

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 25 March 1987.****The Council met at half-past Two o'clock****PRESENT**HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)

SIR DAVID AKERS-JONES, K.B.E., C.M.G., J.P.

THE HONOURABLE THE CHIEF SECRETARY

MR. DAVID ROBERT FORD, L.V.O., O.B.E., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. PIERS JACOBS, O.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 CHEN SHOU-LUM, C.B.E., J.P.

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

THE HONOURABLE CHAN YING-LUN, 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 KIM CHAM YAU-SUM, J.P.

THE HONOURABLE JOHN WALTER CHAMBERS, O.B.E., J.P.

SECRETARY FOR HEALTH AND WELFARE

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 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 DAVID LI KWOK-PO, J.P.
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 TAI CHIN-WAH
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING
THE HONOURABLE TAM YIU-CHUNG
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.
THE HONOURABLE ANDREW WONG WANG-FAT
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.
THE HONOURABLE GRAHAM BARNES, J.P.
SECRETARY FOR LANDS AND WORKS
THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER
THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.
SECRETARY FOR SECURITY
THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
SECRETARY FOR TRANSPORT

ABSENT

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, J.P.
THE HONOURABLE HILTON CHEONG-LEEN, C.B.E., J.P.
THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

IN ATTENDANCE

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

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 1987	70/87
Immigration Ordinance	
Immigration (Amendment) Regulations 1987	71/87
British Nationality (Miscellaneous Provisions) Ordinance	
British Nationality (Miscellaneous Provisions) Ordinance (Amendment of Schedule) Order 1987	72/87
Boilers and Pressure Receivers Ordinance	
Boilers and Pressure Receivers (Exemption) (Consolidation) (Amendment) Order 1987	73/87
Registration of Persons Ordinance	
Registration of Persons (Invalidation of Old Identity Cards) (No.2) Order 1987	74/87
Public Health and Municipal Services Ordinance	
Cremation and Gardens of Remembrance (Urban Council) (Amendment) By-Laws 1987	75/87
Public Health and Municipal Services Ordinance	
Hawker (Urban Council) (Amendment) By-Laws 1987	76/87
Public Health and Municipal Services Ordinance	
Places of Amusement (Urban Council) (Amendment) By-Laws 1987	77/87

Sessional Papers 1986-87:

- No. 49—Hong Kong Polytechnic—Annual report 1985-86 with balance sheet at 30 June 1986 and income and expenditure account for the year ended on that date
- No. 50—University and Polytechnic Grants Committee of Hong Kong—Interim report for the 1985-88 triennium January 1985 to December 1986
- No. 51—Hong Kong Baptist College—Annual report 1985-86 with statement of accounts for the year ended 30 June 1986
- No. 52—Report of changes to the approved estimates of expenditure approved during the third quarter of 1986-87 Public Finance Ordinance: section 8

Address by Members presenting paper**University and Polytechnic Grants Committee of Hong Kong—Interim Report for the 1985-88 triennium January 1985 to December 1986**

MR. SWAINE: Sir, I have pleasure in tabling the Interim Report of the University and Polytechnic Grants Committee for the period January 1985 to December 1986. The reporting period spans the last segment of the previous triennium and the first half of the present triennium which will end in June 1988. A full report will thereafter be published for the whole triennium, and an interim report will be published after the middle of the next triennium and so on. The pace and importance of the growth in the tertiary sector justify this scheme of reporting.

The cost of tertiary education runs high. Recurrent costs amounted to \$1,600 million for the academic year ending 30 June 1986; recurrent costs for the academic year 1986-87 are estimated at \$1,770 million. Capital costs for 1985-86 came to \$214 million and a similar sum is estimated for capital expenditure in 1986-87. These costs provide for a total student population in 1986-87 of 26 000 full-time and 21 400 part-time, which convert into a total of 32 300 full-time equivalents, using conventional conversion factors.

The number of degree programmes available has increased with both the City Polytechnic and Baptist College introducing degree courses as from October 1986, with more planned as from October 1987. Hong Kong Polytechnic started its degree programme in 1983 and the three non-university institutions are currently offering 17 degree courses.

There is a natural trend on the part of the non-university institutions to move towards more and more degree work at the expense of sub-degree courses. It is important to keep a balance between these types of awards and ensure a sufficient supply of courses at higher certificate and diploma levels so as to meet community needs.

The non-university institutions also have natural aspirations to provide higher degree work and Hong Kong Polytechnic has introduced its first programmes for the degree of Master of Philosophy by research. Here again, it is necessary to proceed with care so as to ensure the maintenance of standards.

At the university level, the main area of concern has been the question of the length of course leading to a first degree. There are many facets to this problem and there is no easy solution in sight. In the end, the answer must be found in what best serves the community's needs and in the best allocation of public resources to meet competing demands.

This speech would not be complete without mention of the planning for the Hong Kong University of Science and Technology, which has reached an

advanced stage. On present planning targets, we shall be looking to a total student population for all six tertiary institutions of 60 000 full-time equivalents by the year 2000.

Hong Kong will have increasing need for its graduates from the tertiary sector in the years ahead, and I see the prime responsibility of the University and Polytechnic Grants Committee as ensuring that this demand is met without any diminution in standard and with the tax-payer getting value for money.

Hong Kong Baptist College—Annual Report 1985-86 with statement of accounts for the year ended 30 June 1986

MR. WONG PO-YAN: Sir, tabled before this Council today is the audited statement of accounts and annual report of activities of the Hong Kong Baptist College for the year 1985-86.

As the chairman of the college's Board of Governors and Council, I am delighted to report that the 1985-86 year has witnessed many positive developments in the college and the details of these are recorded in the annual report now before this Council.

The foremost among the highlights of the year is that the college has gained approval to offer two bachelor degree courses, in combined sciences and social work, after these courses were given high marks by the academic validation teams from the United Kingdom Council for National Academic Awards. As of now, these two degree courses have already enrolled students and they are running smoothly. During the year, there was a 9 per cent increase in the number of academic staff while the total student population was held at zero growth. All additional staff were appointed at the senior ranks. Increased funding has been allocated to staff research. These research activities have not only increased in quantity but also expanded in scope and improved in quality. The library which provides essential support to teaching and research, has become computerised with a fully-integrated automation system, and its collection has expanded by 12 per cent to reach a new high of 150 000 volumes. The campus re-development programme proceeded on schedule and a temporary site near the campus, at Renfrew Road, was acquired as decanting space for the staff and students during the period of construction work on campus.

The council of the college is pleased with the progress which has been made. While the college truly appreciates the support from public funds, it is equally gratifying that support from well-wishers in the private sector of the community is continuing. In 1986, the college celebrated the thirtieth anniversary of its founding. As Confucius said: 'At the age of 30, I am established.' (三十而立) Indeed, the college has now firmly established itself, and I am confident that it will continue in the years ahead to mature as a distinguished academic community which serves the interests of Hong Kong through higher education.

Report of changes to the approved estimates of expenditure approved during the third quarter of 1986-87 Public Finance Ordinance: section 8

FINANCIAL SECRETARY: Sir, in accordance with section 8(8)(b) of the Public Finance Ordinance, I now table for Members' information a summary of the changes to the approved Estimates of Expenditure in the third quarter of the financial year 1986-87.

Supplementary provision of \$217.1 million was approved. It was fully offset either by savings under the same or other heads of expenditure or by deletion of funds under the additional commitment votes.

Approved non-recurrent commitments were increased by \$480.8 million during the period, and new non-recurrent commitments of \$629.1 million were also approved.

Items in this summary have been approved either by the Finance Committee or under delegated authority. The latter have been reported to the Finance Committee in accordance with section 8(8)(a) of the Public Finance Ordinance.

Oral answers to questions**Tate's Cairn Tunnel**

1. DR. LAM asked (in Cantonese): *Regarding the Tate's Cairn Tunnel development plan which will affect some 14 000 squatters in the southern (Diamond Hill) end of the tunnel, will Government inform this Council what are the main problems involved in the development, and what steps are being taken to ensure that the plan will proceed without unnecessary delay?*

SECRETARY FOR TRANSPORT: Sir, the Tate's Cairn Tunnel project consists of a 4 km long dual two-lane tunnel between Diamond Hill in Kowloon and Siu Lek Yuen in Sha Tin, together with approach roads and slip roads at either end to connect the tunnel to the existing and future road network.

The feasibility study completed in late 1986 has identified the most suitable tunnel alignment and road connection arrangements and has confirmed its engineering feasibility. Further site investigations and detailed design are in progress.

Bearing in mind the time required for design and other preparatory works, including gazetting procedures, land resumption and clearance, preparation, assessment and award of tenders or proposals to build, and possibly to operate the tunnel, and mobilisation by the selected contractors or consortium, the earliest construction is likely to start in the early summer of 1988, just over one year from now.

The tunnel will be completed in 1992. Building a tunnel of this magnitude is a very complex task. Advice from our consultants is that it is unlikely that the construction period can be significantly shortened.

On the Sha Tin side, relatively little clearance is necessary, with only about 60 people being displaced. The clearance at the Diamond Hill end will, however, involve moving about 16 000 people. To reduce disruption to the minimum, removal of those affected will be phased to fit in with the construction programme. The first phase will take place in the latter half of this year so that preparatory works can start to allow commencement of the construction of the tunnel itself in early summer 1988. Further phases of clearance will follow later to allow the construction of the approach roads. Compensation and rehousing will be provided to those affected in accordance with normal policy.

DR. LAM (in Cantonese): *Sir, some indigenous villagers and commercial tenants who are affected consider that the amount of compensation is not adequate. Will the Government inform this Council how it is going to deal with such complaints?*

SECRETARY FOR TRANSPORT: Sir, there is a well established range of compensation rates covering all kinds of situations and these rates are under regular review. The Secretary for Lands and Works is the authority on the policy of these rates and I will liaise with him on any requests for review of rates and ensure that they are given full and careful consideration. In this connection I should add that the Director of Highways has established a committee on land acquisition and clearance and I will ensure that the committee will look at these cases carefully without delay.

Review of Money Lenders Ordinance

2. MR. CHEUNG asked (in Cantonese): *In view of the pernicious activities of loan sharks, which allegedly have caused tragedies to some families in public housing estates, will Government inform this Council:*

- (a) *whether it has considered it necessary to review the effectiveness of the Money Lenders Ordinance;*
- (b) *how many persons have been prosecuted under section 24 of the Ordinance since its amendment in May 1984 to extend the time limit for instituting prosecutions for the offence of charging excessive interest from six months to two years and how many of these persons were convicted; and*
- (c) *what new measures will be taken to curb loan sharking activities?*

FINANCIAL SECRETARY: Sir, a comprehensive review of the Money Lenders Ordinance was conducted in January 1986 to determine whether demand still existed for the services offered by money lenders and whether the Ordinance provided an effective framework for controlling their activities. This review

concluded that some such demand did exist, although at a lower level than before. The number of licensed money lenders dropped from 1 540 in January 1981 to 436 at the end of October 1985, and to 412 at the end of February 1987. The review also concluded that the Ordinance was generally successful in preventing loan sharking and lending at usurious rates. In particular, there was seen to be no need to increase the penalties provided under the Ordinance.

As regards statistics on prosecutions, I am advised by the Secretary for Security that the figures requested by Mr. CHEUNG are not readily available. The Commissioner of Police does, however, maintain statistics on the combined total number of prosecutions under section 24, on the charging of excessive interest rates, and under section 29, on lending money without a licence. These statistics show that the number of persons prosecuted increased from an average of two per month between January 1983 and April 1984 to just under six per month between May 1984 and February 1987. Statistics on the number of successful prosecutions are only available from July 1986 onward: these statistics indicate that in the last six months of 1986 a total of 37 persons were tried on the principal charge of lending money without a licence or lending money at an excessive rate of interest; there were 14 convictions representing a conviction rate of about 38 per cent.

Turning to the third part of Mr. CHEUNG's question, I should point out that the Commissioner of Police investigates the background and the conduct of money lenders to prevent and detect offences under the Ordinance, and he, of course, takes action on reports of alleged breaches of the Ordinance. As regards new measures, an amendment Bill which will propose some substantial amendments to the Ordinance is now in the final drafting stages. Whilst the majority of the proposals in the Bill are aimed at improving the operation and administration of the Ordinance, it will also contain proposals designed to assist the police in controlling and investigating money lenders. In particular, the Bill will propose that the police be given the right to enter and search a money lender's premises and to seize documents, and that the time limit for instituting prosecutions for all offences under the Ordinance will be extended from six months to two years.

MR. CHEUNG (in Cantonese): *Of the 37 people who have been prosecuted, how many are related to triad societies? Also some loan sharks advertise in the press and send out leaflets in public housing estates. What measures will be taken by the authority to handle this deteriorating situation?*

FINANCIAL SECRETARY: Sir, I do not have the information necessary to answer this question but if the Secretary for Security could add anything on this occasion, that would be helpful. Otherwise I will have to give an answer in writing.

HIS EXCELLENCY THE PRESIDENT: *Secretary for Security, have you anything to add?*

SECRETARY FOR SECURITY: Sir, we do not have any specific statistics available on the involvement of triads in this sort of activity but of course it is a matter of great concern to the police force, and indeed the community as a whole, and it is one of the aspects we are looking into in our general efforts to combat triad activity.

MR. HUI: *Sir, there have been a number of reported cases in which housewives have been blackmailed into becoming prostitutes by loan sharks. What measures can Government introduce to alleviate the grievance of this particularly vulnerable group?*

SECRETARY FOR SECURITY: Sir, I must say that I have not heard of any of these cases myself and if this is what in fact is happening, then certainly it deserves our close attention and we will try and devise means of countering it. But to be quite honest with you, I think the best way of stopping it is for housewives to be careful about the sort of companies from whom they borrow money.

MR. NGAI: *Sir, I am aware that under the existing Money Lenders Ordinance it is an offence for a money lender to charge more than 60 per cent interest per annum and interest of more than 48 per cent is regarded as extortionate. Does the Government consider it necessary to tighten the law by lowering the ceiling of these two interest rates to give greater protection to borrowers?*

FINANCIAL SECRETARY: That is one of mine, undoubtedly! No, Sir, at the moment I think the interest rates that are established in the Ordinance are basically in order. They do cause some problems in that when interest rates are high in Hong Kong, we find that overnight interest rates charged in the financial services sector can sometimes go beyond the rates of interest provided for in the Money Lenders Ordinance. We do examine the level of interest rates from time to time but at the moment I think they do not require amendment but we may be coming back on this point.

MR. LEE YU-TAI: *Sir, I refer to the first paragraph of the answer and would like to ask if the substantial drop in the number of licensed money lenders would lead to a corresponding rise in demand for borrowings from loan sharks?*

FINANCIAL SECRETARY: I think not, Sir. As I said in my main answer, we believe that the provisions of the Ordinance have been largely successful in combating most of the activities of loan sharks. As the Secretary for Security has indicated, the police are onto this problem. The real solution, again as the Secretary for Security has said, is for people to be very careful and if they feel they must borrow money, borrow either from registered money lenders or from banks or reputable outlets.

MR. CHAM: *Sir, what are the main proposals of the amendment Bill? In particular, will there be any provisions to help investigate or detect unregistered money lenders?*

FINANCIAL SECRETARY: Yes, Sir, the proposals to be put forward in the amendment Bill are intended to update the Ordinance, to improve its operation and administration, and to reduce from its application particular financial and commercial transactions which the Ordinance was not originally intended to cover. The proposals have resulted from an examination by the Registrar General of the continued application of the Ordinance and are in response to a number of suggestions from the private sector, in particular from the Law Society. As to the exact details of the Bill, I am not yet in a position to give them but I hope to introduce the Bill into this Council either towards the end of this session or early in the next session. I think that the totality of the provisions will undoubtedly assist the authorities in investigating complaints.

Trading of 'Loco-London Gold'

3. DR. TSE asked (in Cantonese): *In view of the fact that there is a considerable number of small business or service establishments commonly known as 'ground floor shops' carrying on trading of 'Loco-London Gold' by taking deposits from clients, will Government inform this Council what steps have been taken to protect members of the public from being cheated and to stop such activities from becoming a kind of illegal gambling?*

FINANCIAL SECRETARY: Sir, at present, most of the trading in Loco-London Gold in Hong Kong is carried out by highly reputable dealers. As far as I am aware, none has been the subject of any complaint. These dealers rightly see it as being in their best interest to conduct their affairs in a prudent and honest manner. Their involvement is essential to the continuing growth and prosperity of Hong Kong's gold market, which is amongst the largest in the world.

Nevertheless, Sir, we are aware that there is now a less desirable fringe element in the market. A number of individuals or small firms trade through minor retail outlets, and this could possibly pose risks for the smaller investor who might be tempted by the prospect of quick and substantial profits to use these less reputable dealers.

Some complaints have been lodged by investors who felt they had been victimised. In fact, the number of complaints is very few, but this does not justify any lack of concern on the part of the Administration. The practices adopted by the less reputable dealers to whom I have referred are clearly undesirable and could affect the reputation of the market.

We are currently examining how best to effect some measure of control. It is possible that the fringe element of Loco-London Gold trading could be caught by the provisions of the Gambling Ordinance in certain circumstances and this aspect is at the moment under careful consideration.

If we are to introduce new measures that go beyond our existing regulations in relation to trading in the financial sector, then we need to ensure that we do not impede the development of the reputable end of the market. In trying to swat the irritable fly in the kitchen we must be careful not to knock over the stove.

The advice I would give to any members of the public who feel that they have been given less than satisfactory service or have otherwise been victimised in their efforts to trade in Loco-London Gold is that they should come forward and report the facts to the Office of the Commissioner for Securities and Commodities Trading. If it appears that an offence has been committed, then of course the Commercial Crime Bureau will become involved.

Lastly, Sir, I would add that high returns are usually associated with high risks. If investors wish to trade in Loco-London Gold, they are best advised to stay with the large and reputable dealers. In other words, investors should themselves exercise prudence and caution and a degree of common sense before going into this difficult market, which tends to be dominated by professionals.

