if the amount billed is not abnormal, we can certainly let the enquirer know right away. I think that enquiry centres serve a different purpose because there are situations that will need to be explained with the aid of other literature.

MRS. CHOW: *Can the Secretary for Lands and Works inform this Council what the average length of each enquiry is on the system at the present moment and whether that length can be shortened by better management arrangements?*

SECRETARY FOR LANDS AND WORKS: I don't know the average length of telephone enquiries, but I certainly take the point that the nature and categories of enquiry should be analysed to see whether certain standard enquiries could not be forestalled with better publication, much better information system. I take that point and I will certainly discuss the matter with the Director of Water Supplies.

MRS. FAN: *Sir, would the Government consider monitoring the situation of this service during this financial year to ensure that some improvement is achieved as the patience of the consumer is growing thin with the situation deteriorating rather than improving during the last year?*

SECRETARY FOR LANDS AND WORKS: Sir, I shall give this undertaking.

Policy on privatisation

6. MR. LEE YU-TAI asked: *Will the Government inform this Council of its policy on privatisation of Government services and its criteria for deciding the type of*

services to be privatised and what is the Government's assessment of the degree of success in the conversion of Kowloon-Canton Railway into a statutory body?

FINANCIAL SECRETARY: Sir, I said in my concluding speech in the 1985-86 Budget debate that I had long shared the general view that the Government should not be involved in activities that can arguably be done better in the private sector. Recent examples of this approach can be seen in the Tuen Mun light rail system, the Eastern Harbour Crossing and Hong Kong Nuclear Investment Company. The same arguments apply to existing services. Thus our approach to car parks. Nevertheless the perceived advantages of privatisation have to be balanced against the morale of the Civil Service and the considerable costs of disestablishment. Pragmatic, rather than a theoretical judgment is therefore essential. It is always given by the Executive Council. One fruitful avenue, given our very successful value for money studies plus the need to constrain the growth of the Civil Service, will be the contracting out of services.

There can, however, be no privatisation without prospect of profit on charges that are reasonable. Thus the new Junk Bay road tunnel must be built by the Government. Its management may later be turned over to the private sector.

The conversion of the Kowloon-Canton Railway into a statutory corporation has been an undoubted success. Operating profit before depreciation and interest charges has increased 11.2 times from \$21 million in 1983 to \$237 million in 1985. The corporation is now operating at a profit and has repaid the \$1 billion Government loan.

While the very large investment made by the Government in the modernisation and electrification of the railway clearly was a major factor I do not believe that the KCR could have done so well under its former structure. Operating in a competitive environment, the railway must be run in accordance with commercial principles. As a statutory corporation, the KCRC has been able to respond quickly to market conditions and enjoys far greater flexibility than any Government department in making commercial decisions, in marketing its services and in planning and implementing its future development.

MR. LEE YU-TAI: *With reference to the final paragraph of the answer, can I say that competition in accordance with commercial principles may make certain services more efficient than it would have been as part of Government?*

FINANCIAL SECRETARY: I would like to know what the question is please, Sir?

HIS EXCELLENCY THE PRESIDENT: Mr. LEE, would you repeat your question?

MR. LEE YU-TAI: *Sir, with reference to the final paragraph of the answer, can I say that competition in accordance with commercial principles may make certain kinds of services more efficient than it would have been as part of Government?*

FINANCIAL SECRETARY: Yes, Sir, I agree.

MR. SWAINE: *Sir, whilst it is gratifying to know that the KCR has been a success, is there not, in fact, a very large hidden subsidy on the part of Government in the way of land, buildings, plant and equipment as well as the cost of modernisation and electrification and that this hidden subsidy well exceeds the \$1 billion loan to the corporation?*

FINANCIAL SECRETARY: No, Sir, because that is built into its financial structure when it was first set up as a corporation.

MR. CHAM: *As a criterion for privatisation, would Government consider inviting tenders for appropriate Government services such as if the cost of tendering is lower than what it would cost Government, that service will be privatised?*

FINANCIAL SECRETARY: Well, I think we would first have to decide what services are to be privatised before we can consider whether to go to tender or not.

MR. CHEONG: *Sir, would the Financial Secretary please inform this Council what would the operating profits have been after depreciation and interest charges, which is the normal way of calculating profits in commercial enterprises?*

FINANCIAL SECRETARY: I am assuming you mean the Kowloon-Canton Railway?

