

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 27 April 1988****The Council met at half-past Two o'clock****PRESENT**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

THE HONOURABLE THE CHIEF SECRETARY

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

THE HONOURABLE THE FINANCIAL SECRETARY

MR. PIERS JACOBS, O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL

MR. JEREMY FELL MATHEWS, J.P.

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

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

THE HONOURABLE HU FA-KUANG, O.B.E., J.P.

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

SECRETARY FOR DISTRICT ADMINISTRATION

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

THE HONOURABLE 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.

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

THE HONOURABLE CHAN YING-LUN, J.P.

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

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

THE HONOURABLE YEUNG PO-KWAN, O.B.E., 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, J.P.

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

DR. THE HONOURABLE CHIU HIN-KWONG, J.P.

THE HONOURABLE CHUNG PUI-LAM

THE HONOURABLE THOMAS CLYDESDALE, J.P.

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

THE HONOURABLE HUI YIN-FAT

DR. THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE DESMOND LEE YU-TAI  
THE HONOURABLE LIU LIT-FOR, J.P.  
THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.  
THE HONOURABLE PANG CHUN-HOI, M.B.E.  
THE HONOURABLE POON CHI-FAI  
PROF. THE HONOURABLE POON CHUNG-KWONG  
THE HONOURABLE HELMUT SOHMEN  
THE HONOURABLE TAI CHIN-WAH  
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING  
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.  
THE HONOURABLE ANDREW WONG WANG-FAT  
THE HONOURABLE GRAHAM BARNES, C.B.E., 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 MICHAEL LEUNG MAN-KIN, J.P.  
SECRETARY FOR TRANSPORT  
THE HONOURABLE EDWARD HO SING-TIN, J.P.  
THE HONOURABLE GEOFFREY THOMAS BARNES, J.P.  
SECRETARY FOR SECURITY  
THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.  
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

**ABSENT**

THE HONOURABLE PETER C. WONG, C.B.E., J.P.  
DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.  
THE HONOURABLE WONG PO-YAN, C.B.E., J.P.  
THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., Q.C., J.P.  
THE HONOURABLE MARIA TAM WAI-CHU, O.B.E., J.P.  
THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN, J.P.  
THE HONOURABLE RICHARD LAI SUNG-LUNG  
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.  
THE HONOURABLE DAVID LI KWOK-PO, J.P.  
THE HONOURABLE SZETO WAH  
THE HONOURABLE TAM YIU-CHUNG  
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.

**IN ATTENDANCE**

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

**Papers**

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

*Subject* *L.N. No.*

## Subsidiary Legislation:

Supreme Court Ordinance	
Rules of the Supreme Court (Revocation and Replacement)	
Rules 1988 .....	117/88
Waterworks Ordinance	
Waterworks (Amendment) (No.2) Regulations 1988.....	118/88
Public Health and Municipal Services Ordinance	
Public Health and Municipal Services (Civic Centres)	
(Amendment of Thirteenth Schedule) (No.3) Order 1988 .....	119/88
Public Health and Municipal Services Ordinance	
Public Health and Municipal Services (Public Pleasure Grounds)	
(Amendment of Fourth Schedule) (No.2) Order 1988 .....	120/88
Legal Practitioners Ordinance	
Articled Clerks (Amendment) Rules 1988 .....	121/88
Public Health and Municipal Services Ordinance	
Pleasure Grounds (Urban Council) (Amendment) (No.2)	
By-Laws 1988.....	122/88
Public Health and Municipal Services Ordinance	
Swimming Pools (Urban Council) (Amendment) By-Laws	
1988 .....	123/88

## Sessional Papers 1987-88:

- No. 52—Consumer Council Annual Report 1986-1987
- No. 53—Traffic Accident Victims Assistance Fund Annual Report by the Director of Social Welfare Incorporated for the year from 1 April 1986 to 31 March 1987
- No. 54—Mass Transit Railway Corporation Annual Report 1987
- No. 55—Report of the Director of Audit on the results of value for money audits March 1988  
Director of Audit's Report No.11

**Address by Members presenting papers****Mass Transit Railway Corporation Annual Report 1987**

FINANCIAL SECRETARY: Sir, in accordance with section 16(4) of the Mass Transit Railway Corporation Ordinance, the annual report and accounts of the Mass Transit Railway Corporation for the period ending 31 December 1987 are tabled today.

1987 has been the first full year of operation of the completed MTR system. It coincided with strong growth in Hong Kong's economy. The corporation shared in this upsurge of economic activity and carried 593 million passengers during 1987. This represented an increase of 11.4 per cent over the 532 million carried in 1986.

The corporation's total revenue from fares rose by 18 per cent to \$1,850 million, and additional revenue, from activities such as advertising and investment properties, rose by 20 per cent to \$202 million. The corporation's profit before interest and finance charges increased by 38 per cent from \$472 million in 1986 to \$651 million in 1987. Such returns demonstrate that the corporation continues to keep tight control of its costs.