DR. TSE (in Cantonese): *Sir, in the last two years, has the Government received reported cases of the operators of the ground floor shops disappearing and if there are such cases, are those who are adversely affected given compensation?*

FINANCIAL SECRETARY: Sir, as I indicated in my answer, there have been very few complaints. In 1986, the Commissioner for Securities and Commodities Trading in fact received no complaints at all. Also, the Commercial Crime Bureau received no complaints. There were four complaints, I think, in 1985 but as far as I am aware they did not relate to operators disappearing.

MR. CHAM: *Sir, as the Loco-London market is a dealers' market and not an open or regulated market, are there any ways to prevent the fringe dealers claiming that they are dealing in the Loco-London market but in fact operating their own ways, not in their clients' interest?*

FINANCIAL SECRETARY: Sir, I think this is really one of the difficulties in that this particular market is not adequately regulated. As I said, the large reputable dealers trade without problems. These large reputable dealers, by and large, belong to large overseas banks; some of the London fixing members; some, United States dealers, and there are some Hong Kong based dealers as well. The smaller, totally unregulated dealers might well deal in a manner which is totally contrary to their clients' best interest. That is the problem.

Classification of films

4. MRS. CHOW asked: *Will Government explain to this Council why the classification system for theatrically released feature films has not been implemented in spite of plans to do so in 1986, what difficulties have been encountered, and what is the realistic date for implementation?*

CHIEF SECRETARY: Sir, before, I go on to describe what has been happening since 1986, I think I owe Members some explanation about the question of legality for our film censorship regulations which has been raised recently since it is one of the reasons why there has been some delay in dealing with the problem. Doubts about the legality of the existing film censorship regulations were first brought to the attention of the Administration in 1972. During the 10 years between 1972 and 1982, no action was taken to remedy the law. File records of the period show that there was very little discussion of the subject. I find it very difficult therefore, Sir, to comment on the matter as to why no action was taken to provide a tighter legal framework for censorship although there was indeed a legal framework. In trying to second guess the reasons for those concerned in reaching their decisions, I can only make assumptions; I cannot verify them. But it would seem, Sir, that with a system operating to the apparent satisfaction of the public and the cinema operations, there was very little pressure on the Administration to raise what would obviously have been a rather delicate political problem. I suppose it is sometimes tempting to put off until tomorrow what it is difficult to have to do today. This, Sir, is not a very satisfactory explanation as I am sure Members will be quick to point out, but at least it has the merit of being honest!

Since 1982 the situation has changed and the introduction of the film classification system proposal which began to take shape with the district boards led us to be provided with a good opportunity to revamp the law which I have said earlier is outdated and unsatisfactory on several counts. Detailed drafting instructions were issued in March 1985 and no less than eight drafts of a film censorship Bill were produced. In the course of drafting the Bill, difficulties were encountered over the expression of the principles of film censorship. There were indeed differences within the Administration as to how the problem should be tackled but there was no lack of will, Sir, to deal with it which brings me to the present position.

The Administration has now proposed a system whereby films intended for public exhibition would be classified into three categories. The categories are: I) films which may be shown to persons of any age; II) films which may be shown subject to conditions relating to their viewing by persons under 18 years; and III) films which are only suitable for viewing by persons who are 18 years or over. The classification system has been designed in response to public demand to protect impressionable young people from films with sex and violence which may have an undesirable influence on the personality development and the social behaviour of young people.

The way in which to implement the system has presented difficulties which have required detailed consideration and careful deliberation. Essentially, two approaches have been examined.

The first is by enacting new legislation for film censorship purposes to replace existing Film Censorship Regulations which are not satisfactory because they were made under an omnibus Ordinance governing places of public entertainment and which legal advice has been given expressing doubts about their legality. In drafting the legislation, problems were encountered in finding an appropriate expression of the principles of film censorship which would adequately guide the film industry as to what was acceptable. Difficulties were found in circumscribing the powers of the censors and safeguarding against possible abuses. It was recognised that the public could be sensitive to the criteria for censoring films, currently embodied in the administrative 'Note of Guidance', being confirmed by statute.

Consideration was then given to identifying an alternative method of introducing a system of film classification within the existing framework. This could have been achieved by amending the 'Note of Guidance' to include a provision for film classification and by requiring cinema-operators to use all reasonable means to ensure that in respect of Category III films only persons who have attained the age of 18 years are admitted. It is recognised, however, that short of legislative backing, there may have been difficulties in enforcing the requirement.

Sir, I understand that at the in-house meeting of this Council last Friday, Members came down firmly in favour of the legislative approach. The Government supports the recommendation and has begun discussion of a draft Bill with the ad hoc group under the convenorship of Mr. YEUNG Po-kwan. Sir, at the meeting of the ad hoc group this morning, I understand that it was agreed that the Executive Council's agreement would be sought to publish a draft Bill on 3 April and thereafter provide a period for public consultation. The intention is to introduce the Bill to this Council for enactment with the current session.

MRS. CHOW: *Sir, did the Government in fact take a decision as to how the classification system was to be implemented before the Legislative Council in-house meeting last Friday?*

CHIEF SECRETARY: Sir, the Executive Council made a recommendation at its last meeting that the administrative method of introducing a system of film censorship was to be discussed with the Legislative Council. It is fair to say, Sir, I believe, that the Members of the ad hoc group in Legislative Council were aware of the background to the problem of the political sensitivity and the legality of the present laws dating from a meeting last August and it was certainly the intention of the Administration that this subject would again have been raised in the discussion between the Secretary for Administrative Services and Information and the ad hoc group.

MR. LEE YU-TAI: *Sir, has Government considered how members of the public should be consulted on this issue between the publication of the draft Bill and its enactment in this Council?*

CHIEF SECRETARY: Sir, there will be wide-ranging consultation with members of the public and indeed with cinema operators. We will obviously be content and happy to take the advice of Members of this Council as to how that consultation should best take place.

MR. MARTIN LEE: *Sir, why were Members of this Council kept in the dark until after the publication of an article in the Asian Wall Street Journal on 17 March 1987 of the fact that for many, many years the Government censoring authority had been censoring films without legal authority as per the legal opinions received from the Attorney General's Chambers from time to time?*

CHIEF SECRETARY: Sir, as I mentioned in my previous answer and I am reading here from an extract of notes of a meeting of the OMELCO Standing Panel on Public Relations held on 20 August 1986: 'It was discussed with members of that panel that the regulations under which the Film Censor was then currently operating were not defined legally and with due authority'.

MR. HUI: *Sir, how would Government tackle the situation if uncensored films are now shown to the public before appropriate legislation is enacted by this Council, since the film distributors know now that the present censorship system is lacking legislative support?*

CHIEF SECRETARY: Sir, the existing scheme continues in force until a court decides that our present regulations are without effect or until it is replaced by legislative arrangements that are free from doubt.

MR. MARTIN LEE: *Sir, is the Chief Secretary referring to paragraph 8 of this note of the meeting held on 20 August 1986 where this sentence appears: 'At present the censorship of films was left to the discretion of the Film Censor whose authority was not defined legally'? If he were indeed referring to this sentence, then would he please explain how he would expect members present at that meeting to understand that in fact for many, many years the Government Censor had been acting illegally according to its own legal advice?*

CHIEF SECRETARY: Sir, I was not present at the meeting and I am relying upon the authorised version of the minutes which I have indeed read from. I understand that this matter was discussed at that meeting. I would also point out, Sir, that it was not the intention of the Administration to keep this Council in the dark about the political sensitivity involved. Indeed, as I have mentioned in my previous answer, it was very much in the mind of Government that when the Secretary for Administrative Services and Information discussed these matters with the ad hoc group, the background to the whole situation would be discussed as indeed it was.

Control of the sale, labelling and usage of domestic products

5. MR. CHUNG asked: *In view of the recent tragic death of a six-year old boy who accidentally consumed tape recorder cleansing fluid at home, will Government inform this Council what measures, if any, are available at present to control the sale, labelling and usage of domestic products which contain poisonous or toxic substances and whether action will be taken to tighten up these control measures in the immediate future?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, if I may say so, this tragic case, which has been described in the evidence noted in the coroner's report as a very rare occurrence in Hong Kong, highlights the need for every family to practise safety at home more than anything else.

As regards the points raised in Mr. CHUNG's question, depending on one's definition of domestic products, there are a number of Ordinances which cover the sale and labelling of some such products. However, there is no legislation which controls the usage of these products after they have been sold.

For example, certain household chemicals are controlled under the Pharmacy and Poisons Ordinance, which requires them to be sold by listed sellers of poisons and labelled as 'poison'. The Dangerous Drugs Ordinance contains provisions governing the sale and supply of dangerous drugs by licence. The Agricultural Pesticides Ordinance contains provisions covering the sale and supply of agricultural pesticides by licence and for the labelling of registered agricultural pesticides supplied or offered on retail sale. There are also some provisions under the Antibiotics Ordinance, the Radiation Ordinance and the Public Health and Urban Services Ordinance which may be considered relevant to the issue.

While I am not aware of any comprehensive plan to tighten up control measures under these various Ordinances in the immediate future, the Government is fully aware of the need to promote safety practices at home. Many household products, irrespective of whether they contain toxic substances as such, can cause injury or harm if they are used carelessly or in an inappropriate manner. The Consumer Council, through its regular programme of product testing and subsequent disclosure of unsafe aspects relating to these products in their use, has made very useful contributions in alerting the public's awareness. For its part, the Government is running a major publicity campaign encompassing many aspects of safety in the home, including the locking up of drugs and ensuring that dangerous objects are kept out of children's reach. Provision has again been included in the 1987-88 draft Estimates for a major publicity campaign to be undertaken by the Government on safety in the home.

MR. CHUNG: *Sir, since the control of toxic substances at present falls under a number of Ordinances, would the Secretary inform this Council whether the Government would consider having a co-ordinating body or department to deal with all areas relating to toxic substances?*

SECRETARY FOR TRADE AND INDUSTRY: Sir, it just happens that as Secretary for Social Services in the distant past, I appointed a working party to look into the problem of toxic substances. This was in 1979. The working party eventually reported to my colleague, the Secretary for Health and Welfare, in 1983, on the matter. The working group looked into this question and classified the following groups of toxic substances, namely: pesticides, pharmaceuticals, household chemicals, industrial chemicals, food additives, radioactive materials, and carcinogens. Having regard to this great diversity of subjects involved, I fear it will not be appropriate for the Government to consider having an overall body in charge of the problem. However, I would not like Mr. CHUNG to think that we are totally negative in this regard because the Administration is initiating a review of the various existing measures covering consumer product safety to consider whether, and if so, what additional measures including the possibility of legislation should be introduced. The point raised by Mr. CHUNG will certainly be considered in this somewhat narrower context if it was decided that such legislation was desirable.

MRS. NG (in Cantonese): *I am very happy to learn that in the coming year there will be another campaign on safety in the home. I would like to ask the Government whether the Yin Ngai Societies or the Community Youth Club will be invited to help in organising part of the activities. That will make the campaign more effective.*

SECRETARY FOR TRADE AND INDUSTRY: Sir, I am sure the Director of Information Services, who is responsible for this publicity campaign, will take Mrs. NG's points and consider them in the preparation of her programme.

Control of billiard Clubs

6. MRS. TAM asked: *With reference to the reply given by the Attorney General to a question raised in this Council on 29 January 1986 concerning the proposed control of unlicensed billiard clubs, will Government inform this Council what progress has been made so far and what will be the time-frame for implementing such a proposal?*

SECRETARY FOR SECURITY: Sir, since this subject was last raised in this Council in January 1986, the licensing authorities for public billiard saloons, that is to say the Urban and Regional Councils, have conducted extensive consultations and discussions with the district boards, the Heung Yee Kuk and the New Territories General Chamber of Commerce. Based on the views collected, the Councils have now agreed that billiard clubs should be required to obtain a licence, in the same way as licensed public billiard saloons. But bona fide clubs providing billiard facilities should be exempted from licensing.

Sir, the purpose of this proposal is to control those bogus private billiard clubs which masquerade as private clubs when they are in fact being run as commercial 'public' billiard saloons.

With regard to the time-frame for implementing the proposal, legislative amendments to the Public Health and Municipal Services Ordinance, Chapter 132, are now being prepared. It is our hope that the Bill will be put to this Council during the current session.

MRS. TAM: *Sir, will the Secretary for Security inform this Council whether the incidence of crime in billiard saloons and clubs has increased in 1986, as compared to 1985? And what type of criminal activity among them is most common?*

SECRETARY FOR SECURITY: Yes, Sir, the numbers of crimes reported involving licensed and unlicensed billiard establishments are in 1985—227; in 1986—353. As regards the sort of crimes involved, if I can take, let's say, the five most frequent crimes reported in billiard saloons and in unlicensed billiard clubs in 1986, they were:

Assault	—	91 cases
Theft, the second	—	86 cases
Damage to property	—	56 cases
Membership of an unlawful society	—	31 cases
Burglary	—	26 cases

MRS. TAM: *Sir, will the Secretary for Security inform this Council how many unlicensed billiard clubs are now operating and how many among them would need to obtain licences when the Bill for control comes into effect?*

SECRETARY FOR SECURITY: Yes, Sir, based on the surveys which the Urban Council and the Regional Council have conducted recently, they reckon there are altogether 276 private clubs within the whole area of Hong Kong; 201 in the urban area and 75 in the Regional Council area. I am afraid they have not broken down these statistics for me in a way that I can answer the second part of my hon. Friend's question.

DR. HO: *Sir, I refer to paragraph 2 of the answer. Can the Secretary for Security elaborate on the means as to how the bogus private billiards clubs could be controlled and be prevented from operating as commercial public billiard saloons?*

SECRETARY FOR SECURITY: Yes, Sir, once these clubs are licensed, that will give the police access to them which is the most important factor. It will also give the fire services staff access to them, making sure that their fire precaution measures are adequate. It will also give the Urban Services Department access from the health point of view. But the most important one, as far as we are concerned, is that it gives the police access and it will give them a much better opportunity to maintain law and order in these places.

Occupancy rate of subvented hospitals

7. DR. CHIU asked: *Will Government inform this Council whether in general the occupancy rate of subvented hospitals is lower than that of government hospitals and, if so:*

- (a) what factors are contributing to the relatively low occupancy rate of subvented hospitals; and*
- (b) what measures will be taken to improve the situation?*

SECRETARY FOR HEALTH AND WELFARE: Sir, in general, the bed occupancy rates of subvented hospitals are lower than those of government hospitals. In 1986, the overall occupancy rates in subvented hospitals and government hospitals were 78.9 per cent and 90.4 per cent respectively.

The bed occupancy rates of a hospital depend on a number of factors including the type of services provided by the hospital, the case-mix and the duration of stay of the patients. In addition, it appears that the traditional preference of the public for admission into government hospitals could be one cause of the relatively lower occupancy rate in the subvented hospitals.

I should point out that the average occupancy rate of almost 79 per cent for the subvented hospitals is high by international standards and is only relatively lower when compared to the overcrowded situation in most government regional hospitals.

Nevertheless, it is Government's policy to encourage a more even utilisation of hospital beds in the government and subvented hospital sectors. Measures which have been taken by the Medical and Health Department include:

- (a) the conversion of specialty wards with low occupancy rates such as paediatric and obstetric wards, into surgical and medical wards for which there is a greater demand;*
- (b) more publicity regarding the accident and emergency services of some subvented hospitals;*
- (c) active encouragement of doctors in nearby clinics to refer more cases to subvented hospitals; and*
- (d) the transfer of convalescent patients from government regional hospitals to subvented hospitals.*

These actions will continue. In addition, the consultants' report on the hospital system recommended a strategy of integration through the proposed hospital authority to deal with this problem. This recommendation is still being considered and no final decision has yet been made.

DR. CHIU: *Sir, the Secretary has indicated that people prefer the services offered by government hospitals to those by subvented hospitals. In this connection, should Government seriously consider taking positive steps to integrate the two*

sectors and to allocate similar resources for identical services, so that no distinctions can be made between the services provided by both government and subvented sectors?

SECRETARY FOR HEALTH AND WELFARE: Sir, it does seem, as Dr. CHIU says, that many patients do have a preference for government hospitals. As I said in my answer, the consultants who examined the hospital system did make a number of recommendations as to how the integration, which they considered to be desirable, should be effected.

We are considering very carefully the possibility of establishing a hospital authority and if so, what form that would take but we are not yet ready to make any announcement as to the decision on this.

Dr. CHIU referred to the distinction between the way in which government hospitals and subvented hospitals are financed. It is often said that the subvented hospitals do not receive as generous financing as government hospitals. But I think it is very difficult to actually compare like with like in this situation. The financing of a hospital varies a great deal depending on the type of services provided in that hospital. Within government hospitals, the range of bed costs are between \$330 a day for an infirmary, and nearly \$900 a day for an acute general hospital. It is therefore very difficult to say whether the subvented hospitals are less effectively subvented than the government hospitals. There is, of course, one respect in which subvented hospitals do receive less financial assistance, and that is because of the difference in fringe benefits between staff working in government hospitals and staff working in the subvented hospitals.

DR. CHIU: *Sir, I am not trying to compare like with like. I just ask whether, as a matter of principle, similar resources should be allocated for identical services.*

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, I am sure that should be our aim, to ensure that similar resources are provided for identical services.

DR. LAM (in Cantonese): *Sir, in the second paragraph of the answer, the Secretary told us that all along members of the public who had a choice usually opted for government hospitals. Has the Government seriously considered why the public prefer to go to government hospitals instead of subvented hospitals?*

SECRETARY FOR HEALTH AND WELFARE: Sir, this seems to be quite a widespread belief. I do not think that it is something which is susceptible of absolute proof.