MR. CHEONG: Yes.

FINANCIAL SECRETARY: I think it is operating on strictly commercial principles now and it will show a profit for this last year.

MR. ANDREW WONG (in Cantonese): *Mr. President, I don't understand what is meant by 'privatisation.' If KCRC is privatised, then why can't the Water Supplies Department be privatised? After an organisation is changed to a public enterprise but before you put the shares on the stock market, you cannot call it a private organisation. It is clear that if you make it a public organisation, then there would be greater efficiency. Mr. CHAN, the Secretary for Lands and Works, just said that it was not possible to install additional telephone lines and to increase the enquiry centres. Is it because we, the Legislative Councillors, or the Finance Committee, are unwilling to grant money for such installations? And what exactly is the problem? So, I am rather confused. Although in the Budget debate Members talked about privatisation, what exactly is privatisation? I am confused. Can the Financial Secretary give an explanation or can the Secretary for Lands and Works explain this to me?*

FINANCIAL SECRETARY: Sir, I must confess to being somewhat confused myself! I personally differentiate between turning over some Government department to a completely private organisation, which would have to be done by some sort of sale, and the alternative, which we followed with the KCR and the MTR, of turning them over to a statutory corporation, which is, of course, owned by the Government but which allows the management to conduct affairs on a commercial basis. If I may say so, I added in my Budget speech that I hope in due course one or two statutory corporations can have some or all, probably some, of their shares sold to the public, as soon as we are in a position to produce a proper prospectus.

MR. POON CHI-FAI (in Cantonese): *Sir, can the Government inform this Council how privatisation affects Government's revenue, say how does the privatisation of car parks affect Government's revenue?*

FINANCIAL SECRETARY: Sir, I don't think this Financial Secretary or any future Financial Secretary is going to agree to any measure that decreases the return to Government.

MR. LEE YU-TAI: *Sir, has there been a change of the state of morale among staff of KCR since it has become a statutory corporation?*

FINANCIAL SECRETARY: I don't think so. I think the KCR is a happy, well-managed corporation but some Members of this Council, including in particular Mr. K. C. CHAN, will be well aware of the agonies we went through in disestablishing the civil servants involved and the very considerable cost of it. It was an extremely difficult exercise for quite a small number of people.

MR. CHEONG: *Sir, perhaps the Financial Secretary did not catch my question or maybe I didn't ask it quite well enough. What I was asking was, what would have been the operating profits of KCR if depreciation and interest charges were taken into consideration?*

FINANCIAL SECRETARY: To the best of my knowledge, and I haven't examined the accounts of the KCR because they will shortly be tabled in this Council, full depreciation and interest charges are certainly charged now.

MR. CLYDESDALE: *Sir, with regard to the Financial Secretary's statement that it was hoped that some of the shares in the Kowloon-Canton Railway might be sold to the public in due course, would he like to comment whether that amounts to using public finance to build up the corporation and then turning round and selling it back to the people who put up the money?*

FINANCIAL SECRETARY: I think it amounts to privatisation, Sir, which a large number of Members of this Council consider to be a good thing.

Admission of adolescent patients to children wards

7. DR. IP asked: *Will Government consider admitting adolescents between the age of 12 to 15 to children's wards in view of the relative over-utilisation of adult medical wards as compared with children's ward?*

SECRETARY FOR HEALTH AND WELFARE: Sir, yes. In fact, the Prince of Wales Hospital is already admitting patients within this age group into the paediatric wards. Consideration is now being given to extending the same arrangement to other public hospitals in the territory, subject to consultation with the physicians and paediatricians concerned.

MRS. TAM: *Sir, will the Secretary for Health and Welfare inform this Council what are the criteria used at present to decide whether adolescents between the age of 12 to 15 should be admitted to children's medical wards?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think this is a matter which we have to leave to the professionals, the doctors concerned, in each case.

Resetting of public examinations

8. MRS. NG asked (in Cantonese): *Will Government inform this Council:*

- (a) the cause of the invalidation of the 'Use of English' listening test for the advanced-level examination held on 12 April 1986;*
- (b) of the additional cost to public funds incurred by holding the test again; and*
- (c) what measures will be taken to prevent similar incidents from happening again in future?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I should make clear that the conduct of public examinations in Hong Kong is the responsibility of the Hong Kong Examinations Authority, an independent body established by Ordinance for that purpose. I will, however, try to provide the information which Mrs. NG is seeking.