The corporation's major investment in the three railway lines is completed. These were, and still are, funded principally by debt. Last year the corporation's aggregate debt reduced by \$1,000 million to \$18,179 million. However, interest and finance costs for the year at \$1,400 million were little changed from the previous year.

The receipt of property development profits of \$720 million followed the successful completion of several joint ventures, including that of the Kornhill development at Quarry Bay. It must, of course, be remembered that whilst property development profits have been an important source of funds for the corporation, they are not a secure form of recurrent revenue. They continue, however, to make a very useful contribution to the corporation's financial position.

Overall, for 1987, the corporation's net loss was significantly reduced to \$78 million compared with \$470 million in 1986. The corporation's projections look forward to a growth in operating profits well on schedule to cover interest costs in the early '90s and thereafter to retire progressively the corporation's debt.

But even with a reducing debt, an active financing programme was necessary during 1987, mainly to refinance maturing and existing facilities at lower cost and for longer periods. This was materially assisted by the corporation's success in obtaining very favourable credit ratings from international rating agencies. These ratings are important, both for the corporation and for Hong Kong, in demonstrating the international financial community's confidence in the corporation and its economic well being as a principal public transport operator in Hong Kong.

Following the Executive Council's agreement to increase the corporation's authorised share capital by the issue of shares with a nominal value of \$5,000 million in partly paid form, \$1,500 million was paid in December 1985 and the second tranche of \$1,000 million on 31 March 1988, both in accordance with the Finance Committee's approval. On the basis of current forecasts, the board of the corporation and I hope that it will not be necessary to request Finance Committee to approve payment of the remaining \$2,500 million. However, I must point out that by their very nature, financial forecasts sometimes lack precision. Movements in world financial markets and continuing stability of these markets are a major factor in the corporation's financing profile and we must therefore exercise prudence in reserving the position on the balance of the uncalled equity.

For the future, the Eastern Harbour Crossing will extend the MTR system from Kwun Tong Station through a new station in Lam Tin across the harbour to Quarry Bay. This second harbour crossing is expected to open before the end of 1989 and will provide some relief for morning peak hour passengers on the currently overcrowded Nathan Road corridor. The corporation is also considering proposals for a possible extension to Junk Bay New Town.

Sir, I am satisfied that the corporation's current capital structure is adequate, its costs contained, and its revenue growth sufficient to meet its obligations. The board of the corporation and I are in agreement that the prospect of any future extension of the MTR must be carefully examined to ensure that these criteria are maintained.

I would like finally to thank the chairman and the board, and the management and staff of the Mass Transit Railway Corporation for the very efficient and responsible manner in which they have managed the affairs of the corporation.

### **Consumer Council Annual Report 1986-87**

MRS. CHOW: Sir, tabled today is the Consumer Council Annual Report 1986-87.

Before I highlight parts of the report which may be of special interest to Members of this Council, I would first of all like to thank my colleagues here for the unfailing support which they have rendered to the Consumer Council, particularly in areas of public concern.

Many issues which the Consumer Council has chosen to focus attention on have attracted wide public interest through the magnified study of the Legislative Council Members either in their question sessions or in their discussions in working groups and panels. The study on oil prices was one such example. The examination of problems relating to travel agents was another which it still ongoing.

Of particular interest to Members of this Council must be the progress of consumer protection legislation. There is no doubt that the Administration is nowadays much more sensitive to the need for consumer protection legislation. Apart from recommendations initiated by the Consumer Council's Legislation Committee chaired by another legislator, Mr. CHUNG Pui-lam, we are assisted in our efforts by the Law Reform Commission and other public spirited bodies such as the Medical Association. It is fair to say that the time taken for the passage and enactment of such laws is considerably shorter than three or four years ago.

A major breakthrough is Government's decision to proceed with the preparation to introduce consumer safety legislation, as announced by you, Sir, when you opened the 'Consumers' right to know' campaign last Saturday. Over the years the Consumer Council had called for such legislation but had always met with strong government resistance. It was not until two years ago when the council held its product safety campaign that it managed to persuade Government to take a fresh look at the situation. Although it is envisaged that such a law would only be used in rare circumstances when the sale of products posing an immediate health and safety threat would be controlled or banned, its importance nevertheless warrants priority treatment.

As a rule, the Consumer Council does not allow or endorse advertising of any product, that is except our own success story. I am of course referring to our educational publication Choice, which, with two face lifts in the past two years, is now enjoying a circulation of over 65 000 copies which ranks it in the top five best selling monthly magazine list in Hong Kong.

Apart from fulfilling our ongoing responsibilities in product testing, research and survey, school and public education, information and complaints monitoring, districted service and legislation studies, the Consumer Council's work has evolved over the years with the changes that characterise Hong Kong. Perhaps we have done our job too well. More expectation has been generated, and we have had to move into new areas of activities. For instance, in the tourist boom, we have experienced growing demand on our services by transient visitors. With improvement of standard of living, there came local enquiries and complaints into new areas of activities and services for which we would have to adopt new approaches and acquire outside expertise. Our buoyant economy has stimulated more vibrant consumer activities, and this has in turn led to more competition in the market place. Bombarded everywhere by images and jargons of advertising, the consumer must be sure of his right to correct information at all times. I believe the time has come for us to review the scope of the Consumer Council's work to see whether it adequately covers the ambit regularly affecting our consumers. It is only with constant assessment and alignment that we are able to meet the demand made on us by our community.