Prosecution of criminal cases

8. MR. CHEONG asked: *Will the Attorney General inform this Council whether it is his guideline that prosecution would be the normal course of action if there is a*

prima facie case established against any individual committing a criminal offence and, if so, what were the reasons for treating so differently a recent case in which the chairman of a public company publicly declared an inflated net asset value of the properties owned by the company?

ATTORNEY GENERAL: Sir, I am glad to have this opportunity at last to answer this question in this Council. To the extent that I can properly discuss these matters in public, this Council is the right place to do so.

The first part of the question asks whether prosecution would be the normal course if a *prima facie* case is established against an individual. If by 'normal course' Mr. CHEONG implies that a prosecution will almost invariably follow, the answer is 'no.' Nearly 40 years ago, a famous Attorney General of England, Sir Hartley SHAWCROSS, now Lord SHAWCROSS, said:

'It has never been the rule in this country—I hope it never will be—that suspected criminal offences must automatically be the subject of prosecution.'

And some 60 years ago, one of his predecessors, Sir John SIMON, said in the House of Commons, again I quote:

'There is no greater nonsense talked about the Attorney General's duty than the suggestion that in all cases the Attorney General ought to decide to prosecute merely because he thinks there is what the lawyers call 'a case.' It is not true, and no one who has held the office has supposed it is.'

In Hong Kong, that position is underlined by section 15(1) of the Criminal Procedure Ordinance, which provides that—

'The Attorney General shall not be bound to prosecute an accused person in any case in which he may be of opinion that the interests of public justice do not require his interference.'

So, Sir, the Attorney General thus has a discretion. What are the factors he takes into account when deciding whether or not to prosecute in any particular case?

First, there must be enough evidence to prove all the ingredients of an offence. This is not always easy to determine, especially where an offence requires proof of a state of mind or an intention of which there is often little or no direct evidence. Even if there is evidence that tends to prove the necessary ingredients of an offence, a bare *prima facie* case is, generally speaking, not enough to warrant a prosecution. There must be a reasonable prospect of securing a conviction because it is not in the interests of public justice, nor indeed of the public purse, that weak, or borderline, cases should be prosecuted.

But at the same time there are other factors to be considered in order to assess where the interests of public justice lie. And among these are—

- What are the surrounding circumstances of the offence?
- How serious was it?
- What were its practical effects?
- What extenuating circumstances are there?
- What is the attitude of the suspect?
- How would the decision to launch a prosecution affect other people?
- How serious a view would a court take of the offence if there were a conviction?
- Would the consequences of prosecution be out of all proportion to the seriousness of the offence or to the penalty a court would be likely to impose?

I emphasise that this is not an exhaustive list, but sufficient I hope to indicate to Members that the decision whether to prosecute ultimately depends on a broad view of the interests of justice.

There are good reasons why any Attorney General does not normally explain in public a decision not to prosecute in a particular case. It is rare for any public announcement to be made of that decision because it would reveal unfairly that someone had been under suspicion for having committed a criminal offence. And even where that fact is known, to give reasons in public for not prosecuting the suspect would lead to public debate about the case and about his guilt or his innocence. The nature of the evidence against the suspect would have to be revealed. Then some might say that that was proof enough of guilt, and the suspect would find himself condemned by public censure. Sir, in our legal system, the only proper place for questions of guilt or innocence of crime to be determined is in a court, where the accused has the right to a fair trial in accordance with the rules of criminal justice, and the opportunity to defend himself. So Members will readily appreciate that it would be quite wrong for any Attorney General, having decided that the issue should not proceed to trial in the courts, to say anything in public that might be taken to indicate a belief in the suspect's guilt, or which might lead to a public discussion of that very question.

Sir, I am none the less concerned that my decision not to prosecute Mr. Alan BOND has been viewed by some as reflecting adversely on Hong Kong's standards in the securities field, and thus on its reputation as a financial centre. Such allegation, of course, presupposes that a prosecution should have been brought which is the very point at issue. So perhaps I should say a little more about my attitude to the matter.

For the chairman of a public company to burst into Hong Kong and to make a misleading statement at a press conference was a matter to be taken seriously, although he has consistently denied making that statement with the necessary criminal intent. The Commissioner for Securities was rightly concerned about the matter, and was in contact with members of my chambers and with the police. I requested that the police undertake an investigation of the circum-

stances, and check the records of the journalists and others present at the press conference to ascertain exactly what was said. I received representations from Mr. BOND's lawyers and I discussed the matter with my advisers in chambers.

Sir, in the end, the decision was mine alone. No one directed me what to do. Decisions of this nature are essentially matters of judgment. I was made aware that criminal liability would be keenly contested. My view was that the outcome of a prosecution was far from certain. I also looked to all other relevant factors in accordance with the approach that I have described to Members, and I concluded that in the light of those factors, a prosecution should not be brought.

MR. LI: *Sir, while accepting that in the normal case, the Attorney General should not be required to give reasons for declining to prosecute, is the Attorney General aware that his action has raised suspicion in both local and international financial communities that either he has been pressurised into his decision, or he is favouring foreign investors over local investors; and a full and reasoned explanation from him would dispel these suspicions and hence enhance the standing of the office of the Attorney General?*

ATTORNEY GENERAL: Sir, I greatly regret that there has been widespread misunderstanding, speculation and unfair distortion of any reasons for my decision. I have given to this Council my account of my position. I ask the Council to accept it and to reject any other speculation or report which stands inconsistent with it.

MR. CHEONG: *Sir, I have two questions actually. The first one is very simple. Is it usual that the Attorney General receive representations directly from the attorneys of the suspect under investigation? The second one is: in paragraph 5 of the Attorney General's answer, it seems to me that he does take other factors into account and, whereas I certainly do not wish to challenge the Attorney General's decision in matters of law, would he be good enough to share a bit more with us, the public interest angle that precipitated his decisions? For example, how would the decision to launch a prosecution affect other people, which was one of the factors listed in paragraph 5?*

ATTORNEY GENERAL: Sir, as to the first, it is quite usual for lawyers for persons who are known to be facing the possibility of criminal charges to make representations not only to me, but to others in my chambers who are dealing with their particular cases. That is not unusual.

As to the second, Sir, I have indicated in my original answer what the relevant factors were that I took into account and I do not think I will find it appropriate or proper to give a more detailed account to any particular matter. The choice that I have made is to take the stand that I am advised to take, as a proper stand for any Attorney General. Attorney General must operate as a quasi judicial

officer within the administration of justice and he ought not to be under political pressures of any kind in taking his decisions. I have been as forthcoming with this Council as I think it appropriate to be. I have indicated the kind of factors which I took into account. Other Members can consider how they themselves would have applied those factors if they had been in my shoes.

MR. SOHMEN: *Sir, as a member of the Securities Commission which understandably was, and is, very interested in the decision made by the Attorney General in this particular case, may I ask the Attorney General to explain to this Council why he did not consider it appropriate or necessary to consult with those persons or bodies who are charged by statute with the supervision and regulation of the financial and securities markets, as to what possible effects of a decision not to prosecute could have on the need to 'safeguard the interests of public justice', in the context of the enforcement of the laws that apply to these markets?*

ATTORNEY GENERAL: Sir, the Securities Commission does indeed have certain duties to advise on matters relating to securities and to ensure that the provisions of the Securities Ordinance are complied with. But that is a duty to advise the Financial Secretary. The way that the duty is expressed in the Ordinance is clearly without prejudice to duties imposed, or powers conferred on others, with regard to the enforcement of the law relating to securities. So clearly the powers and duties of the Attorney General in relation to bringing a prosecution, even in the areas affecting securities, is outside the scope of their particular role. So I do not accept that I was under any duty to consult the Securities Commission about these matters.

But, as I have said, my staff and I were in quite regular contact with the Commissioner for Securities and his staff. In so far as my chambers needed assistance on the case, on matters of fact in relation to the securities market, the commissioner and his staff were able to provide it and gave us the help that we sought. In particular, for example, there was an investigation as to whether there was any relationship between Mr. BOND's statement and share price movements. And they gave us advice on that matter, as reported to me, that no such relationship could be established. And I would like to take the opportunity of thanking the Commissioner for Securities and his staff for the work they did for us.

In addition, I met with the Commissioner for Securities to discuss the case and some of the difficulties that it presented. Indeed, I was also in touch with him shortly before I reached my decision. But he made it clear to me, and he was quite right to do so, that it was my responsibility to decide whether or not to prosecute; and so I did.

MR. MARTIN LEE: *Was there any agreement, arrangement or understanding, made between the Attorney General's Chambers and Mr. BOND's lawyers that Mr. BOND must publish an open apology in consideration of the Attorney*

General's decision not to prosecute Mr. BOND? Second, what particular criminal offences had the Attorney General taken into account in the BOND case? And what ingredients of these offences had he found difficulty in proving?

ATTORNEY GENERAL: Sir, as to the question of the apology, I was made aware that Mr. BOND was anxious to make a public apology and its publication, ultimately, was a factor I took into account when subsequently I decided not to prosecute.

I certainly did not come to any agreement with his lawyers that I would not prosecute if an apology were published.

As to the offence which we had in mind, it was, of course, section 138 of the Securities Ordinance which was under consideration. As to the reasons why particular factors of that offence were or were not supported by evidence, that goes into precisely the area of discussing the guilt or the innocence of Mr. BOND which Mr. LEE knows perfectly well, as a lawyer, is not a matter which he would expect any Attorney General to particularise in a public debate.

MR. CHEONG: *Sir, I do not wish to engage in any public debate. I just wish to seek clarification according to section 138 of the Securities Ordinance. Could the Attorney General advise me as a layman to the law on section 138(a) which says anybody 'making any statement which is, at the time and in the light of circumstances in which it was made, false or misleading is with respect to any material fact ...' So the operative word is 'material fact'. Should we consider that as relevant 'material fact' not 'intent'?*

ATTORNEY GENERAL: I am always happy to assist Mr. Stephen CHEONG to read the section, but what he has read is part of it; he has not read the earlier part of the section, because the offence turns on earlier words: 'for the purposes of inducing the sale of the securities of any corporation'. And that is why I said that Mr. BOND consistently denied having the necessary criminal intent.

MR. CHEONG: *Of course I did read the earlier part of the section, and as far as inducing the sale of securities, I am just wondering as a commoner, whether the Attorney General would advise, in terms of law, whether I am correct in saying that, any company which has intention of arranging rights issues to finance its tremendous expansion plans is tantamount to laying the groundwork for the success of the rights issues, thereby inducing the sale of those shares?*

ATTORNEY GENERAL: As I understand it, that question relates to some other company doing some other thing. And I respectfully draw your attention, Sir, to the Standing Orders 18(h) which says:

'A question shall not be asked for the purpose of obtaining an expression of opinion, solution of an abstract legal question, or the answer to a hypothetical proposition.'

MR. LI: *Sir, does the Attorney General accept that it is desirable that the Securities Commission and he should have a consistent policy with regard to their respective functions in the enforcement of the law concerning dealings in securities or at least, that they should respectively be aware of the other's policy?*

ATTORNEY GENERAL: The answer to that is plainly, yes. And let me also add that I have always supported the efforts of the commission to regulate the securities market in Hong Kong. There has been close co-operation between my office and the office of the commission on many matters. Indeed, many of our major prosecutions in the field of commercial crime have arisen out of the initiatives of the Securities Commission and the assistance that we have had from them.

But let me also say that since there clearly have been some misunderstandings between members of the commission and my own office as to their respective roles in matters such as the one I have been referred to, I have been in communication with the Chairman of the Securities Commission to discuss those misunderstandings, and I have told him that I intend to do my best to resolve those for the future. Because it is, of course, very important that there should be a good working relationship between our offices and that there are no misunderstandings in the future.

DR. LAM: *Sir, did the Attorney General receive any representations from any persons who might have had a commercial interest in Mr. BOND not being prosecuted? If so, who and when?*

ATTORNEY GENERAL: Sir, as I have indicated in my original answer, the only representations I received were from Mr. BOND's lawyers and from the Commissioner for Securities. No one else approached me or made any representation to me as to whether I should prosecute or not prosecute.

There was no contact, for example, between me and between any bank in this territory, except early on when there was a request for information as to whether there was truth in a market rumour that a prosecution might be brought. On that occasion I made it clear that there was indeed truth in that rumour that a prosecution might be brought. Nobody else made any approach to me from any quarter to put any pressure on me, and let me just add, had they done so, it would have been to no avail.

MR. LEE YU-TAI: *Sir, in arriving at his decision not to prosecute Mr. Alan BOND, has the Attorney General taken account of section 31(1)(a) of the Protection of Investors Ordinance, which reads:*

'Any person who, by any fraudulent or reckless mis-representation, induces another person to enter into any agreement for or with a view to acquiring, disposing of, subscribing for, or underwriting securities, shall be guilty of an offence'?

ATTORNEY GENERAL: The answer is, yes. That section was considered at an early stage but it was discarded. The prospects of getting any prosecution on its feet in relation to that section were quickly put on one side.

Law and order in country parks

9. MR. PETER C. WONG: *Will Government make a short statement on a reported incident on 1 March 1987 in which a group of picknickers were robbed by an armed gang near the Shing Mun Reservoir, and also the measures taken to maintain law and order and protect picknickers in country parks and surrounding areas?*

SECRETARY FOR SECURITY: Sir, the incident which my hon. Friend refers occurred in the early hours of 1 March 1987 at the Shek Lei Pui Reservoir in the Kam Sham country park. A party of five young people were going home after a barbecue. A gang of about 12 young men, some armed with knives, tied them up and robbed them. The gang also tied up and robbed three other picknickers who happened to be passing by. The culprits then ran off, taking the victims' personal property, valued at \$2,760. Thankfully, nobody was injured in this incident. So far, the police have not been able to make any arrests.

To answer the second part of my hon. Friend's question, responsibility for policing country parks lies with the police district in which the parks are located. Patrols are regular and, depending on the terrain, may be by car or motorcycle or on foot. Police dogs and plain clothes detectives are also deployed. Any sign that crime is on the increase in a particular area will be met with an increased allocation of police resources.

Also, the Agriculture and Fisheries Department has 29 management centres and 20 park warden posts at strategic points in the parks. These serve as bases for the department's own management teams and as centres where the public may seek assistance and report crime. There are 115 uniformed park wardens to patrol country parks daily throughout the year, either on foot or on motorcycles. The department organises special patrols at weekends and public holidays, concentrating on the most popular country parks. Park wardens will report crimes to the police. Since they know their area well and are in radio contact with management centres, they can also help the police to look for the criminals involved.

Finally, Sir, a Working Group on Countryside Fires and Security meets every two months. Represented on it are the police, the Agriculture and Fisheries Department, the Fire Services Department and the Civil Aid Services. This working group is a useful forum for the exchange of information and ideas to promote security in our country parks.

MR. PETER C. WONG: *Sir, I am grateful to the Secretary for his eloquent answer. However, I am not completely satisfied. I have three supplementaries; may I ask the questions? On the day in question, that is 1 March, is the Secretary able to inform this Council whether the area in question was adequately patrolled by the police and/or uniformed personnel?*

SECRETARY FOR SECURITY: I have, I am afraid, to give a fairly broad interpretation to what my hon. Friend has asked. Yes, all the areas of country parks are adequately patrolled, having regard to the level of crime within them.

MR. PETER C. WONG: *Sir, in view of the apparent lack of resources, is there any plan to upgrade the policing of country parks? And has consideration been given to the use of helicopters to patrol large parks?*

SECRETARY FOR SECURITY: Sir, if there is any marked increase in crime in a country park in a particular district, then the district commander of that district will increase the police presence in the parks. The fact of the matter is, Sir, that as far as we can tell from the statistics available to us, the crime rate in country parks is low. To employ helicopters is a very expensive business, and I do not think that either the level of crime or the type of crime justifies that expenditure, at least for the time being.

MR. PETER C. WONG: *Again, in view of the apparent lack of adequate resources, can the Secretary honestly say that it is safe for the public to use the country parks?*

SECRETARY FOR SECURITY: Yes, Sir, from my own personal experience of walking many, many times in virtually all Hong Kong's country parks, I can say in all honesty, with my hand on my heart, that it is the safest place to be.

MRS. CHOW: *Sir, is there any sign at all that crime is on the increase in country parks, in general; or in specific areas? And if so, what preventive measures have been taken to counter this trend?*

SECRETARY FOR SECURITY: No, Sir, there are no signs at the moment that the low level of crime in country parks is on the increase. Preventive measures within the country parks themselves, other than regular patrolling by the country park staff and by the police, would not be justified at the present level.

MR. JACKIE CHAN (in Cantonese): *Sir, I understand that the telephone company has recently provided a hundred hot-lines for the public to contact the police. Will the Government request the telephone company to provide such telephones in country parks, so that picknickers can call the police in case of emergencies?*

SECRETARY FOR SECURITY: Sir, again, I think it would be a very expensive business relative to the level of crime we are talking about. If, in a particular area in a country park, crime went up quite dramatically, then perhaps it would be worthwhile installing such a telephone. But of course, as it is, the management offices do have telephones which can be readily available to the public, if necessary.

MR. CHEUNG (in Cantonese): *Sir, paragraph 3 says that there are 29 control centres and some wardens. I would like to know about the operating hours of these units and the staff.*

SECRETARY FOR SECURITY: Sir, that question, I am afraid, takes me beyond security and into the world of the Agriculture and Fisheries Department. I will ask the director for an answer and let my hon. Friend have it in writing. (See Annex I)

DR. HO: *Sir, for certain parts of the country parks, will mounted policemen, or policemen on horseback, prove to be more effective or economical than the motor-cycle patrol? Will the working group consider this?*

SECRETARY FOR SECURITY: This possibility has been considered very seriously. In practice, the terrain of most of our country parks is such that it would not be easy to patrol on horseback.