The problem in this instance arose because the test tapes were copied not from the edited master tape, but from an unedited working tape which had been inadequately labelled. Normally, a student taking this test will hear a set of opening instructions, followed by two readings of the set passage, followed by a further instruction to open the sealed envelope containing the question and answer book and to answer the questions. On this occasion, both sets of instructions preceded one reading of the set passage.

Invigilators in some of the 90 test centres stopped the test immediately, others allowed it to continue. In the circumstances, the authority concluded that the

only fair and satisfactory course was to reset the test. This has been scheduled for 2 May.

The authority is wholly financed from fees charged to examination candidates. There will therefore be no cost to Government funds as such.

The incident is being investigated by the authority and it will be for the authority to determine in due course, in the light of that investigation, what additional measures may be required to prevent a recurrence.

MRS. NG (in Cantonese): *Sir, although the Hong Kong Examinations Authority is an independent body, what measures will be taken by Government to ensure that everything is done properly for the benefit of the students?*

SECRETARY FOR EDUCATION AND MANPOWER: *Sir, I think I should perhaps say first that the Examinations Authority is very jealous of its reputation in public examinations and I am sure that they will try to ensure that this doesn't happen again, with the greatest determination. However, as Mrs. NG implies, there is a public interest in this and this is in part safeguarded by the fact that I and the Director of Education are represented on the authority and in this particular case the Executive Council has asked to see any report and recommendations that are made to the authority.*

MR. LEE YU-TAI: *Sir, since the opening instructions are not part of the question on which the candidate's knowledge is tested, would it have been better if the instructions were printed and given to the candidates in which case the confusion would not have arisen?*

SECRETARY FOR EDUCATION AND MANPOWER: *I am not sure, sir, that I am sufficiently expert to answer that myself, but I will convey that suggestion to the authority for their consideration.*

Misrepresentation of efficiency ratios in advertising materials

9. MRS. CHOW asked: *In view of complaints raised recently by purchasers of small properties, some of which have efficiency ratios of as low as 53 per cent e.g. 16.24 sq m of net saleable or useable area against 30.85 sq m of claimed area, with bedrooms of about 3 sq m i.e. 5' × 6' and kitchens of 0.8 sq m i.e. 2' × 4', will Government inform this Council:*

- (1) whether the Buildings Ordinance Office is responsible for ensuring that all structural partitions are fit for their claimed purposes, and*
- (2) whether Government would introduce measures to stop property developers from making false claims and misleading impressions in their advertising and promotion materials, such as the use of purposely unscaled drawings*

containing dwarfed furniture to create the illusion of space which in reality does not exist?

SECRETARY FOR TRADE AND INDUSTRY: Before approving plans submitted for new buildings, the Buildings Ordinance Office ensures that minimum height requirements are met, walls are structurally sound and rooms, including bedrooms and kitchens, have adequate lighting and ventilation in accordance with the Building (Planning) Regulations. These regulations do not however specify minimum floor areas for rooms.

Whilst the Government has no plans to regulate the promotional materials used by property developers, it is concerned that prospective purchasers of units in uncompleted buildings should be given correct and sufficient information regarding the size of units to ensure that they could make informed decisions. In this regard, relevant Government departments have actively participated in a study initiated by the Consumer Council, with the full co-operation of relevant professional bodies, to define 'saleable area' of units and promote its use as the standard method of measuring the floor area of units in uncompleted buildings offered for sale. As a result, the Registrar General's Department has now adopted a standardised definition of 'saleable area'. This definition will in future be included in the standard form of sale and purchase agreement which developers are required to use as one of the conditions on which the Registrar General would give his consent for permission to deal before the issue of the certificate of compliance.

MRS. CHOW: *Sir, in view of the practices of some developers who through lack of either judgment or ethics design rooms with structural partitions which render them physically unfit for the functions they are supposed to serve, will Government be prepared to review present building regulations to prevent similar occurrences?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, the position is that there are no provisions regarding what should be the maximum or minimum size of units in buildings, because we cannot be sure what the prospective buyers may wish to use those units for. So, as things now stand, I am not aware of any plans for the review of this part of the regulations.