## Oral answers to questions

### Pollution of bathing beaches

1. MR.CHEUNG asked (in Cantonese): *In view of the approaching summer season, will Government inform this Council of the various measures it will take to ensure that Hong Kong's beaches and coastal waters are protected against pollution, especially from sewage discharges of private treatment facilities which are not operated properly?*

SECRETARY FOR HEALTH AND WELFARE: Sir, we remain very concerned about the condition of Hong Kong's bathing beaches. Although there have been some improvements (Butterfly Beach at Tuen Mun was opened again last year for the first time since 1981), the general trend is not encouraging. Last year, all the 12 gazetted beaches in the Urban Council area and 10 of the 30 gazetted beaches in the Regional Council area were affected by a deterioration in water quality. This year, we shall enter the bathing season with two further beaches likely to be declared unsuitable for swimming.

The pollution is mainly caused by discharges sewage from inadequate or badly operated treatment facilities and the problem is compounded by rapid population increases in certain areas. For example, the population of Repulse Bay, Middle Bay and South Bay has increased by 50 per cent over the past decade, and at present, there is no mains sewerage in this area.

The long-term solution to this problem is the provision of proper sewage disposal facilities so that existing and future developments can be connected to main public sewers. To achieve this, an overall sewage strategy for the whole territory, and master sewerage plans for different areas (such as the south of Hong Kong Island) are being developed under a series of consultancies. To implement these plans will require an estimated expenditure of some \$10 billion and a phased programme of works over 10 years.

In the medium term, it is necessary to tackle at source the sewage pollution problems of bathing beaches using the Water Pollution Control Ordinance. This Ordinance is currently implemented only in the Tolo Harbour area, which is at present Hong Kong's only water control zone. We plan to declare the southern waters as the second water control zone later this year, and this will cover all of the 22 bathing beaches in the Southern and Islands Districts. Initially, all sewage treatment facilities in this proposed water control zone, including sewage treatment plants and septic tanks, will be controlled. Later, industrial effluents will also be included. Similar controls will eventually be extended to the rest of the coastal waters of Hong Kong, following their declaration as water control zones.

In addition, some short-term works to intercept and divert the stormwater drains running into Repulse Bay, Stanley Main and Tung Wan Beaches are

planned to be carried out this year, at a total estimated cost of \$6.2 million. These surface water drains are polluted by improperly treated sewage discharged by buildings in the beach hinterlands, and these works will divert polluting drains away from the main swimming areas. Other beaches are being investigated with a view to developing similar short-term schemes to improve the quality of the water.

And finally, the implementation of the initial phase of the livestock waste control scheme in June will help to improve the water quality of Silvermine Bay and Anglers' Beaches, which are at present seriously polluted by livestock waste and are considered unsuitable for swimming.

MR. CHEUNG (in Cantonese): *Sir, it is estimated that about 4 million people go to the beaches during the swimming season every year but good quality beaches are disappearing every day. So, will Government tell us whether something will be done so that more beaches can be opened for the benefit of the public?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I have explained the various methods—short term, medium term and long term—which are being adopted to deal with this problem. This is, however, not something which can be corrected overnight. We have, I am afraid, a long history of relative neglect of sewage treatment facilities, and the result is the problem that we have on the south side of Hong Kong Island, where there are no mains sewers. Large blocks of residential accommodation have been built over the last 20 or 30 years with the requirement that sewage treatment facilities be provided by the developers. Unfortunately, these facilities have not been properly maintained, and it is largely as a result of this that we have the present situation. The introduction of the water control zone on the south side of the Island should help to rectify many of these problems and this will be done as soon as possible after the declaration of the water control zone which we hope will be in October this year.

MR. YEUNG: *Sir, apart from the Tolo Harbour area and the southern waters, what are the other coastal areas which will be declared as water control zones?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the southern waters I referred to in fact refer to all the beaches on the south side of the Island, and along the south-east shore of Lantau. The only area at present declared a water control zone is Tolo Harbour. So, the areas to which Mr. YEUNG referred would be the remaining areas, in particular, the waters along the Castle Peak Road where there are a number of beaches, and also, Clearwater Bay and the eastern side of the New Territories.

MR. SOHMEN: *Sir, would the Government consider requiring the owners of pleasure craft and fishing boats to install septic tanks in their vessels, so as to eliminate discharge of sewage from these sources?*

SECRETARY FOR HEALTH AND WELFARE: Sir, this is something which we will consider although, as far as I understand, it is not a major contributor to the problem at present.