Written answers to questions

Filling of policy-making posts

10. DR. LAM asked: *With regard to the adoption of the 'Secretary' system following the recommendation of the 1973 McKinsey Report, will Government inform this Council whether it has conducted any review of the pros and cons of the system, with particular reference to the suitability and effectiveness of having a large number of the key policy making posts to be held by generalists as against departmental/professional officers?*

CHIEF SECRETARY: Sir, the 'Secretary' system which was adopted in 1973, following recommendations in the McKinsey Report, has served the Administration well. The strength of the system lies in the division of responsibility among Secretaries according to programme areas, not departments, so that there is effective co-ordination of related activities of several departments. The system is also flexible enough to enable changes in programmes to be made quickly in response to changing circumstances. Over the years, the structure and organisation of the Government Secretariat have been adjusted from time to time to take account of the changing needs of the community.

While it is a fact that a large number of key policy-making or Secretary posts are filled by members of the Administrative Grade, not all of them are 'generalists' in the usual sense of the word. Some Secretaries were formerly departmental/professional officers, some have a specialist background, while others have developed a certain amount of expertise in their areas of work during their long careers in the Administrative Grade. There are also several Secretary-equivalent or D6 posts which are departmental ranks.

At the directorate level, posts are filled by both departmental/professional officers and administrative officers. Particular emphasis is placed on succession planning in all departments with a view to grooming officers with potential for higher office. There are informal arrangements for cross-postings between different career streams, so that the most suitable officer is selected for the job. These arrangements have been endorsed by the Standing Committee on Directorate Salaries and Conditions of Service as being an important means of making the best use of the talent available in the Civil Service.

Psychiatric social workers

11. MR. HUI asked: *Will Government inform this Council how many staff of the Social Welfare Department have so far been sent abroad for training in psychiatric social work and how many of them are still working in the field of psychiatric social service?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, 17 officers of the Social Welfare Department have so far been sent abroad for special training in mental health social work. All except two are still working in the psychiatric social work field.

Appeals since enactment of the Inland Revenue (Amendment) (No.2) Bill

12. MRS. FAN asked: *Since the enactment of the Inland Revenue (Amendment) (No.2) Bill 1984 on 6 February 1985 which provided certain discretionary powers to the Commissioner of Inland Revenue in a case of tax dispute, will Government inform this Council the number and total amount involved in respect of the following cases up to February 1987 in which the appellant taxpayer was:*

- (i) *required to make immediate payment in cash;*
- (ii) *required to purchase tax reserve certificates;*
- (iii) *required to furnish a bank guarantee; and*
- (iv) *granted an unconditional holdover of tax by the commissioner?*

FINANCIAL SECRETARY: Sir, since the Inland Revenue (Amendment) (No.2) Bill 1984 was enacted in February 1985, some 65 000 objections have been received. It is not possible to give precise figures for each category requested as this would involve extracting the required information from each and every objection file. However, the estimated, and actual figures, where available, are as follows:

<i>Category</i>	<i>Number</i>	<i>Amount of tax involved \$</i>
(a) Appellant taxpayers required to make immediate payment in cash	5 400 (estimated)	Not available
(b) Appellant taxpayers required to purchase Tax Reserve Certificates	1 674 (actual)	903,036,767
(c) Appellant taxpayers required to furnish a bank guarantee	29 (actual)	52,347,095
(d) Appellant taxpayers granted unconditional holdover of tax by the Commissioner of Inland Revenue	57 000 (estimated)	Not available

It should be noted that the estimated 57 000 appellant taxpayers under category (d) are not required to pay the tax at once, purchase Tax Reserve Certificates or obtain a bank guarantee. These cases are referred to as holdover cases since, in every case where an objection is lodged, a holdover must be considered. However, in many cases, the tax in dispute can be discharged before the due date for payment arrives and the holdover of this tax becomes a mere formality. For example, where a taxpayer fails to submit a return within the prescribed time, an estimated assessment will be issued. Against this assessment, the taxpayer will usually lodge an objection on the grounds that the assessment is excessive. In order to validate the objection, a return must be submitted, and it will then become apparent to the assessor that the estimated assessment is excessive and should be revised downwards. In this situation, the tax in dispute can often be discharged before the due date. However, in cases where it is not possible to discharge the assessment before the due date, a holdover order is issued. It should be noted that unconditional holdover orders are always issued in respect of provisional tax in dispute in an assessment under objection.

Government Business

Motions

CRIMINAL PROCEDURE ORDINANCE

THE CHIEF SECRETARY moved the following motion: That the Legal Aid in Criminal Cases (Amendment) Rules 1987, made by the Chief Justice on 19 March 1987, be approved.

He said: Sir, I beg to move the resolution standing in my name, the purpose of which is to approve the Legal Aid in Criminal Cases (Amendment) Rules 1987 made by the Chief Justice under section 9A of the Criminal Procedure Ordinance.

The purpose of the amended rules is to effect an increase of 33 per cent in the fees payable to counsel and solicitors assigned by the Director of Legal Aid to conduct criminal cases, with effect from 1 April 1987. Sir, the fees were last increased in January 1982. The present increase is to reflect inflation as evidenced by the consumer price index since that date.

Sir, I beg to move.

Question put and agreed to.

PHARMACY AND POISONS ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion: That the Pharmacy and Poisons (Amendment) Regulations 1987, made by the Pharmacy and Poisons Board on 2 January 1987, be approved.

He said: Sir, I rise to move the motion standing in my name on the Order Paper in respect of the Pharmacy and Poisons (Amendment) Regulations 1987.

Section 29 of the Pharmacy and Poisons Ordinance empowers the Pharmacy and Poisons Board to make regulations to provide for, amongst other things, the control of the dispensing of pharmaceutical products. Such regulations require the approval of this Council. The Pharmacy and Poisons (Amendment) Regulations which are tabled today were made by the board on 2 January 1987, and Members' approval is sought accordingly.

When the Acting Secretary for Health and Welfare introduced the Pharmacy and Poisons (Amendment) Bill 1986 into this Council in July last year, he said that the Government had accepted the recommendation of the Working Party on the Practice of Pharmacy and Ancillary Matters that prescriptions should be dispensed only by qualified pharmacists engaged by authorised sellers of poisons or in other approved outlets. Regulation 4 puts this recommendation into practice by prohibiting listed sellers of poisons from dispensing prescriptions.

Regulation 6 prohibits the possession or use of unregistered or deregistered pharmaceutical products, such as synthetic hormones, the sale and distribution of which has already been banned by existing legislation.

Regulation 7 provides that, for medicines which can be freely sold over the counter, information on the key aspects of dosage, route and frequency of administration should be provided in both English and Chinese. This is an

improvement over the existing requirement which is that labels giving details of the composition, the manufacturer and the certificate of registration should be in either English or Chinese. A grace period of 18 months will be allowed for the pharmaceutical trade to comply with this provision.

Regulation 8 increases the penalties for the illegal manufacture of pharmaceutical products and their illegal supply to unauthorised persons in order to strengthen the deterrent effect of the regulations.

Regulation 9 stipulates the form of logo for display by authorised sellers of poisons to facilitate identification by members of the public.

The amendment regulations also make a number of minor changes, mainly to the forms specified in the regulations.

Sir, I beg to move.

DR. IP: Sir, I rise to support the motion in respect of the Pharmacy and Poisons (Amendment) Regulations 1987. I recall that during the resumption of debate on the Second Reading of the Pharmacy and Poisons (Amendment) Bill on 30 July 1986, I mentioned that I saw that Bill 'as one of the many to come aimed at improving consumer protection through legislation.' Today, I warmly welcome these proposed amendment regulations which provide for further control on the dispensing of pharmaceutical products. The Secretary for Health and Welfare, in moving the motion, has already explained and highlighted the features of the more important regulations and I shall not repeat these details here. I would only add a few remarks.

The Legislative Council ad hoc group formed to study these amending regulations is delighted to find that they have improved the existing legislation. The proposed regulation 6 will effectively remove the loophole in the original regulation 36. The effect of this new amendment is that not only is the sale and distribution of unregistered or deregistered pharmaceutical products prohibited, but possession of them is also an offence. I, therefore, hope that unscrupulous traders will now be prevented from taking advantage of the loophole by storing such products outside their normal business premises.

Another important amendment to the principal regulations is the proposed amendment regulation 7 which has received particular attention from the ad hoc group. This regulation introduces the new regulation 38A in the principal regulations to provide for the labelling of medicine with particulars as to dosage and the route and frequency of administration to be printed in both English and Chinese. In view of the fact that the majority of consumers in Hong Kong are Chinese, and a large proportion of pharmaceutical products are imported from overseas countries, such provision is therefore sensible and necessary. There is a grace period, as was mentioned earlier, of 18 months before the new labelling provisions become effective, in order to allow the pharmaceutical trade the necessary time to comply.

Whilst welcoming this provision, the ad hoc group feels it desirable to include on the label further information regarding possible contra-indications and side-effects of a product. No doubt many of us are aware that taking the extremes of contra-indications and side-effects, a normally safe pharmaceutical product can become a dangerous poison. Perhaps, there is some truth in the saying that 'One man's medicine is another man's poison'. Indeed, the ad hoc group is so concerned about this that it urged the Administration to make further amendments to these regulations before submitting them to this Council for approval.

However, the ad hoc group is aware that such amendments may require consultation and we do not wish to delay the passing of these regulations which contain other important provisions. During a meeting between the Administration and the ad hoc group, we were told that there was an existing channel through which our aim could be achieved.

Under the existing regulation 36, the Pharmacy and Poison Registration Committee can deregister a pharmaceutical product if it considers it to be in the public interest to do so. In dealing with an application for initial registration of a pharmaceutical product, the committee must take into consideration the factors stated in regulation 37 which are the safety, efficacy and quality of the product. Failure to meet these requirements may result in a refusal to grant a certificate of registration. The Administration thus assure us that in future during the process of registration, steps will be taken to require information regarding possible contra-indications and side-effects to be specified on the label or leaflet attached to a medicine.

Although such a measure is one possible way to achieve our aim and deregistration or refusal to register may be a more severe penalty than a fine, its success depends largely upon efficient administration. Members of the ad hoc group tend to feel that a direct legal requirement to include such information is a better safeguard than indirect administrative enforcement.

I would therefore urge the Administration to monitor this proposed measure closely. Should it be found not to be working satisfactorily, further amendments to the regulations must then be made. In the meantime, the Pharmacy and Poisons Board may also consider other possible ways to improve the legislation in this respect.

Lastly, I would suggest that trained pharmacists with a knowledge of drugs and poisons, play an important part in dispensing the correct prescription for the patient. Not only is it likely that they will be able to interpret the doctors' writing which at times can be quite chaotic but they will also have the knowledge and expertise to double check the correctness of prescription. I therefore take this opportunity to draw to the attention of the public the advantages of using those dispensaries which have a qualified pharmacist in attendance.

Sir, with these remarks, I support the motion.

DR. CHIU: Sir, on top of many other efforts to safeguard the health of the general public, the medical profession has been all along endeavouring to draw the Government's attention to the loopholes in the existing Pharmacy and Poisons Regulations. We continue to point out the importance of prescriptions to be dispensed only by qualified pharmacists of authorised or approved sellers and the need to provide key information in both English and Chinese on labels, leaflets or inserts accompanying the medicines which can be purchased over the counter. We are pleased to learn that the Government is answering our calls by concrete actions.

Among other amendments, I want to say a few words about regulation 7. I consider that clear, accurate and important information on dosage, route and frequency of administration is essential, but details on contra-indications, side-effects, precautions and warnings are also indispensable.

Sir, it will be impracticable, if not impossible, to request pharmaceutical manufacturers to provide every single detail of the drugs concerned. However, it is imperative to ensure that key information is not omitted. Therefore, the registration committee is urged to take up the responsibility to check all essential details during the registration process. Should any key points be found to be inaccurate, misleading, inadequate or lacking, unless follow-up actions are taken to satisfy the set requirements, no registration permit will be granted.

Sir, I would like to take this opportunity to bring to your attention that the original literatures on labels, leaflets or inserts of some imported medicines, when translated into Chinese, have been intentionally altered or deleted. A prime example is a product on sale under the name of 'Cod Liver Oil'. The original text in English which reads 'Multi-vitamin Syrup with orange juice' has been translated into 'Multi-vitamin Cod Liver Oil' (多種維他命魚肝油). In fact, it only contains 0.2g cod liver oil which only represents 2 per cent of the total ingredients of the medicine.

Today a great majority of pharmaceutical products are categorised under very broad terms, such as 'stomach tablet', 'headache pill' and so forth. In addition to such an unsatisfactory classification method, some key words are sometimes deleted from the original literature, an example is the word 'acid' being deleted from the instruction 'for acid indigestions'. As colleagues in this Chamber may be aware, stomach complaints can be caused by hyperacidity, hypoacidity and various digestive anomalies. Patients on self-medication are often misled by inaccurate information on the label and continue to use such medicine until they run into more gastrointestinal problems.

We look forward to the enactment of the amended regulations and trust that the registration committee will set the wrong right.

With these remarks, Sir, I support the motion.

SECRETARY FOR HEALTH AND WELFARE: Sir, I wish to thank Members of the Legislative Council ad hoc group for their careful scrutiny of the amendment regulations and for their support for them.

Dr. IP and Dr. CHIU have suggested that medicines sold over the counter should include information about possible contra-indications and side-effects and Dr. IP has expressed the view that there should perhaps be a direct legal requirement in the regulations that this should be done. I will certainly convey this idea to the Pharmacy and Poisons Board for its consideration and I am sure that the board will carefully monitor the position under the present arrangements.

I will also draw the board's attention to Dr. CHIU's comments on the need for accurate translation of labels and leaflets relating to imported medicines.

Sir, I beg to move.

Question put and agreed to.

First Reading of Bill

IMMIGRATION (AMENDMENT) BILL 1987

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

Second Reading of Bills

IMMIGRATION (AMENDMENT) BILL 1987

THE SECRETARY FOR SECURITY moved the Second Reading of: 'A Bill to amend the Immigration Ordinance'.

He said: Sir, I move that the Immigration (Amendment) Bill 1987 be read the Second time.

Introduction

The primary purpose of the Bill is to increase the Director of Immigration's powers of exemption under the Immigration Ordinance so as to enable Hong Kong residents, who at present travel on re-entry permits, to travel to China and Macau on their identity cards. Hong Kong travellers will, I believe, greatly appreciate such an arrangement. It will mean that they will not have to go through the laborious process of getting re-entry permits.

Secondly, the Bill also provides for the revision of the Immigration Ordinance to express more broadly the power to make regulations for the issue of travel documents.

Travel to China and Macau on identity cards

As regards the primary purpose of the Bill, most residents of Hong Kong travelling to China or Macau at present leave and re-enter Hong Kong on re-entry permits issued under section 59(b) and regulation 3 of the Immigration Ordinance. Macau accepts these Hong Kong re-entry permits as adequate documents for Hong Kong residents to enter Macau. The Government of China requires such visitors from Hong Kong also to hold home visit permits. But immigration staff there do sometimes also check re-entry permits to make sure the travellers are returnable to Hong Kong.

These arrangements now need to be changed with the implementation of a computer system, the Travel Record and Immigration Control Enforcement System (TRAICES), designed to streamline and to improve immigration control procedures at control points. The first phase of the system to be installed at the Macau Ferry Terminal and the Sham Shui Po Pier should be completed by 1 May this year. Immigration officers at control points where the system has been introduced will key into computer terminals the Hong Kong identity card numbers of Hong Kong residents as they arrive and depart. The system will check watch lists and will record movements of passengers. There will be no more need for Immigration Department staff to check the watch list manually, for Hong Kong residents to complete arrival and departure cards or for Immigration Department staff to stamp travel documents. In these circumstances, those who have been leaving and returning to Hong Kong for travel to China and Macau on re-entry permits will no longer need to have those permits provided they produce their identity cards at Hong Kong's immigration control points. And others who hold identity cards but either choose to or have to travel on passports or other types of travel document will also benefit provided they produce their identity cards.

Sir, the question then was whether China and Macau would accept travellers who have left Hong Kong only on identity cards. We have consulted both Governments. Both have agreed to the arrangements now proposed. In addition, Macau will accept Hong Kong identity cards as adequate documents for travellers from Hong Kong to enter Macau. We very much appreciate the sympathetic response we have had from both Governments.

So we are now in a position to be able to introduce to this Council the Immigration (Amendment) Bill 1987 which provides the backing necessary for us to be able to implement the scheme as far as those at present leaving Hong Kong for China and Macau on re-entry permits are concerned.

The Bill includes an amendment to section 5 of the Immigration Ordinance, subsection (4) of which stipulates that any person over the age of 16, on arrival

in Hong Kong or on departure, must produce a valid travel document, entry permit or re-entry permit. So as to allow Hong Kong residents to travel to and to return from China and Macau on identity cards rather than on re-entry permits, the Bill seeks to amend section 5(9) of the Ordinance to add to the Director of Immigration's powers of exemption the power to exempt any person from the requirement to produce a valid travel document, entry permit or re-entry permit. The Director of Immigration will then exempt from producing these documents Hong Kong residents travelling to and from China or Macau through control points where the computer system has been introduced. They will be so exempted provided they produce valid identity cards instead. This somewhat negative 'exemption' approach has been adopted so that we can get the arrangements introduced speedily and in phases. Executive Council would rightly prefer a more positive approach with provision included in the Ordinance for Hong Kong residents to be able to produce identity cards at control points when travelling to and from China and Macau. Accordingly, once the scheme has been introduced in full we will look at this possibility. Meanwhile, so that we can get the new arrangements into being quickly and in phases, I hope hon. Members will bear with us and accept the 'exemption' approach contained in the Bill now before them.

The director does not intend to use his powers of exemption in the case of persons under the age of 18. At least for the time being, those under 18 should still be required to travel to China and Macau on re-entry permits, thus ensuring that they cannot easily travel out of Hong Kong without the knowledge of their parents. A parent's identity card is checked when a re-entry permit is issued to a person under the age of 18. The arrangement will thus allow parents to maintain some degree of control.