MR. PETER WONG: *Sir, is the Secretary in a position to inform this Council what the standard definition of 'saleable area' is?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, 'saleable area' means the floor area exclusively allocated to the unit, including balconies and verandahs but excluding common areas such as stairs, liftshafts, lobbies and communal toilets. It is measured from the exterior of the enclosing walls of the units and the middle of the party wall between two units. It includes internal partitions and columns but excludes the common parts outside the enclosing walls of the unit.

Cocklofts, bay windows, yards, terraces, gardens, usable areas of roofs, car ports and the like should be measured and quoted separately to the saleable area.

MR. POON CHI-FAI (in Cantonese): *Sir, will the Government consider in the foreseeable future the addition of a clause saying the minimum saleable area of a particular unit in the purchase agreement?*

SECRETARY FOR TRADE AND INDUSTRY: *Sir, considering that all new leases and all leases which require modification or exchange and where exclusion orders or redevelopment orders are issued, all require the Registrar General's consent before the developers can offer units for sale prior to the issue of the compliance certificate, I think practically all future developments are already encompassed by this definition of saleable area.*

DR. IP: *Sir, I would like just to ask a layman's question. Perhaps this is better directed to the Secretary for Lands and Works and that is; can a bedroom be called a bedroom if it is too small to put a bed in?*

HIS EXCELLENCY THE PRESIDENT: *Is the Secretary for Lands and Works prepared to hazard a reply to that question?*

SECRETARY FOR LANDS AND WORKS: *Sir, the commonsense answer to that is, it depends on how big the bed is! (laughter) Obviously, I can see the thrust behind the question and obviously the Buildings Ordinance is there for the purpose of ensuring the buildings are constructed safely and up to hygiene and health standards to protect consumers. I think it would be better to use other legislation.*

MRS. CHOW: *Will Government introduce measures to ensure that the saleable area is stated in all advertising and promotional material to prevent misleadingness?*

SECRETARY FOR TRADE AND INDUSTRY: *Sir, as I have said, all future development are likely to be already covered by the Registrar General's consent for permission to deal. I don't think further legislation measures would necessarily be required.*

MR. ANDREW WONG (in Cantonese): *Sir, can the President inform the Council whether we should ask the Secretary for Lands and Works or Secretary for Trade and Industry or the Chief Secretary or even Mrs. CHOW herself? Or should the question be asked by the Consumer Council as to which advertisement is acceptable and which is not? Can the Chief Secretary answer my question as to whether some legislation should be enacted saying that certain advertisement is not suitable to appear on newspapers?*

HIS EXCELLENCY THE PRESIDENT: I think the question is down for the Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY: Sir, questions are asked of the Government and it is for you, Sir, to decide who should answer.

Written answers to questions

International Labour Festival

10. MR. TAM asked: *The International Labour Festival, first advocated by labour organisations in Europe and the United States, celebrates its centenary this year. On this memorable occasion, will the Government inform this Council:*

- (1) *which nations have declared the International Labour Festival as a statutory labour holiday; and*
- (2) *will consideration be given to introducing legislation to make the International Labour Festival an additional statutory labour holiday, so as to give recognition to the labouring class's contribution to the society of Hong Kong?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the attached table lists those countries which, according to the information available to the Labour Department, either (a) celebrate International Labour Day on 1 May; (b) celebrate a Labour Day holiday on some other day; or (c) observe 1 May as a holiday, but not necessarily to celebrate International Labour Day. The list may not be complete: very little information is available in respect of South America, the Middle East or Africa, and there may be gaps elsewhere as well.

While it can be concluded from this information that International Labour Day is quite widely celebrated, it is by no means a universally-recognised holiday.

Hong Kong already has more statutory holidays than most of its Asian neighbours. The Employment Ordinance requires employers to grant 11 paid statutory holidays a year. Nine of the statutory holidays coincide either with major traditional Chinese festivals or, in the case of Christmas Day and the first day of January, with internationally established holidays. The remaining two statutory holidays (commonly referred to as 'floating' holidays) may be taken at any time during the year and employees may, if they so wish and with the agreement of their employer, take one of these 'floating' holidays on 1 May.

The provision of holidays was last reviewed in 1982, when the number was increased to 11 by the addition of the second 'floating' holiday. Given the present number of statutory holidays, and the concept of floating holidays, there are no plans to introduce an additional statutory holiday for this purpose.