MR. CHEONG-LEEN: *Sir, the Secretary for Health and Welfare just said that the southern waters of the Island would be declared a controlled zone sometime in October this year, which would be somewhat towards the end of the swimming season. As he is aware also, the Rocky Bay Beach has been declared as unfit for swimming by the Urban Council. What measures and support will be given by Government to the Urban Council to ensure that the other beaches, particularly Repulse Bay Beach and Middle Bay Beach, will not deteriorate further this year, so that the beaches, at least for this year, can still be patronised by swimmers?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I referred to the short-term work to intercept and divert the stormwater drains, particularly at Repulse Bay, which should, I hope, have some effect in the course of this year. Once we declare the southern waters a water control zone, it will then be a question of identifying particular problems arising from particular developments and serving notices on the owners to rectify the problems. This is something which we hope to get on to very quickly, once the water control zone has been declared, but I am afraid it will take some time for action to be taken under these orders and I do not really think we can offer much hope of any significant improvement this summer.

MR. CHEONG: *Sir, the Secretary just mentioned that the developers along the south side of Hong Kong would be required to maintain sewage treatment facilities, but they were out of order because of lack of maintenance. Now, what measures are Government going to take in enforcing that particular requirement, because if you can enforce it, definitely it will help?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the original requirement was under the Buildings Ordinance. I understand that it is very difficult to enforce the provisions requiring sewage treatment once the occupation permit has been issued. That is why we are now taking action under the Water Pollution Control Ordinance which does give powers to take action when a discharge is causing a hazard to public health.

### **Legislation to control private homes for the aged**

2. MR. HUI asked (in Cantonese): *Given the fact that the Government has indicated its intention to consider introducing legislation in 1992 to regulate the operation of private homes for the aged and that the quality of service of these homes has all along been a cause of public concern, will Government consider advancing this legislation and implementing short-term measures during the interim period to improve the quality of service in these homes?*

SECRETARY FOR HEALTH AND WELFARE: Sir, there has for some time been concern, both inside and outside the Government about standards in private homes for the elderly. Towards the end of last year, the Social Welfare Department conducted a review of the extent of compliance by operators of such homes with the voluntary code of practice which was introduced in 1986 on the advice of the Social Welfare Advisory Committee. This review also addressed the question of the best means of ensuring that appropriate operating standards are met in future.

We have now decided, following consultation with various bodies including the Social Welfare Advisory Committee and the OMELCO Welfare Panel, to introduce legislation as soon as practicable to control various aspects of the operation of these private homes. Initially the standards required will be set at a realistic level, to avoid as far as possible situations where homes are forced to close or to reduce numbers, thus making elderly people homeless. The target date is two years from now that is the middle of 1990. In the interim, a voluntary registration scheme to be run by the Social Welfare Department is planned, by which homes which meet the various requirements will be issued with a registration certificate. This would amount to recognition of the standard of service provided. It would act as a guide to consumers and in turn as an incentive to operators to become registered. I hope that it will be possible to implement this voluntary registration scheme by October this year.

In addition, the Social Welfare Department will step up its visits to private homes and continue to provide advice and assistance to the operators where necessary. Suitable publicity will also be carried out to encourage the families of elderly people living in these homes to visit them more often and to discuss matters relating to their welfare with the management of the homes.

MR. HUI: *Sir, at present the operator of a private home for the elderly should at least have a business registration licence in order to operate the business legally, unless the operator has tax evasion in mind. Sir, can the Social Welfare Department liaise with the Business Licensing Section to get first hand information when a new private home obtains a business licence, so that relevant officers from the department can build up contact with the home concerned?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I know that the Social Welfare Department does make every effort to identify new private homes for the elderly by such means as watching the advertisements in the newspapers and I think it is very likely that they also liaise with the Business Registration Office. But I will pass on Mr. HUI's suggestion to the director.

MR. LIU (in Cantonese): *Sir, how many complaints have the Government received in the past of mistreatment of the elderly, and how did the Government deal with such complaints in the past?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not have exact figures as to how many complaints we have received, and I think it would probably be very difficult to produce such statistics. But when officers of the Social Welfare Department become aware of a problem, they do visit the homes, and do their best to advise the operators on the best means of dealing with the problems that have been identified.

MR. CHUNG: *Sir, as regards the voluntary registration scheme, would the Secretary elaborate on the various requirements for the issue of the registration certificate? And would there be a requirement for a home for the elderly to invest a minimum amount of capital before a certificate is issued?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the requirements apply in several areas: space standards, that is, the amount of space for each resident in the homes; staffing standards; safety standards, such as fire-protection—prevention and protection measures, and so on. Sir, as regards the second part of the question, we have not considered that particular problem. I think it would be difficult, as these in many cases are private commercial operations, to insist on requirements of this sort. The object of the scheme will be to ensure that particular standards—staff, space, safety and so on are met. I do not think it would really be proper to go into the capitalisation of individual operations.

### **Transfer of sentenced persons**

3. MR. CHEONG-LEEN asked: *Government recently announced that Hong Kong will participate in the Council of Europe Convention on the Transfer of Sentenced Persons. Will Government request the United Kingdom Government to make similar arrangements for the transfer of Hong Kong residents serving sentences in China to complete their sentences in Hong Kong?*

SECRETARY FOR SECURITY: Sir, the question of making arrangements with China similar to those in the Council of Europe Convention on the Transfer of Sentenced Persons is a very complex issue which has not yet been fully and formally addressed. No decisions have therefore been reached. I can say, however, that the matter will be pursued and given very careful consideration.