Regulations for the issue of travel documents

Sir, we are also taking the opportunity to propose an improvement to section 59 of the principal Ordinance. This section provides for the Governor-in-Council to make regulations. Instead of listing in section 59(b) the travel documents which the Director of Immigration may issue, clause 3 of the Bill replaces this sub-section with a new 59(b) which simply provides a power to make regulations for the issue of documents for the purposes of the Ordinance. As a result, it will no longer be necessary to go through the laborious procedure of amending the Ordinance each time the list has to be changed. The list of travel documents which the Director of Immigration may issue or renew can be found in regulation 3 of the principal regulations which the Governor-in-Council brought up-to-date on 17 March.

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.

Question put and agreed to.

OFFICIAL LANGUAGES (AMENDMENT) BILL 1986**Resumption of debate on Second Reading (3 December 1986)**

MR. PETER C. WONG: Sir, the enactment of the two related Bills—the Official Languages (Amendment) Bill 1986 and the Interpretation and General Clauses (Amendment) (No.3) Bill 1986—will represent a significant milestone in the history of law making in Hong Kong. The main purpose is to provide legislative framework for laws in Hong Kong to be enacted in both English and Chinese. And both texts are to enjoy equal authenticity. In a community where more than 98 per cent of the population are Chinese, it is both desirable and equitable that our laws should also be enacted in Chinese.

Sir, I shall deal with both Bills in this speech for convenience.

The 14 member ad hoc group set up to study the two Bills met several times and had informal but in-depth discussions with the legal profession as well as representatives of the Judiciary and the Legal Department. Members of the group realised from the outset that implementation of the proposals required detailed examination and any input by the legal profession and the Judiciary would be of immense value. I am happy to report, Sir, that the informal meetings proved extremely fruitful, and the group is indebted to the legal profession as well as the Judiciary for their valuable contribution. The chairman of the Bar Association and the president of the Law Society demonstrated a keen interest in the Bills and took an active part in our ‘round-table’ discussions.

I believe co-operation of this nature is highly desirable, especially when a useful dialogue can be established, thus paving the way for the smooth passage of important pieces of legislation.

Sir, the principle of bilingual legislation has been the subject of extensive and intensive consultation. The Attorney General’s Chambers deserve credit for initiating a very useful and informative Discussion Paper on the Laws in Chinese issued for public discussion in April 1986. A Legislative Council ad hoc group consisting of 13 Members under the convenorship of my colleague, Mr. F. K. HU was formed in May 1986 to examine its implications. With usual Legislative Council efficiency, the group completed its task in two months and an adjournment debate on the subject was held in this Council in July 1986.

Members will recall that the principle of bilingual legislation was warmly welcomed by the public, and that several important general points were emphasised by my colleagues who spoke at the debate. This, obviously, has been of great assistance to the present ad hoc group.

The main task of my group, Sir, was to examine the technical aspects of the Bills and the practical implications in implementation. The basic principle that final legislative power should rest with this Council and not the Executive

Council received the group's meticulous attention and departures from this principle in the Bills have been happily resolved. Appropriate amendments will be moved at the Committee stage.

Sir, briefly the proposals in the Bills are to provide for legislation to enable—

1. laws in Hong Kong to be enacted in both English and Chinese,
2. the English and the Chinese versions to enjoy equal authenticity, and
3. a Bilingual Laws Advisory Committee to be set up to advise the Executive Council on matters relating to bilingual legislation.

I shall not bother Members with unnecessary details. Suffice it to say that after careful deliberation the following agreement has been reached with the Administration and Committee stage amendments, incorporating suggestions by the legal profession, will be moved by my colleagues, Mr. K. C. CHAN and Mr. SZETO Wah:

Official Languages (Amendment) Bill 1986

Clause 3:

- (a) A new subsection (4) will be added to the new section 4B to provide that any proposed order declaring a translation of an existing law to be an authentic text cannot take legal effect unless it is laid before Legislative Council in draft and approved by resolution. In essence, the proposed amendment ensures a positive role for Legislative Council in the process of declaring authentic texts of existing legislation, but at the same time places the burden of producing satisfactory texts on the Administration (in consultation with the Bilingual Laws Advisory Committee).
- (b) In the proposed new section 4C(1)(a) the statutory description of the function of the Bilingual Laws Advisory Committee will be expanded to make it expressly clear that the advice which it may give to the Governor-in-Council 'may include recommendations as to the sequence in which authentic texts of Ordinances should be declared under section 4B(1)'. In other words the intention is to make it clear that the committee has a valuable role to play in advising the Governor-in-Council on priorities of Ordinances for translation, thus ensuring that the sequence will be realistic and pragmatic.
- (c) In the proposed new section 4C(3), which deals with the composition of the Bilingual Laws Advisory Committee, an amendment will provide that the barrister appointee will be appointed after consultation with the chairman of the Hong Kong Bar Association, and the solicitor appointee after consultation with the President of the Law Society.
- (d) The proposed new section 4C(6) will be slightly amended to make it clear that the Bilingual Laws Advisory Committee may consult other experts.

*Interpretation and General Clauses (Amendment) (No.3) Bill 1986**Clause 4:*

The new section 10E will be amended to provide that no notice declaring words, expressions, offices, titles and so on as equivalents in the official languages shall be made unless the notice is approved by draft in the Legislative Council. As with the amendment to section 4B of the Official Languages (Amendment) Bill described above the purpose of this amendment is to ensure that the final power of enacting law rests with this Council.

Sir, so much for the agreed amendments. My colleagues speaking this afternoon will no doubt have more to say on the two Bills.

Sir, the enactment of the Bills now before Council is only the first step to bilingual legislation. Much work remains to be done. Resources will be a major problem, particularly the availability of bilingual law draftsmen. At the moment, the Legal Department is able to recruit only five qualified officers for this purpose and it is not expected that many pieces of legislation in Chinese will flow from their combined effort. Two other important problems deserve our attention:

- (1) The present crop of some 2 000 lawyers practising in Hong Kong are all trained in English. It is true that a large number of them are bilingual in so far as languages are concerned. But when it comes to practising law in Chinese, it is an entirely new ball game. Perhaps a handful of bilingual lawyers may be able to practise law in Chinese, provided they undergo a proper course of training. As far as I am aware no such course is available either in Hong Kong or elsewhere in the world. It is therefore absolutely essential that if we are to move towards bilingual legislation our law colleges must, as soon as is practicable, provide appropriate courses to cater for this new situation. The price will be high but do we have any choice?
- (2) Another problem which is not generally appreciated is that Chinese may be used only in the lower courts, for example the magistracies and the various tribunals. In the district court, the High Court and the Court of Appeal, only English may be used. This is clearly stipulated in section 5 of the Official Languages Ordinance. The reasons are obvious. Hong Kong law is based on English law, common law and case law, which are all in English. When the key section 4 of the Official Languages (Amendment) Bill comes into effect, making it mandatory to enact new laws in both languages, consideration will have to be given to amending section 5 to allow Chinese to be used in all the courts. Furthermore, numerous problems may emerge. For example, a judge not familiar with the Chinese language may be faced with difficulties should a bilingual lawyer choose to base his arguments on the authentic Chinese version. Theoretically, there should not be any difference between the two texts,

but in practice differences in interpretation could arise. The judge would not be at liberty to call expert evidence as the Chinese text is part of our law. This problem, Sir, was pointed out in the discussion paper but no attempt was made to provide a positive solution, other than suggesting that perhaps legislation to enable a judge to call expert evidence may provide an answer. Personally, I do not believe that legislation will solve the problem. Obviously, there is a need to address this problem intelligently and pragmatically. And it is not going to be easy.

Be that as it may, a start has to be made, especially in view of the Joint Declaration. I therefore commend to Members both Bills in their agreed amended form, the passage of which will go down in history as an occasion to remember.

Sir, I am happy to support the motion.

MISS TAM: Sir, Mr. Peter C. WONG, as the convener of the ad hoc group to study the Interpretation and General Clauses (Amendment) Bill and the Official Languages (Amendment) Bill, has described with great lucidity the history of how the amendments came about. I was one of the Members who participated in the final meeting wherein the Attorney General was present and we hailed this particular move as a milestone in the legal history of Hong Kong. That meeting was on 27 February 1987 in which we threshed out the amendments on which I shall defer from commenting, reasons being that I understand there are six other Members who may speak on the Bill. My view on this particular package may well be a minority one.

Mr. Peter C. WONG has mentioned the Joint Declaration which was signed between the British Government and the Chinese Government and that particular clause he referred to reads 'In addition to Chinese, English may also be used in organs of government and in the courts of the Hong Kong Special Administrative Region'. During the first phase of study into this particular package which took place in May 1986 to July 1986 by a group which was convened under the hon. F.K. HU, lengthy discussions took place as to the true interpretation, intention and meaning of that particular clause. I have heard a leading member of the Judiciary coming to an interpretation to the effect that we should try and use Chinese whenever we can. Only when we fail to use Chinese should we use English. There is another school of thought that there is a deadline to be met by 1997, that is, by that time our court should be bilingual. It worries me a great deal, reason being that I do not myself believe that is the right route to prosperity in the future in Hong Kong. I understand that the Government has spared no effort in making sure there are sufficient information pamphlets and the use of the Cantonese language in the lower court to ensure local confidence in our judicial system. I think the work has been done very well. It may well be that because of the Joint Declaration we are triggered off to start this movement towards enacting bilingual law.

I was, therefore, particularly mindful of the discussion that took place in the Basic Law Drafting Committee on the real intention behind this particular clause. Of course, I am not at liberty to really go into the thinking of the members who might be involved in the discussion while the Sino British Joint Declaration was under negotiation. But I think I would not be misrepresenting the sentiment and the thinking of the group in charge of dealing with this particular clause that there is indeed no deadline to be met by 1997 and no need to think that we have to transfer or transform ourselves into purely and mainly Chinese speaking in either our court or government organs and therefore exclude or put in second place the English language. Indeed the message was loud and clear: Let things take its natural course.

I have travelled in recent months in China and my confidence in the future of Hong Kong has strengthened, not because of the opportunity to have tea sessions with some Chinese officials who might have influence over our future, but because of the fact that I have witnessed the vast difference between the standard of living of the people in China and the people of Hong Kong. It is always a very unforgettable sight to see masses of humanity moving on their different bicycles wearing khaki green and indigo blue and every time I return to Hong Kong I am grateful for the fact that here we have a breed of Chinese who are able to compete with international counterparts in trade and other international network of activities. One of the reasons we are able to do so is because of the skill we have acquired in using English as our legal language and I would hate to see any erosion of that ability.

Mr. Peter C. WONG has pointed out the difficulties that we may have to face of the fact that although Cantonese is widely used in the lower courts, it may not be possible to do so in the district courts and above. My message is 'Do not hurry'. If it is necessary to involve international committee especially the lawyers to practise in Hong Kong and ensure that members of the common law judiciary can come and still work here after 1997, my feeling is that in times of shortage of resources which is the fact, judging from what we are being told by Administration during our deliberation, then the priority must be to channel our resources into securing further local confidence in the administration of justice in Hong Kong in the lower courts and making sure that Cantonese is there used as universal language and the relative Ordinances enjoy the priority in terms of enactment or translation. But as far as higher courts are concerned I would like to think that since there is no deadline to be met, that we will take a perfectly sensible course, that we will take into regard our local needs but not forgetting the international requirements and do our best to ensure that we do secure international commercial confidence here by making use of English as our legal language as well as Chinese and do not place English into second position. And with those observations, Sir, I welcome and support the package.

MR. MARTIN LEE: Sir, with regard to the proposed Committee stage amendment to the new section 4C(1)(a) of this Bill relating to the functions of the Bilingual Laws Advisory Committee, I should like to record a note of reservation in the light of representations made on behalf of the Hong Kong Bar Association and the Law Society of Hong Kong, whose representatives had met with the ad hoc group and the Administration on several occasions for detailed discussions.

The proposed amendment in effect states that the Bilingual Laws Advisory Committee may make recommendations to the Governor-in-Council as to which existing Ordinances should receive priority in the translation programme. Whilst the amendment appears to be an improvement on the Bill as gazetted, it will in reality be meaningless if the resources of the Legal Department's Law Drafting Division are swallowed up in the task of complying with section 4, which provides that all new ordinances must be enacted and published in bilingual form. The wisdom of section 4 is open to doubt. Although it makes provision for an Ordinance to be published in one official language when it is 'urgent', this is not sufficient to deal with the danger of unnecessary use of scarce bilingual drafting resources where the Government's legislative programme contains items of technical and complex new legislation which have no direct impact upon the general public of Hong Kong.

What is the point of devoting our limited resources to such esoteric new Ordinances at the expense of those existing Ordinances which can readily be identified as important to the population as a whole?

I very much hope that the assurances which the ad hoc group received from the Government as to the adequacy of bilingual drafting resources will prove to be well founded—otherwise the proposed amendment to section 4C(1)(a) will be of no practical help to the Bilingual Laws Advisory Committee in its task of ensuring that Government takes note of public opinion on the question of priorities in the translation of existing Ordinances.

MR. LEE YU-TAI: Sir, the Chinese civilisation is one of the oldest in human history. It has a resourceful culture covering more than 4 000 years of written history. China was however governed by absolute monarchs until 1911. Before this date, no legal system in the modern sense could be built up in the Chinese empire and the emperor's word meant law. Since the revolution of 1911, which dethroned the last hereditary emperor, the country experienced disturbances of all kinds, including military invasion and civil wars. Such circumstances would not have allowed a legal system to complete its natural course of development.

Hong Kong is part of the British common law system, which has taken several centuries to develop, and which has proved successful in many parts of the world, including former British dependent territories. The laws of Hong Kong have until now been enacted in the English language which is the language of the common law. As there will be resumption of sovereignty by China in 10 years' time, the production of a Chinese version of the laws of

Hong Kong becomes necessary, if the status quo of the territory is to be maintained. While the Basic Law will be drafted separately, the judicial laws of today will continue beyond 1997, because the former is expected to cover mainly constitutional provisions. It is stated in the Joint Declaration that Hong Kong will be allowed to retain a separate judicial system with a court of final appeal, so that Hong Kong may remain a capitalistic society.

Daily business and social activities in Hong Kong are conducted through Cantonese, which is a spoken dialect. Whenever Chinese is spoken in this Council, Standing Orders require that it must be Cantonese. This dialect will continue to be the most extensive medium of communication in this territory. Even if much wider use of the Chinese language became possible in court proceedings, people would still make oral statements in Cantonese, and not Kuo Yu or modern style of the written language. I would oppose any suggestion for the use of Kuo Yu or Putonghua in courts, which is not only impractical but also detrimental to public confidence. The differences between Hong Kong and mainland China must be preserved, otherwise the concept of 'one country; two systems' will not succeed. Although the Chinese version of bilingual legislation is likely to be written mainly in the modern Chinese language (or Kuo Yu), oral statements and interpretations should be carried out in Cantonese. Some problems may arise from the gap between the written language and the spoken dialect. These problems should be dealt with as and when they occur. Any attempt to align the written language and spoken dialect will only end up in complete failure. Hong Kong has always been open to the rest of the world and the external contacts have brought it ahead of China in many respects; China, on the other hand, has remained relatively closed to the outside world until the last decade. The Chinese language spoken and written by the people of Hong Kong is much richer in content and more diversified in usage. It is therefore unwise to forgo a richer and more diversified medium of expression in order to achieve so-called harmonisation.

At the Committee stage, a new subsection will be introduced into the Official Language (Amendment) Bill to provide that any proposed order declaring a translation of an existing law to be an authentic text cannot take legal effect unless it is laid before Legislative Council in draft and approved by resolution. The proposed amendment ensures a positive role for the Legislative Council in the process of declaring authentic texts of existing legislation. Principal statutes of law must be made only by this Council, and that is, the Legislative Council, whether it is new legislation, or a translated version of existing legislation which has legal force. The functions of the legislature and the executive must remain distinct from each other. Any compromise will mean an infringement of one function upon the other. Declaration of an authentic version by the Governor-in-Council is an infringement of this kind, which must be avoided.

Sir, with the above remarks, I support the passage of the two Bills, namely the Official Languages (Amendment) Bill 1986 and the Interpretation and General Clauses (Amendment) (No.3) Bill 1986.

MR. SZETO (in Cantonese): Sir, Hong Kong is in a transitional period. The Sino British Joint Declaration must be followed during the transitional period. It is stated in the Annex 1 of the Joint Declaration that the government organs and the courts in the Hong Kong Special Administrative Region can make use of English other than Chinese. In order to implement this provision, the two Bills that are to be endorsed today is an essential step.

The rule of law is an important pillar for the stability and prosperity of this society. In order to strengthen the rule of law, we must have a legislature that is democratically elected and also we must have a democratic legislative process. Other than that, we must have a good legal system and an independent judiciary. Moreover, we must promote the spirit of the rule of law amongst members of the public. The approval of the two Bills will be a step in the development of our community. Chinese has become an official language and it is now possible to legislate in Chinese. In Hong Kong, 98 per cent of the residents have Chinese as their mother tongue. So the passing of the two Bills will promote the spirit of the rule of law amongst members of the public.

China does not have a tradition of the rule of law. To legislate in Chinese is unprecedented. It is also a demanding task. But however demanding the task is, we must, and we will certainly be able to do the task.

Sir, I welcome the two Bills. At the Committee stage, I will propose two amendments. First, it relates to clause 3 of the Official Languages (Amendment) Bill 1986. I suggest that in the new section 4B, subsection 4 should be added. It is agreed that 'no order shall be made under this section unless a draft of it has been laid before and approved by resolution of the Legislative Council'. In other words, approval by resolution of the Legislative Council will give it the legal force.

The second amendment has to do with clause 4 of the Interpretation and General Clauses (Amendment) (No.3) Bill 1986. I suggest that unless the draft has been laid before the Legislative Council and has been subsequently endorsed, otherwise no declaration can be made to say that certain words, expressions, citations and so on, in the two languages have the same meaning.