TABLE

A. Countries which celebrate International Labour Day on 1 May.

Name of country

Argentina
 Bulgaria
 China
 Dominican Republic
 Fed. Rep. of Germany
 Finland
 Philippines
 Singapore
 Taiwan
 Thailand
 USSR

B. Countries which celebrate a Labour Day holiday on a date other than 1 May.

*Name of Country**Date of holiday*

Australia	May 5th
Canada	1st Monday in September
Jamaica	May 23rd
Japan	November 23rd
New Zealand	4th Monday in October
USA	1st Monday in September

C. Countries which observe 1 May as a public holiday, but not necessarily to celebrate International Labour Day.

Name of Country

Belgium
 Ecuador
 France
 Italy
 Malaysia
 Panama
 Romania
 Spain
 Tunisia
 United Kingdom
 Uruguay
 Venezuela

Planning standards for purpose-built markets

11. MR. CHUNG asked: *Will the Government inform this Council the planning standards for the provision of a purpose-built market and advise whether the present population of more than 70 000 residing in the Lai Wan district in West Kowloon (Mei Foo Sun Chuen, Ching Lai Court) plus Kau Wah Keng and part of Lai Chi Kok district justifies the provision of a purpose-built market, and if so, whether any site has been allocated for such a provision?*

SECRETARY FOR LANDS AND WORKS: Sir, the existing planning standard is 140 market stalls per 10 000 persons in private residential areas, and one stall per 60 to 90 households in public housing estates. This standard will shortly be reviewed to ensure that it meets up-to-date requirements, and that it takes into account present circumstances, such as changing shopping patterns.

Based on the present standard, and taking into account the existing facilities currently available in Mei Foo Sun Chuen, there is an apparent need for the provision of a market in the Lai Wan area.

A number of sites have in the past been considered but for various reasons including accessibility to the catchment population, none has so far been agreed. However, as soon as the Urban Council has decided to build a market in this area I am confident that a suitable site can be agreed and reserved for this purpose.

Statement

Draft Hong Kong (British Nationality) Order 1986

CHIEF SECRETARY: Sir, at the meeting of this Council on 15 January, I undertook to inform Members at the appropriate time of Her Majesty's Government's response to the three requests which they had made in relation to the draft Hong Kong (British Nationality) Order 1986.

On 23 April, the Home Secretary in a written reply to a parliamentary question gave the response of Her Majesty's Government to those requests and a copy of that response is laid on the table today.

Public reaction in the past few days indicates the warm welcome given by the community to Her Majesty's Government's reply to the first two requests relating to the endorsement to be placed in the new passport and to former servicemen who served in the defence of Hong Kong.

For the reasons set out in the written reply, Her Majesty's Government do not consider it right to grant British citizenship to those British dependent territories citizens who are not ethnically Chinese if on 1 July 1997 they would otherwise be stateless. However, as is already provided in the draft Order they

will be able to acquire British national (overseas) status before 1 July 1997 and will on that date become British overseas citizens if they do not do so. Their children will also be British overseas citizens if they would otherwise be stateless and their grandchildren will have an entitlement to acquire British overseas citizenship if they are born stateless. Moreover, in respect of those affected, the Home Secretary has given an assurance that if any British national was in the future to come under pressure to leave Hong Kong, he would expect the government of the day to consider sympathetically the case for admission to the United Kingdom. There has been disappointment that this third request has not been met and the statement issued by the Unofficial Members of the Executive and Legislative Councils on 25 April echoes this disappointment. These feelings have been conveyed to Her Majesty's Government.

Sir, the draft Order in Council was laid before Parliament on 28 April and will soon be debated by both Houses. The importance of this Order cannot be over-emphasised. It is made under the powers conferred by the Hong Kong Act and it will give effect to the Nationality Provisions of the United Kingdom Memorandum associated with the Joint Declaration. The Order will provide for a new form of British nationality, that of British national (overseas), to be acquired by Hong Kong BDTCs as an entitlement if they so wish. It will also provide the basis for the introduction of the new BN(O) passport which will be the successor document to the current BDTC (Hong Kong) passport. It is encouraging to note that a number of governments have already indicated they are likely to accept the new passports. Once the Order in Council has been made, Her Majesty's Government will approach other countries through diplomatic channels in order to explain arrangements for the introduction of the new passport.