MR. CHEONG-LEEN: *Can an assurance be given, Sir, that the relevant OMELCO Panel will be kept posted on progress on this subject?*

SECRETARY FOR SECURITY: Yes, I can give that assurance.

### **Information exchange**

4. PROF. POON asked: *Will Government consider the possible implementation of territory-wide computer network to facilitate information exchange within government departments and between the Government and the private sector?*

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, Prof. POON's question comes just as a team of consultants has commenced an eight-month strategic review of computerisation within the Hong Kong Government. This wide-ranging study will examine government's strategic goals for computer usage and particular attention will be given to opportunities provided by technological developments in data processing and telecommunications.

The consultants will consider the potential for information exchange, the need for networking between government departments and the conditions necessary for its implementation.

Consideration will also be given to data sharing and exchange with the public, including the commercial sector, with due emphasis upon the need for data security and protection of privacy.

PROF. POON: *Sir, the Committee on Science and Technology is particularly interested in the area of information exchange facility. Will the Secretary confirm sending the consultants' report to the committee for comments as soon as it is available?*

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, when the consultants have submitted their report, I shall certainly invite the Committee on Science and Technology to comment on any issues upon which its advice or expertise is required.

### **Substandard concrete in private buildings**

5. MR. EDWARD HO asked: *In view of the discovery of widespread substandard concrete in public housing blocks built in the 1960s, will Government inform this Council whether similar problems existed in buildings of that period in the private sector, and if so, what is being done to ensure that proper checking and necessary repairs are carried out?*

SECRETARY FOR LANDS AND WORKS: Sir, the conditions that led to the substandard concrete in public housing blocks applied to the whole building industry at that time. This, combined with the lack of proper maintenance of many private blocks, have very likely resulted in a considerable stock of private sector buildings where the concrete has also deteriorated and is substandard. In downtown buildings of the '60s period, usually concrete deterioration occurs first in kitchen areas, then in external staircases and in the building facade. Deterioration of the concrete structure tends to occur at a much later stage.

To indicate the extent of the problem would require a systematic survey of the whole post-war building stock of some 60 000 buildings, but last year 746 orders were issued by the Buildings Ordinance Office requiring structural defects to be repaired. About 85 per cent of these were for post-war buildings.

Six post-war high rise concrete buildings from the '50s were in such poor state that demolition was necessary.

Where a building has been identified as showing signs of structural deterioration the Buildings Ordinance Office serves an order on the owners to appoint a qualified person to investigate the extent of the problem and for appropriate remedial works to be carried out. If the owners do not comply with the order, the Buildings Ordinance Office will carry out the investigation and works themselves and recover the costs from the owners.

Action is usually only initiated following a complaint, but it is intended to strengthen the establishment of the Buildings Ordinance Office during the financial year 1989-90 to survey buildings systematically, and to identify potential problems at an early stage, when repairs can be done more easily and less expensively, thereby avoiding the need for possible closure and demolition at a later stage.

MR. EDWARD HO: *Sir, in the Secretary's reply, he stated that it is intended to strengthen the establishment of the Buildings and Lands Department so that buildings can be surveyed systematically. Will he inform this Council whether this huge task of surveying some 60 000 buildings can be done by an enlarged establishment? And if so, what would be the time span required to complete the survey, and whether, in the meantime, some people might be living in buildings that may cause danger to life and limb?*

SECRETARY FOR LAND AND WORKS: In my reply, Sir, I said a systematic survey, by which I mean a survey of buildings which will be taken in priority of their likelihood of deterioration. I believe that by the strengthening of the Buildings Ordinance, we should in two or three years' time get to a position, in which we will be up to date with the buildings which require survey most urgently, and we will also have a good knowledge of later buildings.

As things stand, generally speaking, the action of the Dangerous Buildings Section of the Buildings Ordinance Office has generally prevented danger to life and limb. The problem of deterioration of buildings is very largely an economic problem. Buildings which deteriorate too far require very much more expensive maintenance, and perhaps have a shorter life than buildings which are maintained properly.

MR. YEUNG: *Sir, how many of the 746 orders issued by the Buildings Ordinance Office last year requiring structural defects to be repaired have not been complied with by the owners? And has satisfactory action been taken by the Government to recover the cost for the investigation and the cost for the works carried out?*

SECRETARY FOR LANDS AND WORKS: Sir, I will have to provide those figures later. (Annex I) I am informed that in general, in most cases, action is being taken by the owners, frequently after a considerable amount of persuasion and notification by the Buildings Ordinance Office.