The nature of the two Bills is consistent with one another. Its purposes and objects are threefold:

- (1) the role to be played by the Legislative Council in the legislative process will not be reduced;
- (2) it will not lead to judicial confusion; and
- (3) the relevant procedure will be more efficient, more simple and more clearly stated.

In the gazetted version of the Bill, the Governor, together with the Executive Council, is given too much power. The corresponding power of the Legislative Council is therefore reduced. So we must make the proposed amendment saying that resolution by the Legislative Council is necessary. According to the original

gazetted version of the Bill, it is said that any order gazetted, saying that certain versions are authentic will become legally effective once it is gazetted. After that, the Legislative Council can only make amendments to it in the form of making changes to the subsidiary legislation. This will therefore lead to judicial confusion.

After amendment, the Legislative Council will have the power to approve or to reject the proposed version. If the Legislative Council is not satisfied with the draft version, the Government will have to listen to the views expressed by the Legislative Councillors in the debate or to listen to views obtained through other channels, for example, the views expressed by the Legislative Council ad hoc groups, so that amendments can be made and so that a new version can be submitted to the Legislative Council. Such a procedure will ensure that the Legislative Council can play a positive role in the declaration of two versions that are equivalent and in saying that certain versions are indeed authentic. The responsibility for coming up with an authentic version that is satisfactory to all parties will be borne by the Administration. The Administration will therefore have to closely liaise with the Bilingual Law Advisory Committee.

As to the words and expressions that are used in law, a lot of time would have to be spent to discuss these words and expressions. Now that we have the proposed amendments, the time spent by Legislative Council in this area will be reduced and therefore the efficiency will be higher.

Sir, the motion on these two Bills come about because of the work done by the Legislative Council ad hoc group, whose convener is Mr. Peter C. WONG. We have also consulted the Bar Association and the Law Society and they have offered invaluable comments. I would like to thank them sincerely.

Sir, with these remarks, I support the motion.

MR. ANDREW WONG: Sir, I rise in support of the two Bills—the Official Languages (Amendment) Bill 1986 and the Interpretation and General Clauses (Amendment) (No.3) Bill 1986 which give effect to the implementation of the bilingual law project so necessary for the continued stable development of Hong Kong towards 1997 and beyond.

Although there might be hiccups or difficulties in so far as to the interpretation of what the law really is once we have both an English version and a Chinese version of the law, because the two might be at variance, I have to say that the promulgation of an authentic version of the law in Chinese is the most appropriate first step to be taken in order to solve the problem which, in a way, resembles a vicious circle in that it provides a necessary impetus. One might reasonably argue that perhaps we should, as a first step, train more bilingual lawyers instead. But given human inertia, this particular strategy is therefore more akin, in my opinion, to wishful thinking.

Sir, I also wish to reiterate my point which I made last July at the adjournment debate on the bilingual law project, that is, the priorities listed in the discussion paper are basically correct. I personally believe that the exercise, at least in the beginning, should be regarded as a 'trial and error', or better, 'trial and amend' process. I therefore consider, and I quote what I said the last time, that 'the first and most suitable experiment being of course to make new laws in both languages. This is certainly the best way for the staff and Members of this Council to realise and grasp the subtleties behind the laws'.

With these remarks, Sir, I beg to support the motion.

ATTORNEY GENERAL: Sir, I would like to thank the Members of the Legislative Council ad hoc group and in particular Mr. Peter C. WONG, their convener, for the time they have spent in studying this Bill and its companion, the Interpretation and General Clauses (Amendment) (No.3) Bill. And I would also like to thank them for the many interesting, constructive and encouraging comments that they have made this afternoon.

Sir, the speeches you have heard today have plainly reinforced and underlined the need for this historic legislation. The amendments tabled today are a result of intensive consultations with the professions and the Administration. I share the belief with Members that those as amended will provide a sound legal framework for implementing this important project of bilingual legislation. Sir, full explanations of the Committee stage amendments to be moved later already have been given. I need only say that they have the full support of the Administration. Several Members have expressed fears about the adequacy of the resources and personnel available to my chambers as the Government embarks on this important project. I look forward, of course, to their future support in the Establishment Sub-committee or the Finance Committee should have been necessary to come back for additional posts or funds in the future.

Sir, when I moved the Second Reading of the Bill on 3 December 1986, I told Members that one or more dummy runs will be commenced in this Council to enable members to have adequate opportunity of examining the implications of the project, particularly with reference to the practice and the procedure of the Council. Members may like to know that, subject only to the approval of the Executive Council, the first Bill to be introduced in a bilingual format will be the proposed New Weights and Measures Bill which is expected to be tabled before this Council in May.

Finally, as Mr. Peter C. WONG has pointed out, the enactment of the Bill is only the first step to a herculean task—but given the will and the support of this Council of the professions and community at large, I am confident that we should accomplish the task that we have set ourselves.

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).

5.05 pm

HIS EXCELLENCY THE PRESIDENT: I think at this moment, Members might like a short break.

5.27 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) (NO.3) BILL 1986

Resumption of debate on Second Reading (3 December 1986)

MR. PETER C. WONG: Sir, my speech on the Official Languages (Amendment) Bill 1986 also applies to this Bill. I support the motion, Sir.

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).

PARTITION (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (11 March 1987)

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).

**MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) BILL
1986****Resumption of debate on Second Reading (30 July 1986)**

DR. IP: Sir, on the First Reading of this Bill, some Members had reservations on repealing section 8 of the principal Ordinance because it appeared wrong in principle for Government to subsidise insurance companies which, under existing legislation, were required to pay the expenses reasonably incurred by non-profit making hospitals in treating people injured by the insured vehicles. As a result an ad hoc group of which I convened, was set up to study this Bill.

Since Government's main argument for the Bill was in the administrative difficulties that arose from the recovery scheme, the ad hoc group initially focused its attention on ways to improve the recovery scheme instead of abandoning it. What was in the fore of the minds of Members was that administrative and financial difficulties should not stand in the way of execution of fair and just legislation. In no less than four meetings, Members looked into the six lengthy recommendations in the 1979 report by the Management Services Division on how the scheme can be improved. Government at this point admitted that through a combination of the legislative and other changes suggested in that report, the scheme could be and not just possibly, made more cost-effective. To satisfy ourselves beyond any doubt, we even looked into the feasibility of recovering such hospital expenses from the Traffic Accident Victims Assistance Scheme (TAVAS) or the Motor Insurance Bureau (MIB) whose aims and objectives were in many ways similar to the subject in question. We were quite adamant that such alternative proposals could prove to be even simpler.

Government then switched our attention to their secondary argument on the principle as to whether hospital expenses should be borne by motorists directly or indirectly via TAVAS, insurance company, and MIB on the one hand; or by the public as taxpayers through Government subvention. Government argued that there is no justification that motorists alone should have to meet the full cost of treating persons injured because a survey which they conducted in 1980 indicated that only 10 per cent of the cases had the insurance companies admitting liabilities. The motorists and the pedestrians are both taxpayers having contributed subsidies to medical expenses. If the motorists were to require to meet the full cost of medical expenses again for treating the injured, they may be making a double payment as a taxpayer and as a motorist. The overriding reason for the Bill was to repeal the previous scheme which was based on faulty principle. It was on this basis, Sir, that the ad hoc group was finally convinced to support this Bill.

Through the course of studying this Bill, the ad hoc group have revealed the following deficiencies within government administration:

Firstly, it took Government 27 years, between 1951 when the Ordinance was first enacted to 1978, to institute arrangements to recover hospital expenses from insurance companies.

Secondly, when administrative difficulties arose after one year of its implementation, the Management Service Division was brought in to assist in 1979. However, after eight years, none of the six recommendations were adopted.

Thirdly, Government had no legal authority to suspend the scheme in 1981.

Fourthly, it took Government six years to bring this problem to the attention of the Executive and Legislative Council.

Fifthly, their prime reason, an administrative argument for repealing this scheme was wrong.

And last but not least, a point raised by my colleague, Mr. HO Sai-chu, who is not here today, and agreed by all the Members of the ad hoc group, that considerations should always be given to improving the cost-effectiveness in the execution of the law, rather than abandoning it because of the administrative difficulties. If however the policy behind a legislation is doubtful, the matter should be brought to the attention of the two Councils at the earliest opportunity and not after 36 years.

Sir, it is gratifying to note that all these administrative bungles had only inflicted a scheme of which the policy is now considered wrong. I would hesitate to guess what the loss to Government and to the public would be if this scheme happened to be right!

Sir, with these words, I support the Bill before Council.

MR. MARTIN LEE: Sir, Dr. IP has already dealt fully with the findings of the ad hoc group, in particular the deficiencies within the Administration. She has also explained the merits of the Government's arguments for the repeal of section 8. As a Member of the ad hoc group studying the Bill, I entirely agree with everything she has said. There is, however, a further dimension to this issue which caused concern to the ad hoc group that she has slightly touched on and which I must raise today as it is a matter of legal principle.

The issue of concern is this. In 1978, section 8 was amended to place legal responsibility upon the Government (in the person of the Director of Medical and Health Services or his appointed agent) to collect from insurance companies expenses incurred in treating victims of traffic accidents in government hospitals. But in September 1981, the Government, without reference to the Legislative Council, decided to suspend the operation of section 8; and it was not until 30 July 1986, when this Bill was introduced into this Council, that the Government sought legislative sanction of its decision. Prima facie, this is a regrettable example of Government ignoring its legal obligations. Yet, in

fairness to the Government, it must be said that on this occasion, it was not acting contrary to the legal advice it had received. My own view, which is supported by the ad hoc group, is that the legal advice was wrong for the following reasons:

firstly, section 8, as amended in 1978, gave discretion to the director to waive only outpatient expenses; and then only in individual cases; and

secondly, clearly therefore, the director has never had discretion to waive inpatient expenses (which is what he did when the operation of section 8 was suspended in 1981) either on a general or on an individual basis.

I can summarise the position simply as follows:

- (a) When the law was first enacted in 1951, although there was a liability imposed on certain insurers or owners to pay the reasonable expenses, there was no provision as to who should receive the payment.
- (b) In 1978, it was specifically enacted that the payments should be made to the director or his appointed agent. Indeed, as the director himself said when he introduced the amending Bill into this Council on 12 April 1978: 'The proposed Bill will provide for the Director of Medical and Health Services or such other agency as he may appoint to be responsible for collecting from insurance companies expenses incurred in treating victims of traffic accidents in government hospital'. (This is at page 769 of the Hansard 1977-78)
- (c) Then the director decided in 1981 not to collect such payment for the reason that the scheme was thought not to be cost-effective.

But in making his decision to suspend collection of those payments, he was clearly declining to carry out a duty imposed upon him by this Council and at his own request.

Whilst this clearly shows an insufficient grasp of the importance of the rule of law by the Administration at the time, it is at least of some comfort that the current Administration has finally appreciated the necessity of accounting on this issue to the people of Hong Kong through the Legislative Council.

Simply put, the 'rule of law' means that everyone, including the Government, respects the fundamental ground rules laid down either by the legislature (through Ordinances) or by the courts (through the declaration of common law principles). The rule of law cannot be compromised by good intentions. Otherwise many sins will be committed by the Government in the name of the welfare of the people it governs. It is a concept which is vital to Hong Kong and our Government must, now and in the years ahead, demonstrate that the concept is part of its ethos. For only by respecting the rule of law will the Government command the respect and confidence of the people of Hong Kong.

Sir, this Bill is five years overdue—but better late than never.

SECRETARY FOR HEALTH AND WELFARE: Sir, I would like to thank the Legislative Council ad hoc group led by Dr. IP for having studied this Bill so carefully and for their support for it.

I fully agree with Dr. IP that a cost recovery scheme should not be abandoned simply because of the administrative difficulties, although I think that civil servants are quite right to question the appropriateness of such a scheme if the administrative cost exceeds the revenue collected, as was the case in this instance. In fact, as the ad hoc group is aware, the Administration has spent a great deal of time and effort in exploring various ways of increasing the viability of the hospital expenses recovery scheme. However, as was pointed out when the Bill was introduced into this Council on 30 July last year, the main argument in favour of repealing section 8 to the principal Ordinance is that we see no justification for requiring insurance companies to meet the costs involved in treating traffic accident victims in our public hospitals, when no similar arrangements are made to recover hospital expenses incurred in treating other types of injuries. In Hong Kong, the cost of operating public hospitals has always been a charge to the general revenue. Traffic accident victims, like other citizens who require hospital services, should be equally able to enjoy the highly subsidised services provided by the public hospitals. The spirit of section 8, which was modelled on a similar provision in the United Kingdom law, has no relevance in the local context.

Mr. Martin LEE has queried the correctness of the Administration's action in suspending the scheme in 1981, although he concedes that this action was taken on legal advice. I will certainly put his point to the Attorney General, but it seems to me as a layman that the director was probably exercising good judgment in discontinuing the scheme when it became clear that its continuation would have resulted in a continuing loss to the public finances.

Sir, I beg to move.

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

OFFICIAL LANGUAGES (AMENDMENT) BILL 1986

Clauses 1,2,4 and 5 were agreed to.

Clause 3

MR. SZETO: I move that clause 3 be amended as set out under my name in the paper circulated to Members. I have given the reasons during the Second Reading of the Bill.

Proposed amendment

Clause 3

That clause 3 be amended in the new section 4B, by inserting after subsection (3) the following—

‘(4) No order shall be made under this section unless a draft of it has been laid before and approved by resolution of the Legislative Council, and section 34 of the Interpretation and General Clauses Ordinance shall not apply in relation to any such order.’.

The amendment was agreed to.

MR. CHAN KAM-CHUEN: I move that clause 3 be further amended as set out under my name in the paper circulated to Members.

Proposed amendments

Clause 3

That clause 3 be further amended in the new section 4C—

- (a) in subsection (1)(a), by inserting after ‘section 4B(1)’ the following—
‘,which advice may include recommendations as to the sequence in which authentic texts of Ordinances should be declared under section 4B(1)’;
- (b) in subsection (3)(b), by inserting after ‘solicitor’ the following—
‘, appointed after consultation with the president of the Law Society of Hong Kong’;
- (c) in subsection (3)(c), by inserting after ‘barrister’ the following—
‘appointed after consultation with the chairman of the Hong Kong Bar Association’;
- (d) in subsection (6), by deleting the full stop and substituting the following—
‘; and
(c) may consult with such other persons as the Committee may deem fit.’.

The amendments were agreed to.

Clause 3, as amended, was agreed to.

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) (NO.3) BILL 1986

Clauses 1 to 3 and 5 were agreed to.

Clause 4

MR. SZETO: I move that clause 4 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 4

That clause 4 be amended in the new section 10E, by deleting subsection (2) and substituting the following—

‘(2) No declaration shall be made under this section unless a draft of the notice has been laid before and approved by resolution of the Legislative Council, and section 34 of this Ordinance shall not apply in relation to any such declaration.’

The amendment was agreed to.

Clause 4, as amended, was agreed to.

PARTITION (AMENDMENT) BILL 1987

Clauses 1 to 3, 5 to 7 were agreed to.

Clause 4

ATTORNEY GENERAL: Sir, I move that clause 4 of the Bill be amended as set out in the paper circulated to Members.

As it stands at present, new section 3B(3)(a)(ii) in clause 4 provides that a memorandum filed by the Director of Buildings and Lands in a partition action will not operate to prevent the making of an order to prevent the lapse of a caveat against land dealings.

Sir, it has since been brought to my attention that there is no system of caveats against land dealings in Hong Kong and that therefore this provision serves no practical purpose, the amendment will delete it.

*Proposed amendment***Clause 4**

That clause 4 be amended, in the new section 3B(3)(a), by deleting subparagraph (ii).

The amendment was agreed to.

Clause 4, as amended, was agreed to.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) BILL 1986

Clause 1

SECRETARY FOR HEALTH AND WELFARE: Sir, I move that clause 1 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 1**

That clause 1 be amended by deleting '1986' and substituting the following—
'1987'

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2 was agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

OFFICIAL LANGUAGES (AMENDMENT) BILL 1986

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) (NO.3) BILL 1986

PARTITION (AMENDMENT) BILL 1987 and

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) BILL 1986

had passed through Committee with amendments, and moved the Third Reading of the Bills.

Questions put on the Bills and agreed to.

Bills read the Third time and passed.

Adjournment

5.45 pm

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

HIS EXCELLENCY THE PRESIDENT: As six Members have given notice of their intention to speak, I propose to exercise my discretion under Standing Orders 9(7) and 9(8) to allow Members such time as is necessary to complete their speeches, and such time as is then necessary for the Official Member to reply to those speeches, before putting the question on the adjournment.

Chinese Language Foundation

MR. CHAN KAM-CHUEN: Sir, as convener of this adjournment debate, I shall speak briefly on the history and background of this subject and conclude my speech with my personal views in support. But you, Sir, will be able to hear here some interesting speeches from my other colleagues who participate in this debate.

They will query the reason why the Chinese Language Foundation was shelved for such a long time. Others will touch upon suggestions on improvements, publishing a journal to discuss translation of legal terms and how best to use the foundation and other related subjects. The history and background of establishing a Chinese Language Foundation was due to wide-spread concern about the decline in the standard of Chinese in schools and in the community. A working party was appointed by the Secretary of Social Services on 26 June 1981, with the main objectives to promote and facilitate the better use of written Chinese in non-classical and non-literary style in the traditional script and to promote and facilitate the use of Cantonese as basic tools for communication, study, work and pleasure.

On 19 February 1982, the working party submitted its report to the Government with a remark that the working party unanimously considered the proposed Chinese Language Foundation to be a feasible scheme worthy of early implementation. On 23 April 1986 in this Chamber, the Secretary for Education and Manpower tabled the working party's report with the following remarks:

'I have also taken this opportunity of laying before Members for their information copies of the report of the Working Party on the Chinese Language Foundation. While as stated in the covering memorandum to the report, the Government has decided in the light of developments since 1982 not to proceed with the establishment of a Chinese Language Foundation at the present time. The work of the Chinese Textbook's Committee will be instrumental in achieving one of the major objectives envisaged in the report.'