Members will also have noticed from the memoranda exchanged between the British and Chinese Governments and published last Thursday, that the Chinese Government has agreed to the inclusion of an appropriate right of abode endorsement in British National (Overseas) passports indicating in clear terms the holder's right of abode in Hong Kong.

Sir, it is gratifying that after long and serious consideration of Members' representations which reflected the strong feelings of the community, Her Majesty's Government has agreed to two of their requests and has given an assurance in respect of the non-Chinese BDTCs. I wish to place on record the thanks we owe as a community to Miss DUNN and her colleagues for their unstinting efforts on behalf of the people of Hong Kong.

Government business

First Reading of Bills

SHIPPING AND PORT CONTROL (FEES) BILL 1986

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1986

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

Second Reading of Bills**SHIPPING AND PORT CONTROL (FEES) BILL 1986**

THE FINANCIAL SECRETARY moved the Second Reading of: 'A Bill to amend the Shipping and Port Control (Fees) Ordinance'.

He said: Sir, I move that the Shipping Port Control (Fees) Bill 1986 be read a Second time. I also declare my interest as part owner of a boat moored at the Aberdeen Boat Club cheaply.

The Bill before the Council has a single, simple, objective. That is to clarify the legal basis for the setting of fees, charges and port dues under the Shipping and Port Control Ordinance and the Merchant Shipping Ordinance.

In moving the Second Reading of the Appropriation Bill last year, I made it clear that if we are to continue with low rates of direct taxation, the yield from Government fees and charges must be maintained in real terms. That is still true today. The cost to the public purse of providing services and facilities must wherever possible be paid for by those who use them.

This concept has proved simpler to state than to apply. Certain fees set under the Shipping and Port Control Ordinance and the Merchant Shipping Ordinance, namely those for the keeping of private moorings and for pleasure vessel licences, are together used to recover the cost to the Government of providing services and facilities to the pleasure boating community. The level of those fees and the means by which they have been set have been challenged largely on grounds that fees should relate quite specifically to the particular service or facility provided rather than the generality of costs associated with the use of that service or facility.

Clause 2 of the Shipping and Port Control (Fees) Bill is intended to clarify the position and make it crystal clear that any port due, fee or charge provided for under the Shipping and Port Control Ordinance may be set with regard to the generality of costs. It also sets out criteria which may be taken into account in determining mooring fees.

Clause 3 of the Bill provides similarly in respect of fees set under the Merchant Shipping Ordinance. It is under this Ordinance that pleasure vessel licence fees are prescribed.

The validity of all other existing fees set under the two Ordinances is confirmed by clause 4 of the Bill.

Lest my intentions are misunderstood, may I make it clear that nothing in the Bill will enable the Government to do anything other than to recover the cost of operating the port and Hong Kong's shipping services. It will, however, enable us to charge all those who use the port and its services their share of the costs of operating the port rather than the more modest contributions some have enjoyed in the past.

Concern has been expressed that full cost recovery could impose a heavy burden on some users of the port. I refer here not to company launches—rather to those charitable or welfare organisations, such as the Scouts or Outward Bound, who operate vessels in support of their community projects. Adequate arrangements already exist for fees to be rebated (or subventions increased) to ensure that any genuine adverse effects may be ameliorated. These organisations need have no worry on account of the passage of this Bill through the Legislative Council.

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

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

Public Health and Municipal Services (Amendment) Bill 1986

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: 'A Bill to amend the Public Health and Municipal Services Ordinance'.

He said: Sir, I move that the Public Health and Municipal Services (Amendment) Bill 1986 be read the Second time.

The present definitions of 'food' and 'drink' in the Public Health and Municipal Services Ordinance, Chapter 132, do not include bottled water sold as 'mineral water' other than natural spring water. Consequently, such bottled water is not subject to the provisions of the Ordinance and its subsidiary legislation.

Although the quality of imported and locally produced 'mineral water' on sale in Hong Kong has not been found to be unsafe or unhygienic, there are at present 14 brands of 'mineral water' produced locally and 26 brands imported for sale. It is therefore considered necessary on public health grounds to provide for control of the manufacture and sale of such products.

The Bill amends the definitions of 'food' and 'drink' to bring within the ambit of the Ordinance bottled water sold as 'mineral water' for human consumption.