MR. CHENG: *Sir, can the Secretary for Lands and Works clarify the first sentence of his reply by stating what the conditions were which prevailed in the whole of the building industry at that time, and whether the conditions were very serious?*

SECRETARY FOR LANDS AND WORKS: Sir, may I quote part of a speech given by my predecessor, Mr. CHAN, when talking about the sub-standard public housing blocks at the time, in which he said that 'The poor concrete is apparently the result of inadequate material, bad-workmanship, and lack of supervision in certain areas.' I think that probably covers the situation.

MRS. CHOW: *Sir, as the safety of residents in these buildings is the issue here, would the Government consider the retention of private professional firms to undertake the work which the Secretary has outlined in the last paragraph so as to ensure advancing the dates of this very necessary task, and perhaps at lesser cost?*

SECRETARY FOR LANDS AND WORKS: Sir, in the reply to an earlier supplementary, I stated that I considered that the safety situation of buildings was reasonably well looked after by the Dangerous Buildings Section of the Buildings Ordinance Office. By the additional strengthening of this service what we are trying to do will be to try to prevent the buildings from getting into a state where they really have to be looked after by the Dangerous Buildings Section of the Buildings Ordinance Office. Nevertheless, I would personally be much happier if the surveying was achieved faster than it is likely to be and I will certainly look at Mrs. CHOW's suggestion.

### **Investment of fiscal reserves**

6. MR. CLYDESDALE asked: *As is well known, Government does not account publicly for the investment and management of the assets and liabilities of the Exchange Fund. At 31 March 1987, 83 per cent of Hong Kong's published reserves (HK\$27.4 billion) was deposited with the Exchange Fund, which means that there is no accounting to the public for the investment and management of the assets representing that sum or of the gains or losses arising directly therefrom.*

*In these circumstances, will the Government explain the rationale underlying the policy of depositing public money with the Exchange Fund and why is considers this policy to be in the best interests of the public?*

FINANCIAL SECRETARY: Sir, I would like to clarify the premise on which Mr. CLYDESDALE's question is based. It is true that the Government does not account publicly for the investment and management of the assets and liabilities of the Exchange Fund. It is also true that the majority of the accumulated fiscal reserves is deposited with the Exchange Fund. But this does not mean that there is no accounting to the public for the investment and management of the accumulated fiscal reserves themselves.

Fiscal reserves are transferred to the Exchange Fund against the issue of debt certificates. These debt certificates are interest-bearing and are held by the Treasury. In other words, fiscal reserves are invested in debt certificates issued by the Exchange Fund, and these investments earn interest as if the money were deposited with a bank. Interest earned is credited to the general revenue and is clearly, fully and publicly accounted for as interest income under the revenue head, properties and investments in the same manner as, for example, profits tax under the head, internal revenue.

The rationale underlying the placing of fiscal reserves on deposit with the Exchange Fund and not investing the money in, for example, Hong Kong stocks is very simple. First, there is the security of the principal sum; secondly, the reasonableness of the rate of return offered; and, lastly, there is simply no other single avenue for Hong Kong dollar investment of comparable quality capable of absorbing the large amount of money involved without adversely affecting monetary conditions. It is possible, of course, for fiscal reserves to be invested by the Treasury in foreign currency assets, but then the general revenue will be assuming exchange risks. The assumption of such risks would be improper. Indeed, this was recognised in 1976 and as a consequence the management of the foreign currency assets of the Government was transferred to the Exchange Fund. Sir, I believe that the present arrangements are in the best interests of the public.

MR. CLYDESDALE: *Sir, before asking a supplementary question, I would like to thank the Financial Secretary for pointing out that interest is, of course, paid to public funds for the use of our reserves by the Exchange Fund, but a close scrutiny of my question will confirm that I did not suggest otherwise. Risks often bring rewards and I would like to ask if the Exchange Fund has benefited from the assumption of the exchange risks referred to by the Financial Secretary or can the Government confirm that the interest credited to general revenue for the use of our published reserves reflects fully and fairly the overall return, including that on exchange, achieved by the Exchange Fund on the relevant underlying assets?*

FINANCIAL SECRETARY: Sir, risks bring rewards, of course, but risks also bring certain dangers—we could lose a great deal of money. The management of the Exchange Fund itself is kept confidential for a number of reasons that we believe to be entirely valid. All I can say this afternoon, Sir, is that it has benefited from taking certain risks. The full benefits have not been passed on to general revenue. I think it would not be appropriate that they should be passed on to general revenue because they are benefits that arise from management of foreign currency assets.

MISS DUNN: *Sir, by placing the reserves with the Exchange Fund—and I now understand that it is interest-bearing does it not mean that the use to which the reserves are placed is not accounted to the public? To put it in another way, does*

*this not mean that some 83 per cent of our reserves, \$27 billion, can theoretically be used without the normal scrutiny and control of the Finance Committee?*

FINANCIAL SECRETARY: I do not think it means that exactly, Sir. It is, as I tried to explain in my principal answer, the same in many ways as if the money were placed with a bank: the Exchange Fund owes the money to the Government.