My personal view is that Hong Kong is officially a bilingual community using English and Chinese that is Punti or Hong Kong Cantonese. If the standards of both languages are good, Hong Kong enjoys the best of the two worlds as English is the most widely spoken language not only throughout the British Isle, North America, South Africa, Australia, New Zealand, in existing and former British colonies and business communities of most other countries throughout the world; and Cantonese, together with other Chinese dialects such as Shanghainese, Fuk Kin, Hak Kar and Chiu Chow are the Chinese business dialects as sea trade and foreign knowledge bridge this coastal area first and they are also spoken by most overseas Chinese. Furthermore, Hong Kong is a cosmopolitan city and an important business, financial and tourist centre. English was useful to us in the past, is important to us at present and even more so in future. If we wish to keep the aforementioned industries evergreen and prosperous, the use of the mother tongue, that is Punti, which absorbs quite a number of foreign terms and is a little bit different from the original Cantonese, as the teaching medium in the schools, will help the students to understand the lesson better. For modernisation, one gets direct and first hand knowledge from English scientific subjects and even with armies of translators there will still be a time lag and one may not always get the full flavour of the original works. While Chinese and Japanese students are feverishly learning English, it is ironic that we do not improve our English and Chinese standards even handily.

I support the establishment of the foundation as we have a financial surplus this year and there is a 50 per cent discount as the Government only have to take up the challenge of contributing one dollar for each dollar of donation up to the limit.

For the time being, I only support Cantonese and traditional script. As to the introduction of Putonghua, I still have some doubts. Besides, we do not have sufficient teachers who speak Peking Mandarin that is '京片子' and will confuse our students further with a third language and the regional name and accents of '官話', '南青官話', '老鬆'話, '國語', '華語' which may all boil down to Mandarin. As to whether Wu Nam and Shenzhen accent should be taught

depends on the political climate. If 簡體字 is added, then it is a confusion of the fourth dimension to our students. As to the placing of modern Chinese (白話) and denouncing classic Chinese (文言), this requires re-thinking. Like any other living language, only the fittest survives. Although modern Chinese is easier to learn as what is said may be written down, but they can be lengthy. A scholar who promoted modern Chinese was once asked to translate the four classic Chinese characters '啟上泣血' that is to 叩頭 to those who attend the funeral service of one's parents with one's forehead touching the ground and bleeding blood. He has to use 12 modern characters '眼睛流著血淚，跪在地上叩頭'. No wonder the telegraph companies like their clients to send their telegrams in modern Chinese.

With these observations, Sir, I support the motion.

MR. YEUNG (in Cantonese): Sir, when the proposed package of Language in Education together with details of its financial implications were presented to the Executive Council on 14 April 1981, the Executive Council agreed that the concept of a Chinese Language Foundation should be approved in principle. However, the Secretary for Education and Manpower struck a different tune in his speech during the Budget debate on 23 April 1986, that the Government had decided, in the light of development since 1982, not to proceed with the establishment of a Chinese Language Foundation at the present time. Two prima facie reasons were given in support. They were as follows:—(1) after the signing of the Sino British agreement, the community started to attach more importance to the use of Chinese, and (2) the authorities concerned had already encouraged the use of Chinese as a medium of instruction in schools. Yet, if we care to examine these developments in greater depth, it would not be difficult to discover that they tell an entirely different message, revealing quite to the contrary why we need a Chinese Language Foundation in promoting the use of Chinese.

The Working Party on the Development of a Chinese Language Foundation has pointed out clearly in its report that the major objectives of a Chinese Language Foundation should be to promote and facilitate the better use of spoken and written Chinese as basic tools for communication, study, work, leisure and self-enrichment in a modern society, with a view to raising the standard and strengthening the status of the Chinese language in the community, and amplifying its functions and importance in the economic, cultural and social life of Hong Kong. The Chinese Textbook Committee was set up on 9 May 1986. Its work, as the Secretary for Education and Manpower described it, would be instrumental in achieving one of the major objectives envisaged in the report of the working party. While the Chinese Textbook Committee aims at promoting the use of Chinese on the basis of school education, a Chinese Language Foundation would enable comprehensive planning and co-ordination in the general promotion of the Chinese language, with a view to raising the standard of Chinese in official business and in various popular forms of cultural

pursuits of the people. This would subsequently enhance further research and consultancy services in relation to the use of Chinese. It is evident that the functions of a Chinese Language Foundation cannot be replaced by the Chinese Textbook Committee.

Sir, language is a social development of the human society. Its usage is closely related to the living pattern and conditions of a society. In fact, the use of Chinese in business correspondence has given rise to certain problems that require immediate attention. There is indeed an urgent need of a Chinese Language Foundation to deal with the problem. To be more specific, the issue has implications on the following aspects:

(A) *Social aspects*

The Government has taken the first step in translating the law into Chinese and introducing bilingual legislation. All government departments are encouraged to use Chinese in official business. None the less, attention should be given to:

(1) *Standardisation of the style of written Chinese in official business of the Government, in the private sector and in the community at large*

At present, the use of Chinese by the Government, the private sector and the general public in official business varies considerably in style and in format. Some use the literary style while other prefer the vernacular language; some stick to the traditional format while others follow the western style of letter-writing. This lack of standardisation causes great inconvenience and poses serious problems in filing. Certain standard formats and style should be adopted to meet the need of this modern society. Standardisation will certainly facilitate better use of Chinese and remove unnecessary difficulties. The case has been so with metrication. We need a Chinese Language Foundation to look after all issues pertinent to the process of standardisation.

(2) *Chinese specification for all merchandise (pharmaceutic products in particular)*

Hong Kong residents spend a great deal of money on imported goods each year. It is surprising to find that many imported products are not provided with Chinese specifications. The Consumer Council has pointed out repeatedly in its magazine 'Choice' that there is a lack of Chinese specifications for many imported products. The absence of a Chinese version of the handbook/specifications has resulted in the misuse of the product concerned and led to tragic accidents at home, such as fire and other hazards that endanger the life and limb of the users and those living in their vicinity. The consequences of such a lack would be even more serious with pharmaceutic products. We need a special authority to promote the use of Chinese in the provision of specifications for all merchandise. A Chinese Language Foundation will definitely play a useful role in this respect.

- (3) *Bilingual project for qualifying examinations organised by professional bodies*
There is a tendency of bilingualism in the teaching of science and social subjects in secondary schools. This will in turn bring about bilingualism in related studies at the tertiary level and will in the end bring changes to the qualifying examinations organised by the professional bodies. To go in line with the future development of a bilingual society, there may be a tendency for professional examinations to be conducted in English as well as in Chinese. The establishment of a Chinese Language Foundation will be helpful to this development.
- (4) *A council to assess the standard of Chinese*
The Consumer Council in Hong Kong has been doing a fine job these years. One of its services is to carry out comparative studies of different products. As the council is fair and objective in its findings, its comments carry weight. It has to some extent deterred manufacturers of substandard goods from following their ill practices and encourage improvements in the quality of goods. The use of Chinese in Hong Kong, in many ways, may be an interesting subject for appraisal. The Chinese language used by the mass media is a case in point. As one of the major objectives of a Chinese Language Foundation is to promote the better use of Chinese, it may be worth the while to consider the setting up of an appraisal body under the auspices of the foundation to carry out the job.
- (5) *Development in the translation of the law from English to Chinese*
It is noted that we have begun to translate the law from English into Chinese. Yet only those in the legal profession are involved. Since the target language in this translation process is Chinese, it would be advisable to enlist the help of experts in the Chinese language as well. A Chinese Language Foundation would be the appropriate authority to co-ordinate the expertise advice of those in the legal profession as well as in the linguistic field.
- (6) *Production and publication of high quality reading materials to encourage the public to form a good reading habit*
Those who have been to foreign countries would readily observe the reading habit of the people. In Japan, Britain, America and the European countries, passengers like to read while they are travelling by train. Here in Hong Kong, most of the residents are attracted only to comic books that depict violence. This is because the people in Hong Kong have not developed a good reading habit. In promoting the use of Chinese, a Chinese Language Foundation would be helpful in encouraging the public to read high quality publications. This means the foundation should pay attention to the production and publication of high quality books and encourage the public to buy them so that a good reading habit may be formed in our community.

(B) *Educational aspects*

The Government has now begun to direct its attention to Chinese language textbooks for the secondary school curriculum and refresher courses for language teachers, yet care should be given to:

(1) *Raising the standard of Chinese textbooks and workbooks in all subjects for primary schools*

At present, there is much to be desired in the linguistic standard of Chinese textbooks and workbooks for all subjects. They contain superfluous wording, and dialectal expressions. The choice of words and phrases is also incompatible with the language ability of school children using these textbooks. Such shortcomings have been pointed out in the readers' column in newspapers and even in special television reports. In view of this, it is essential to establish a special body to be charged with the task of improving the standard of Chinese of primary school textbooks and workbooks in all subjects.

(2) *Selecting the most suitable and effective way of teaching Putonghua in schools*

Unlike other Chinese communities, Putonghua is not used by young children in Hong Kong as their daily spoken language. It is therefore necessary that we should develop our own teaching method suitable to Hong Kong. In order to determine the most suitable way to teach Putonghua in Hong Kong, we do need a special body to deal with the matter and assist the departments concerned in finding out an answer.

(3) *Improving the linguistic proficiency of students, especially in relation to the spoken language*

People in many quarters have deplored the poor standard of Chinese of our students in coping with the needs of daily life (for example writing an application letter for a job in fluent Chinese). The emphasis on the written languages in school syllabus and language training has led to an unbalanced development at the expense of training in the spoken language. In fact, the standard of spoken Chinese is becoming increasingly important. At many major meetings, more people than ever before choose to speak in Chinese. This shows all the more that the standard of spoken language merits our special attention.

(4) *Promotion of civic education, particularly moral education, through the medium of the Chinese language*

Civic and moral education are essential for all healthy societies. The use of a certain language can be of great help in their promotion. In Singapore, school textbooks written in Chinese are designed to carry edifying contents for the promotion of traditional thinking on morality. They play an important part in the development of moral education. We should also promote civic and moral education in Hong Kong through

the use of Chinese, such as the publication of good periodicals in the Chinese language. This should be one of the areas to which the Chinese Language Foundation should devote its efforts.

(C) *Assistance in research projects*

The Government is now encouraging researches on the media of instruction such as the statistical study on common English words, studies on Chinese vocabulary for junior secondary school students and Chinese vocabulary in common use as well as the compilation of English-Chinese glossaries of terms for different subjects in secondary schools. Urgent researches in many other areas are also desirable. It would be appropriate for a Chinese Language Foundation to provide financial assistance for these researches and enable the publication of their findings. It is prudent for one to plan carefully before any action is taken in order to avoid wasteful efforts. On account of the unique importance of the activities of the Chinese Language Foundation, deliberations should be held in the first instance to establish a strong theoretical back-up for its activities. I have already mentioned a number of proposals for social and educational measures to be taken and these could provide subjects for study. Immediate studies should also be made on the following matters:

- (1) compilation of reference books (for example, dictionaries and lexicons) for local use;
- (2) research on the use of the Chinese language as a medium in communication in information technology to go in line with the needs of Hong Kong as a bilingual society;
- (3) proficiency in Chinese of the translators and the design of suitable training courses to meet any actual and perceivable need;
- (4) proficiency in spoken languages of people employed by the mass media;
- (5) the need for the use of Putonghua and the effectiveness of various methods of teaching Putonghua;
- (6) the appropriate level at which Putonghua lessons should be introduced in formal school education; and
- (7) comparative studies on the use of Chinese in various Chinese communities (with regard to the status of the language, the extent of use and promotion policy and so on).

Finally I wish to point out in particular, that education in Hong Kong has entered a new era with the introduction of Chinese as the main medium of instruction in our education system. All activities aimed at promoting the use of Chinese in response to the adoption of Chinese as the medium of instruction in schools should be given due attention. At present, there is no appropriate authority to take up the responsibility for promoting the use of Chinese to all forms and classes in our schools and to all sectors of the community. The right approach is to set up a Chinese Language Foundation to undertake this important task. In no way would its establishment affect the position of Hong

Kong in the international commercial, economic and academic scene. Hong Kong will continue to attract people with expertise in high technology to come here and engage in activities conducive to our prosperity.

MRS. NG (in Cantonese): Sir, the Working Party on the Development of Chinese Language Foundation presented its report to the Administration in March 1982. It listed a number of useful and constructive suggestions among which are the publication of high quality publications, consultative action and the promotion of Chinese and so on. In chapter 1 on background information, I have deep impression of the first paragraph and I would like to quote them for your reference. I quote 'in recent years, there has been widespread concern about the decline in the standard of Chinese in schools and the community. Taking the lead in tackling this problem, the Government presented to the Executive Council on 24 June 1980 a package of proposals on language and education. This package consisted of a series of co-ordinating measures to improve the standard of Chinese and English and the setting up of a Chinese Language Foundation was one of the main proposals.' From the sentences quoted above, it is obvious that as early as seven years ago, the Government has already closely examined the question of languages. Of course, this is worth commending. However, we are just having empty talks as the proposals have not been implemented after the presentation of the report. And it seems that the plan to set up the Chinese Language Foundation has been abortive. I feel deep regret.

Now, let us go back and look at the major objectives set down for the Chinese Language Foundation by the working group and that is, to promote and facilitate the better use of spoken and written Chinese as basic tools for communications, study, work, leisure and self-enrichment in the modern society with a view to raising the standard and strengthening the position of the Chinese language in the community and amplifying its functions and importance in the economic, cultural and social life in Hong Kong. From the objectives set by the working party, it is obvious that the Chinese Language Foundation has an important role to play. The Government should implement the various proposals suggested by the working party. I support, especially the proposal made by the working party on the publishing of high quality publications. In my daily contact with the youngsters, I feel that what they read is closely related to how well they have mastered the language. However, if we look at the newspaper vendors, we will find that publications suitable for youngsters are very rare indeed. So the Government should encourage all sectors to publish more publications of a high quality in Chinese.

Secondly, in the field of employment, the working party has suggested that employers should afford equal employment opportunities to graduates of the Chinese University and also Chinese secondary schools. I am very happy to learn that as of last year, when the Government recruits administrative officers

and executive officers, aside from sitting the normal English examination, they also have to sit a Chinese examination. This attitude of the Administration should serve as a very good example for all other employers.

Thirdly, in appraisal and consultation work, the working party has noted that education, commerce and industry rely on translations to bring in knowledge and technology. So the Chinese Language Foundation should look into the standard of translations in modern Chinese. I believe that all papers which deal with the public, say, for instance, judgment set down by the court and various contracts should come with a Chinese version as well. Therefore, we must never overlook the importance of translations. The Government should devote its effort in enhancing the standard of translations and try to cut down the number of misunderstandings arising. At present, the proposal of setting up a Chinese Language Foundation seems to have been shelved by the Administration. However, the reasons provided for such shelving are not convincing at all. Firstly, after the signing of the Joint Declaration, the local community is placing more and more importance on Chinese. The Government should not make use of that as an excuse for not trying to improve the standard of Chinese and English. The Government should rather follow this particular trend and set up the Chinese Language Foundation at once so as to improve the standard of Chinese immediately. Secondly, the Government should not use the Chinese Textbook Committee to replace the Chinese Language Foundation. The purpose of the foundation is much wider and more comprehensive. Besides, the two of them are closely related and they supplement each other in their work and they are not mutually exclusive. This is similar to the Civic Education Committee of schools. Such a committee could certainly not replace or supercede the Civic Education Committee outside schools. We want to improve the standard of Chinese in Hong Kong. Of course, huge resources would have to be used to set up the Chinese Language Foundation and to implement the various proposals. Without the actual programmes being in place, we would first of all have to draw upon our resources. Because of these various reasons, the Government has gone back on its previous promise. We can understand why. However, we know that we have now set up the Sir Edward Youde Memorial Fund and perhaps that fund could be instrumental in this respect. At present, we have donations to the Sir Edward Youde Memorial Fund amounting to \$78 million. One of the purposes of setting up this memorial fund is to develop education in Hong Kong. So I suggest that we can use the fund to support the setting up of the Chinese Language Foundation to promote the use of Chinese in Hong Kong so as to fulfil one of the wishes of the late Governor. This is a very meaningful task and it is worth the Government's consideration.

MR. LEE YU-TAI (in Cantonese): Sir, 'some ideas cannot be fully expressed in writing and words sometimes fail to convey the full meanings'. Most people have had the experience of not being able to express some of their ideas or failing to express clearly in writing what they want to say. Since Cantonese, a dialect which cannot be put into writing completely, is commonly used among

the people of Hong Kong, it is rather difficult for them to maintain a good standard of Chinese. Moreover, the society itself does not attach much importance to culture. This is why the standard of Chinese is deteriorating. The Working Party on the Development of a Chinese Language Foundation is also aware of the 'difference between spoken (Cantonese) and written language (bai hua)' and believes that this is a problem peculiar to Hong Kong.

The working party was set up in June 1981 and completed its report in February 1982, which was submitted to the then Secretary for Education and Manpower, hoping that the Government would come up with an early decision. But the Government took four years to consider the report before announcing in April 1986 that it would not set up a Chinese Language Foundation. Such a decision is of course disappointing, especially when it has been delayed for several years. In September 1982, China and Britain began to get in touch on the question of the future of Hong Kong and succeeded in announcing the Joint Declaration in September 1984. The Island Line of the MTR also began its construction in the early 1980s and managed to start operation in May 1985. The future of Hong Kong is a complicated problem and the Island Line of the MTR is a gigantic piece of construction work. But both were successfully completed before a decision could be made on the Chinese Language Foundation. This gives the public an impression that the Government has been delaying the issue deliberately. A short while ago, the Government proposed that the Finance Committee of this Council should appropriate some \$40 million for recruiting expatriate English teachers. If no review is made on the shelving of the decision on the Chinese Language Foundation, it is feared that the public would misunderstand that the Government is giving favoured treatment to one language while maltreating the other. Now that we are preparing to have bilingual laws, it is all the more imperative to have this decision reviewed.