All local producers of 'mineral water' have been notified of the proposal and they have not raised any objections. The major trade organisations have indicated their support for the proposed amendments. Both the Urban Council and the Provisional Regional Council have been consulted and have endorsed the proposal. As the proposed controls will apply to imported bottled water, other parties to the GATT have also been notified in accordance with Hong Kong's obligation under the Agreement on Technical Barriers to Trade.

In order to allow sufficient time for the trade to comply with the licensing requirements in respect of mineral water, it is proposed that the Bill should not come into operation until 1 January 1987.

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

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

BANKING (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (16 April 1986)

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).

DEPOSIT-TAKING COMPANIES (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (16 April 1986)

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).

ESTATE DUTY (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (16 April 1986)

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).

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1986

Resumption of debate on Second Reading (16 April 1986)

MRS. FAN: Sir, I witnessed with great pleasure the moving of the Second Reading of the Inland Revenue (Amendment) (No.2) Bill 1986 by the Financial Secretary on 16 April 1986. Clause 2 of this Bill repeals the amendments made in 1984 to the Inland Revenue Ordinance regarding the taxation of off-shore interest earned by organizations other than financial institutions. There is no doubt that this move by the Government is welcomed by the business community, both locally and internationally.

I have been exercised by this matter ever since the Budget debate in 1984. At that time I was already concerned by the Financial Secretary's proposal to levy tax on interest earned overseas which appeared to be incompatible with the spirit of Hong Kong tax system, namely, taxing only profits arising in or derived from Hong Kong. I felt that this could cause misunderstanding by both local and overseas investors that Hong Kong might deviate from the territorial source based tax system. This was why I withheld my support for the Inland Revenue (Amendment) Bill 1984. By March 1985, numerous representations against the enacted Bill was received by the Government and by UMELCO, and these representations from the public contained valid reservations. Again, I reflected the public's view on the subject in this Council and reiterated the importance of a simple tax system as well as expressing reservation on anti-avoidance legislations which may cause complex and confusing tax laws. In October 1985, the UMELCO Ad Hoc Inland Revenue Review Panel recommended that the Government should restore the status quo prior to the 1984 amendment Ordinance regarding off-shore interest earned by non-financial institutions. This recommendation was endorsed by UMELCO and had since been communicated to the Government.

Sir, today, I have much pleasure in participating in this debate. The repeal of section 15(1)(f) and (g) of the Inland Revenue Ordinance is timely, although there are many that wish it could have been done sooner. Nevertheless, the reasons for the enactment of this Ordinance are understandable. On the other hand, the interest and effort devoted by the various professional bodies and knowledgeable persons in their submissions to UMELCO is much appreciated. The expert suggestions and the strength of public opinion have definitely supported UMELCO in its endeavours.

The Financial Secretary is to be congratulated on advancing the repeal of the relevant amendments. He also informed this Council that about \$200 million of revenue may be lost in 1986-87. I am in support of the Financial Secretary's action as I feel that this action may remove the uncertainty and suspicion in the minds of many businessmen who are now more confident and reassured that Hong Kong shall always abide by the territorial source concept both in letter and in spirit. It also shows the business community that the Government has the intention to keep the tax legislation simple and clear. Such evidence will enhance Hong Kong's reputation as an international financial and business centre, which is likely to be more beneficial in the longer term to the community as a whole and possibly the revenue.

Sir, I support the motion.

MR. PETER POON: Sir, I rise to support the Inland Revenue (Amendment) (No.2) Bill 1986 which, inter alia, repeals the Inland Revenue (Amendment) Ordinance 1984 regarding the taxation of the so-called 'off-shore interest' under Profits Tax.

In any legislation, there are three important aspects. The spirit or intention of the legislation, the wording of the legislation and the administration or application of the legislation. However, in tax legislation, the strict interpretation of the law is applied. Therefore, although the intention of Government in passing the 1984 legislation in March 1984 was to prevent loss of revenue, the wording of some of the new provisions, if strictly interpreted, would go much further than what was originally envisaged. This has created uncertainty in its application to certain cases giving cause for serious concern whether Hong Kong's 'territorial source' tax concept is being breached. The Inland Revenue Departmental Interpretation and Practice Note No. 13 issued in September 1984 has in fact further increased such concern, especially by its reference to the 'mind and management' concept which is more relevant to the 'residence' basis of taxation than to our 'territorial source' basis of taxation.