### **Appointment of magistrates**

7. MR. TAI asked: *Unlike judges of the Supreme Court and the District Court whose appointment and removal are governed by the Letters Patent, magistrates are appointed by a warrant by the Governor. Will the Government inform this Council whether it intends to introduce any legislation implementing a change in mode with regard to the appointment and conditions of service of magistrates so as to ensure the total independence of our judicial system from influence and control of the executive?*

CHIEF SECRETARY: Sir, while appointed under different procedure, all judicial officers, including both judges and magistrates, are appointed by the Governor. Also, all such appointments are made on the recommendation of the Judicial Service Commission which is an independent statutory body.

As regards removal, a judge may only be removed from office for inability to discharge the functions of his office or for misbehaviour. Moreover, such inability or misbehaviour must be investigated by a tribunal of judges appointed by the Governor and, if removal is recommended, the case must be referred to the Judicial Committee of the Privy Council. In the case of magistrates, those on pensionable terms may only be removed from office on disciplinary grounds by the Governor after consideration of their case by a board headed by a Supreme Court judge appointed by the Chief Justice and including at least one other judge. As far as magistrates on agreement terms are concerned, disciplinary cases are, as a matter of practice, referred to the Judicial Service Commission.

Sir, consideration is now being given to the arrangements for the appointment and removal of magistrates. A number of measures, which include changes to the composition and procedures of the Judicial Service Commission and its more formal involvement in disciplinary cases, are proposed for introduction shortly. Consideration is also being given to whether any of the changes need to be made in the present security of tenure arrangements for a magistrates.

In considering any changes, Sir, regard must be had to the provisions of the Joint Declaration. Section III of Annex I to the Joint Declaration provides for judges to be removed by the chief executive on the recommendation of a tribunal of judges appointed by the chief judge of the court of final appeal. The removal of principal judges also requires the endorsement of the legislature. For

other judicial officers, including magistrates, it provides for the present system to be maintained.

MR. TAI: *Sir, we have a Judicial Service Commission which regulates the promotion of magistrates. May I ask what is their basis in law?*

CHIEF SECRETARY: Sir, the Judicial Service Commission recommends the promotion of magistrates and the criteria they lay down are a matter for the Judiciary.

### **Control of businesses dealing in smuggled, counterfeit or pornographic goods**

8. MR. SOHMEN asked: *Would Government advise this Council whether it has any plans to consider further action against businesses dealing habitually in smuggled, counterfeit or pornographic goods, including the possible revocation of their business registration?*

SECRETARY FOR SECURITY: Sir, I think the measures available to the Government to control businesses dealing habitually in smuggled, counterfeit or pornographic goods are generally adequate but I should be happy to consider any suggestions for improvements. I am not sure, however, that the revocation of business registrations would significantly strengthen our control.

Offences involving smuggled, counterfeit or pornographic goods are dealt with under the Import and Export Ordinance, the Trade Descriptions Ordinance, the Copyright Ordinance and the Control of Obscene and Indecent Articles Ordinance. Penalties for these offences are reviewed regularly. Depending on the nature of the offence and the goods involved, either the police or the Customs and Excise Department will take action. Any such action is usually directed against the individuals involved rather than against the business itself.

I am not sure that the revocation of a business registration certificate would be an effective measure in this context. The requirement to hold a business registration certificate is to ensure that the Inland Revenue Department has a record of all businesses for taxation purposes. It is unlikely that the revocation of business registration certificates would prevent such businesses carrying on illegally, and of course there would be nothing to prevent the principal or proprietor re-registering under a different name. I fear that the effect would be a weakening of our revenue control without a significant strengthening of our ability to control businesses dealing in smuggled, counterfeit or pornographic goods.

I have asked the departments involved with this matter to consider whether further measures are necessary and in the light of their responses, I shall consider referring the matter to the Fight Crime Committee, together with any other suggestions for improvements.

MR. SOHMEN: *Sir, would the Secretary for Security consider asking the departments concerned to investigate how to deal with these illegal activities at their root rather than just by increasing surveillance staff to deal with the manifestations of the problem? In other words, could the Government consider strengthening the sanctions that presently apply to provide more of a deterrent effect, that penalties which clearly bear a very close relationship to the size of the profits that can be generated by these illegal activities habitually pursued?*

SECRETARY FOR SECURITY: Yes, I have noted the emphasis on the word 'habitually'. This will certainly be considered, as I said, in the light of the quantification of the problem, which we are trying to determine through the departments concerned. And, as I say, I am aware of certain sanctions which could be perhaps extended in this area outside surveillance and an increased coverage on the ground.

PROF. POON: *Sir, according to the first paragraph of the answer, if the measures available are considered generally adequate, why did the Commissioner of Customs and Excise argue recently that 15 additional posts were required for the surveillance of these activities?*

SECRETARY FOR SECURITY: Sir, I must confess that I did not know that the Commissioner of Customs and Excise asked for these extra posts as he is outside my policy area.