I agree with the view of the report that the establishment of a Chinese Language Foundation is necessary to promote the wider use of Chinese in society. The establishment of such a fund could attain four purposes. First, the Chinese Textbooks Committee has already begun its work, it might consider in future to give some appropriate form of assistance to this committee to publish some Chinese textbooks. If financial assistance comes from public revenue, the public might think that the Government is also involved in their publication and would thus think that the contents of these textbooks are not objective enough. But if a Chinese Language Foundation is set up, the objectivity of the textbooks will be beyond doubt if their financial assistance comes from an independent foundation.

Secondly, English is generally used as the medium of communication among Hong Kong's professional services. Professionals (for examples doctors, lawyers, engineers, accountants and so on) mostly receive their education or training in English. But in view of future developments and the need of localising professional services, active measures should be taken to promote Chinese translation. If a Chinese Language Foundation is formed, this work could be

promoted by the Foundation, for example by setting up an ad hoc committee under the foundation to liaise with various professions to fully implement this work and to allocate some of its resources to finance research and translation work. One of its objectives should be the organisation of local professional examinations with the addition of Chinese test papers and the option to answer in Chinese.

What influences the society most is perhaps the so-called 'pop culture', which ranges from colloquial pop songs, movies, comic strips and tattling weeklies to 'original photo journals' (寫真集) or publications which would be classified as 'indecent'. Their listeners and readers account for a vast majority of the local population, or almost the entire population. For instance, pop songs often contain a lot of slang expressions and ideas in an entire song are often sketchy. Being constantly exposed to such influences, our students, young people or adults are becoming vulgar in their spoken and written Chinese. Their power of expression and cultural standard have also declined. The only way to improve the situation is to develop a 'counter-culture', set up a foundation to make available publications which are deficient in the market and allocate necessary resources for sponsoring the mass media in the production of cultural programmes. The successful development of a 'counter-culture' will certainly rectify the defects of pop culture.

The future of Hong Kong is now at a crucial stage and it is opportune to cultivate a sense of belonging among our people. The Chinese race is scattered all over the world with possibly different nationalities. But they are still tied together by a cultural heritage of more than 4 000 years. Though the people of Hong Kong may not agree with a certain political system, they can still identify themselves with their Chinese culture. The Chinese Language Foundation will serve the functions of promoting Chinese culture and cultivating a sense of belonging.

In summing up, the establishment of a Chinese Language Foundation will fulfil the following four functions: to maintain objectivity in the publication of textbooks; to promote the localisation of professional service and examinations; to develop a 'counter-culture' and to cultivate a sense of belonging. Since other measures cannot fulfill these functions, it is necessary to reconsider the establishment of a Chinese Language Foundation.

With greater importance attached to the use of Chinese and the imminent drafting of laws in Chinese, the Chinese Language Division of the Government is assuming an increasingly important role. I therefore hope that its manpower resources and facilities (for example the Chinese word processor) will be increased according to actual demands. I also hope that other government departments will step up their implementation of bilingualism in official business. To further support the work and expedite the development of the Chinese Language Division, I propose to set up a Chinese Language Committee comprising non-government members to reflect the views of the public on the use of Chinese in official matters.

The Government is now actively promoting the use of the vernacular style in all of its Chinese communications, to which I have no objection. But I think there is no need to go to extremes, or else the fluency and elegance of a piece of writing will be lost. The Report of the Working Party on the Development of a Chinese Language Foundation recommends that a wider interpretation of modern Chinese be adopted so as not to preclude commonly used terms in local dialects and elements of classical Chinese that are easily understood and widely used. I fully endorse this recommendation. Some vivid and expressive words and phrases in the literary style have a definite value. For example, conventional expressions on invitation cards like: (敬備薄酌、恭候光臨) 'we cordially request the honour of your presence at a humble meal', which are so concise and exquisite that there is no need to change them into the vernacular style. Or if one insists to render the idiom (豈有此理) 'This is really outrageous!' into the vernacular style, it would only be a waste of ink and might damage the beauty of the idiom and idea.

Sir, with these remarks, I await your response.

MR. ANDREW WONG (in Cantonese): Sir, to study whether we should set up the Chinese Language Foundation, a working group has been set up in 1981 and also in 1982. A report was submitted to the then Secretary for Education and Manpower suggesting that a Chinese Language Foundation should be set up. I support in principle the proposals in the report, and I would like to say something regarding a journal on the glossary for legal terms last July.

The working group was set up in 1981 and the report was completed in 1982. Four years have lapsed and the report has been submitted to the Legislative Council and is now publicised. Together with the memorandum it is said that the four-year delay is because of two developments. Firstly, the Chinese and British Governments have reached a Joint Declaration and also people are placing more importance to Chinese. Secondly, we have to set up the Education Commission. The commission suggested that we should have up to standard textbooks. Because of these two reasons, the setting up of the Chinese Language Foundation was delayed. Now regarding these two developments or factors, are they really good reasons? I certainly do not think they are good enough reasons. This is a delay, a stalling tactic, following old rules, not adapting to changes. All these Chinese terms are not as good as the word 'procrastination' or 'procrastinate', the verb form. Why is that 'procrastination' is a much better term than the Chinese version? I checked on the origin of this term. It came from Latin, 'procrastinare'. It consists of two parts. 'Pro' substitutes to replace. 'Crastinare' is a verb form, coming from crastinus which means belonging to tomorrow, and crastinus comes from cras which means tomorrow. So, having checked on the origin I come to know 'procrastination' means 'tomorrow substituting for today', meaning that today's work is being done only by tomorrow. But today's work should, of course, be done by today. Of course people tend to procrastinate. Therefore, Mr. FORD in reply to a question by

Mrs. CHOW said that what should be done today is very often pushed to tomorrow. It is a temptation to most people. I hope that the setting up of the Chinese Language Foundation will not experience such a delay.

Now I would like to quote a short poem for children which is 'The Tomorrow's Song'. It says: If we push on the work to tomorrow, but we have many tomorrows. If we always push our work to tomorrow, then when will we do our work? We shall become old before the work is done. Now if you check on the water, the water flows away. So how many tomorrows do we have in our life time? So please do not wait till tomorrow.

MR. SZETO (in Cantonese): Sir, in the Chinese language textbook used by our Form I pupils, there contains a story written by the famous French writer, Alphonse Daudet—'The Last Lesson'. It is a very moving story. The teacher in the story said to a class of pupils and villagers, 'now we have finally become slaves, but if we do not forget the language of our mother land, we may still see the day of our revival.' I do not know how many of my colleagues here have read this story and if they have, whether they still remember this line. I read this story over 40 years ago, but I can still remember it and have been trying to understand the meaning all these years.

Is one's mother language really that important? Yes, it is really that important.

If a person cannot master his mother tongue, he will not be able to inherit the culture of his nation or cultivate a deep sense of national identity, for language is a medium of conveying thoughts and feelings. On the contrary, if we can master the language and communicate freely with other people, one's thoughts and feelings would be stimulated and nurtured and one's power to think will in turn be strengthened. For most of us, our mother tongue is our first language. If we cannot even master our mother language, that is our first language, we will not be able to convey our thoughts and feelings effectively, and we will suffer from poor thinking, dry feelings and also deficient analytical power. If we become slaves and have forgotten our mother language, if we have a very shallow sense of national identity, and if we have deficient analytical power and dried up feelings, what hope do we have?

Our ancestors had tied a number of fast knots in history, and of course we are not responsible for all these knots. But now we do have the responsibility to loosen these knots. The Sino British negotiation and the Sino British Joint Declaration will become a glorious example, both historically and internationally because there lies the spirit to loosen all these historical knots and there lies promises for our bright future.

Hong Kong is now in a period of transition—a transition towards a Special Administrative Region whose sovereignty will be vested again in China, a place to enjoy a high degree of autonomy and freedom to maintain prosperity and stability. 98 per cent of the Hong Kong citizens are Chinese. If they are all

people with no sense of national identity, shallow thoughts, dried up feelings and poor thinking power, how can we expect the transition to be successful? And how can we possibly realise the encouraging promises made in the Joint Declaration?

Over the last decade, the historical fast knots had deprived Chinese of its deserved standing in Hong Kong and had created an environment in which English took precedence over Chinese. And that is why many people in this and the next generation have no respect or regard for the mother language and they cannot master their mother tongue very effectively. We are of course not responsible for all the fast knots tied up in the past. But now we do have the responsibility to untie them. The Sino British negotiation and the Joint Declaration have already untied the greatest knot. But we still have to untie all the other knots, big and small in the same spirit. The question of language or the Chinese language is one of these knots. The setting up of the Chinese Language Foundation shows the determination of loosening this knot. Therefore, one may well say that the abolition of the Chinese Language Foundation is contravening the spirit inherent in the negotiation and declaration.

This adjournment debate should have taken place on 10 December 1986, but it was postponed to today because of the sudden and unfortunate passing of our late Governor, Sir Edward YOUDE. Today the meeting has just passed the Official Language (Amendment) Bill 1986 and Interpretation and General Clauses (Amendment) (No.3) Bill 1986. The endorsement of these two Bills has made the Chinese language the official legal language in Hong Kong. The passing of the two Bills on the same day when we have the adjournment debate on the Chinese Language Foundation is a coincidence, but a very meaningful coincidence.

Making Chinese the official legal language is a move made necessary by the provisions in the declaration. But should we not take similarly positive steps to implement the basic spirit outside the written provisions? Any person with deep national feelings will naturally and sincerely respect other people's similar feelings. Both Sir Edward and Lady YOUDE are proficient in Chinese and have shown great passion for the Chinese people and its culture. I wonder what their feelings and reaction would be had they been here and heard my speech.

Sir, I strongly urge the Government to set up the Chinese Language Foundation according to its intention expressed earlier on. I am sure this is also the wish of the Hong Kong people of whom 98 per cent are Chinese.

6.30 pm

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I have listened with great interest to the views which Members have expressed this afternoon and to the ideas which they have put forward about the possible role of a Chinese Language Foundation.

The Government is very conscious of the cultural importance of the Chinese language and of the importance of promoting and facilitating its use as a basic tool for communication, study, work and leisure, and I share Members' concern about the need to improve the standard of Chinese in the community as a whole. The essential question however, is how this objective can be achieved economically and effectively.

In the Report of the Working Party on the Development of a Chinese Language Foundation, it was envisaged that the major areas of work of the proposed foundation should include the following:

- publication of high-quality textbooks and reference materials for schools;
- publication of high quality leisure reading materials in well written Chinese for the general public;
- promotion of the use of good modern Chinese in educational institutions of all kinds;
- strengthening of the position of the Chinese language in the community by requiring that proficiency in Chinese be specified as a selection criterion for appointments to the public service; and
- conducting and sponsoring research on the use of modern Chinese.

Members who have spoken this afternoon have generally supported the pursuit of these objectives.

Given that it is the mother tongue of the vast majority of our people, spoken Cantonese and written Chinese have always enjoyed a prominent position in the life of our community and the Government fully shares Members' wish to see the quality of the language maintained and improved. The Government has taken the view that the best way to achieve this objective is through the education system and has made substantial progress in this direction.

A Chinese Textbooks Committee was formed in May last year to identify the demand for and to ensure the availability of good quality textbooks in Chinese to meet the needs of schools. I am happy to say that the committee under the able and energetic chairmanship of Mr. SZETO Wah has completed the first stage of its work and has put forward proposals which we are now looking at and will aim to respond to as quickly as possible. The committee's proposals will, I am sure, go a long way to fulfilling one of the major tasks originally envisaged for the proposed foundation.

Apart from pressing ahead with efforts to ensure the availability of good quality Chinese textbooks, work is also in hand to promote the use of Chinese in schools. In its Report No.1, the Education Commission recommended that secondary schools should be encouraged to adopt Chinese as the teaching medium. This recommendation has been accepted by the Government and the Education Department wrote to individual school authorities last year as a result of which more than three quarters of public sector secondary schools

have expressed some interest in increasing the use of Chinese as the medium of instruction. The availability of a good supply of textbooks in Chinese is, of course, fundamental if this interest on the part of schools is to be given effect.

Substantial progress has also been made in a number of other areas identified by the Working Party on the Development of a Chinese Language Foundation. The Government has stepped up its efforts to develop the ability of Government officers at all levels to communicate more effectively in written Chinese and has provided guidelines on the style and format for official correspondence in Chinese, a point to which Mr. YEUNG Po-kwan and Mr. LEE Yu-tai have referred, although I note Mr. LEE's concern that the literary style should not be totally overlooked. Officers who need a working knowledge of Chinese to do their job effectively are required to prove their competence in the use of Chinese before appointment. Since 1985, a compulsory test of ability in the use of Chinese has been introduced into the common recruitment examination for admission to the administrative, executive, labour officer and management services grades.

The use of Chinese for communication between the Government and the public has expanded greatly since the enactment, in 1974, of the Official Languages Ordinance which declares that both Chinese and English are to be considered the official languages of Hong Kong. There are now more than 450 Chinese Language Officers in various departments involved in translating from English into Chinese forms, public notices, letters, and other documents intended for recipients who may not understand English. Papers and documents submitted to this Council, the Urban and Regional Councils and the district boards are now made available in both languages. The concurrent publication in both languages of consultative and information papers on issues of public concern is further demonstration of the equality in status being accorded by the Government to the Chinese and English languages. The same may be said for the provision of simultaneous interpretation facilities at meetings of advisory boards and committees where members request this service. I think it is, therefore, fair to say in reply to Mr. LEE, that substantial resources have been and will continue to be devoted to facilitating the use of Chinese for government purposes.

Substantial progress has also been made since 1980 in the translation of our legislation. A total of 153 items of legislation of major significance and wide public interest have so far been translated into Chinese. Although they are not authentic texts, these translations have served as useful references for the public. Members may be aware that the Executive Council in July 1985 authorised the production of an authentic Chinese version of the laws of Hong Kong. This decision means that Chinese will be given a new status as an original language of law. The necessary amendments to the Royal Instructions were introduced last year and Bills to amend the Interpretation and General Clauses Ordinance and

the Official Languages Ordinance, paving the way for the introduction of bilingual laws, were passed by this Council this afternoon. As Mr. SZETO has said, this is a significant coincidence.

Concern has been expressed by Mr. LEE, Mrs. NG and other Members about the shortage of good quality reading materials in Chinese for the general public and have suggested that a Chinese Language Foundation, with adequate public funding, would be best placed to undertake the job.

While I agree that this idea appears attractive, I do nevertheless foresee problems. Although the working party advocated that the proposed foundation should provide general reading materials for the public, it is not clear how this might be accomplished, nor how large an injection of public funds might be required, nor whether it is in fact a proper function for a government funded body to attempt to influence what people read at their leisure.

Hong Kong is an enterprising society and I think publishers can be relied on to provide any reading materials for which there is sufficient public demand. The Government would welcome any private initiative to set up a fund to sponsor the publication of good quality reading material in Chinese, but I do not feel it is either necessary or desirable for the Government to be seen to be involved in deciding what is good for the public to read.

One final point, raised by Mr. YEUNG Po-kwan and others, to which I wish to respond, concerns the funding of research on the use of modern Chinese. In the light of recommendations from the University and Polytechnic Grants Committee, the Government has agreed in principle, and subject to the approval of the Finance Committee, to a substantial increase in the volume of funds to be made available for research at the various tertiary institutions during the next triennium. These funds will be allocated by a sub-committee of the UPGC and any proposal for a programme of research into any aspect of the use of Chinese would, I am sure, receive very careful consideration. There is already some research in hand at the City Polytechnic into questions relating to the teaching and use of Putonghua, the need for which have been referred by Mr. YEUNG Po-kwan.

Language research projects will also continue to be undertaken by the Education Department's Institute of Language in Education and Educational Research Establishment.

In conclusion, Sir, I can assure Members that the Government is fully committed to the objective of raising the standard of Chinese in our community and to promoting the wider usage of the language. Substantial resources are being devoted to this in a variety of ways and I would not wish Mr. LEE to draw the conclusion that the expatriate teachers of English scheme is an indication that more importance is attached to English than Chinese. It has been made clear on a number of occasions that the Government is concerned to promote

competence in the use of both languages. The essential question is how the job can best be done and in what way the most effective use can be made of resources.

We shall keep very much in mind the ideas which Members have put forward this afternoon. Meanwhile, we shall press ahead with the various measures I have referred to and I hope that we shall in this way succeed in untying some of the knots to which Mr. SZETO has referred. In particular, and most immediately we shall give very prompt and sympathetic consideration to the recommendations of the Chinese Textbooks Committee. We shall not, I assure Mr. WONG, procrastinate.

Question put on the adjournment and agreed to.

Next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 1 April 1987.

Adjourned accordingly at twelve minutes to Seven o'clock.

Note: The short title of the 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**Written answer by the Secretary for Security to Mr. CHEUNG's supplementary question to Question 9**

The 29 management centres are open between 8.30 am and 5.00 pm from Monday to Saturday. They each have a staff of 20 to 50, depending on the area which they cover. A caretaker is on duty after office hours and on Sundays and public holidays so that telephones are always available to the public in case of emergency.

Of the 20 warden posts, the six which are in the most popular areas are manned by a park warden daily between 9.00 am and 4.30 pm. The other 14 posts serve as bases for wardens on patrol and are manned only occasionally.

All park wardens carry radios and normally patrol daily between 8.30 am and 5.00 pm. Special patrols up to 10.00 pm are organised during weekends and public holidays in Tai Tam, Clearwater Bay, Sai Kung and Ma On Shan Country Parks, where there are many evening visitors. Occasionally, there are patrols from 6.00 am in parks with early morning walkers, such as Kam Shan.