It was with these concerns in mind that the UMELCO Ad Hoc Inland Revenue Review Panel was formed in July last year to study the recent tax law changes. Having critically examined the numerous representations received from interested parties and having carefully considered the effects the 1984 amendment Ordinance might have on the business community, the panel recommended the repeal of the provisions relating to tax on 'off-shore' interest. I am glad that such recommendation has received favourable consideration by the Financial Secretary. Such repeal will remove the uncertainty I referred to earlier and will be welcome by the business community and the legal and the accountancy professions. It is understood that the controversial Practice Note No. 13 will be suitably amended to clarify and reflect the practice of the Inland Revenue Department. I sincerely hope that the amended version would be issued as soon as possible. The cost of repealing the relevant legislation may not be as great as estimated. In fact, if such provisions remain in force, most

businesses affected by them will definitely consider shifting their funds to avoid the tax on 'off-shore interest' and new companies which may be unwittingly caught by such legislation will be inclined to avoid Hong Kong as its base.

Finally, I am pleased to see that Government has responded positively to constructive and helpful suggestions supported by fair and reasoned arguments. The amendment Bill before us is a demonstration of its avowed intention to keep our tax legislation as simple and effective as possible.

FINANCIAL SECRETARY: Sir, I am grateful for the comments made this afternoon by the hon. Rita FAN and the hon. Peter POON. I take this opportunity to reiterate my thanks to all members of the UMELCO Ad Hoc Inland Revenue Review Panel for the constructive report which they produced last year.

Although I personally do not believe that the measures on off-shore interest in the 1984 amendment Ordinance breached our territorial concept, because of drafting difficulties there is no doubt that they did create misunderstanding and uncertainty.

Happily our improved budgetary situation has enabled repeal to take place at least a year earlier than I had anticipated. I hope that Members are correct in their belief that this will serve to enhance Hong Kong's position as a financial and business centre.

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).

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1986

Resumption of debate on Second Reading (16 April 1986)

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).

STAMP DUTY (AMENDMENT) BILL 1986**Resumption of debate on Second Reading (16 April 1986)**

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

BANKING (AMENDMENT) BILL 1986

Clauses 1 to 5 were agreed to.

DEPOSIT-TAKING COMPANIES (AMENDMENT) BILL 1986

Clauses 1 and 2 were agreed to.

ESTATE DUTY (AMENDMENT) BILL 1986

Clauses 1 and 2 were agreed to.

INLAND REVENUE (AMENDMENT) (No. 2) BILL 1986

Clauses 1 to 5 were agreed to.

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1986

Clauses 1 to 3 were agreed to.

STAMP DUTY (AMENDMENT) BILL 1986

Clauses 1 and 2 were agreed to.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

BANKING (AMENDMENT) BILL 1986

DEPOSIT-TAKING COMPANIES (AMENDMENT) BILL 1986

ESTATE DUTY (AMENDMENT) BILL 1986

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1986

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1986 and the

STAMP DUTY (AMENDMENT) BILL 1986

had passed through Committee without amendments, and moved the Third Reading of the Bills.

Question put on the Bills and agreed to.

Bills read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday 7 May 1986.

Adjourned accordingly at thirteen minutes to Four o'clock.

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

WRITTEN ANSWER

Annex I

Written answer by the Secretary for Housing to Mr. Hu's supplementary question to Question 1.

At the end of the financial year 1984-85, Government's total contribution amounted to \$21.61 billion, representing the following items in respect of which no cash payment is made by the Housing Authority:

(a) Cumulative interest free borrowings from the Development Loan Fund prior to 1 April 1976	\$ 300,145,974
(b) Land revaluation surplus on former Housing Authority estates	\$ 125,056,447
(c) Value of land handed over to the Housing Authority after 31 March 1973	\$18,341,080,340
(d) Value of Government built buildings handed over to the Housing Authority	\$ 1,467,959,492
(e) Interest on Government loans after 1 April 1986	\$ 1,376,548.400
	<hr/>
	\$21,610,790,653
	<hr/>

With regard to item (b) above, a concessionary land premium had previously been paid for former Housing Authority estates. The land revaluation surplus represents the difference between the premium paid and the full market value at that time.