### **MTR fare policy and peak congestion fares**

9. MRS. CHOW asked: *Will Government inform this Council what role it plays in the determination of MTR fare policy and fare increases, how it ensures that they are not contrary to public interest, and more specifically whether it considers the increase in peak congestion fares which will take effect on 30 May 1988 is in the public interest given that the MTRC's actual annual passenger volume and fare revenue for 1987 were above forecast?*

SECRETARY FOR TRANSPORT: Sir, because of the widespread public concern on this matter, may I seek your indulgence in giving a longer answer than normal in this case. Under section 6(2) of the Mass Transit Railway Corporation Ordinance, the corporation has the power to determine the fares payable by its passengers. Since the opening of the Mass Transit Railway in 1979, the corporation has adopted a consistent policy of small annual increases in average fares which roughly match rises in the purchasing power of passengers. The Government considers this practice of regular but moderate revisions to be acceptable.

The Government also recognises the importance of safeguarding public interest. This is done through the Ordinance which requires the corporation to operate according to prudent commercial principles, having regard to the

reasonable requirements of the public transport system of Hong Kong. Control is further exercised through the board of directors whose chairman and members are all appointed by the Governor. In addition, the Governor in Council may, if he considers the public interest so requires, give directions in writing of a general character to the corporation.

Sir, the corporation's peak congestion fare has attracted strong public reaction. This is unfortunate given that the sole purpose is to induce about 5 000 to 6 000 passengers to travel outside the peak of the morning peak, that is between 8 am and 8.45 am, to ensure passenger safety on trains and in stations. The purpose is not to raise revenue.

Taking full account of public comments and reactions, the board of directors of the corporation has now decided to defer implementation of the peak congestion fare from 1 May till 30 May. This is to give sufficient time for the Administration to arrange the deployment of alternative modes of transport to give an additional choice for the 5 000 to 6 000 passengers.

Initial discussions have been held with the franchised bus and ferry operators. The bus companies have indicated that they would be able to mobilise 30 extra buses in the morning peak in May if required. More resources could be made available during the summer months when the buses normally have spare capacity. These additional buses will be deployed on certain existing priority bus routes; namely, routes originating from various parts of the New Territories serving Jordan Road and Tsim Sha Tsui; and from Kowloon to Central, Wan Chai and Causeway Bay. The bus operators will monitor the loading situation on these routes in the peak period and increase capacity wherever necessary. The ferries generally have spare capacity in the peak, being only 60 per cent occupied. Larger vessels could also be deployed should the need arise.

One of the reasons of public discontent of the congestion fare is due to lack of understanding. The MTRC has therefore decided to use the next four weeks to explain more fully to the public the reasons for the peak congestion fare. The point is that the present loading of 81 000 to 82 000 passengers during the critical hour has resulted in the overloading of trains by up to 40 per cent. Whilst train safety is not in any way at risk, overcrowding has reached such an intolerable stage that passenger safety could be compromised.

All possible alternative solutions to deal with the situation have been explored fully by the corporation. These include increasing the frequency of trains to less than two minutes, adding more cars, closing certain north Kowloon stations, requiring passengers to queue up at designated positions, running through trains from Kwun Tong to Central, and reducing non-peak fares. None has been found to provide practical or acceptable solutions.

In all these circumstances, the corporation considers that applying a pricing mechanism in the form of higher fares for travelling during the peak congestion period is the most effective and practical measure to achieve a better balance

between the supply and demand of MTR services. The sole purpose is to encourage passengers to travel earlier, by no more than 15 minutes or so, to avoid serious overcrowding. At the same time, the MTRC has taken steps to advance the two-minute frequency service to begin at 7.40 am, thus ensuring that there is adequate capacity to cope with all those passengers who choose to travel earlier. This is in addition to the choice of other transport modes which I mentioned earlier.

Sir, the decision to introduce a peak congestion fare was made by the board of directors of the corporation in full recognition of public safety. Their decision to postpone implementation is also taken in full regard to the need to explain more fully to the public the reasons for the proposal. The board of directors has acted in a responsible manner and has been responsive to public criticism. However, given that the build-up of passengers using the MTR normally starts in May and escalates during the summer months, it will be irresponsible for the MTRC to further postpone the implementation of the peak congestion fare because to do so will be putting the safety of MTR passengers at risk.

MRS. CHOW: *Sir, does the MTRC recognise the main reason for public discontent is not so much the lack of understanding, as the Secretary has put it, but the belief that the MTRC has not exhausted all other methods to achieve the intended purpose before resorting to a fiscal and what some regard as punitive measure on passengers who have to travel during the congestion period? For instance, how did the MTR management come to the conclusion that reducing non-peak fares is not a practical or acceptable solution without trying it first?*

SECRETARY FOR TRANSPORT: Sir, the MTRC fully understands the public sentiments on this matter and certainly recognises that apart from the lack of understanding of the proposal there is discontent about the nature of the congestion fare. It has looked at all the possibilities of relieving overcrowding. For instance, trains at present are running a total of eight cars and this is the maximum allowed because of the design of the station. If you add a ninth car, the passengers cannot land on the platform and they cannot escape in case of emergencies.

Frequencies are run to two minutes, which is the maximum now possible. If you close some stations, you will be blocking all passengers regardless of whoever is going to where throughout the entire system, which is totally unfair. If you run through trains from Kwun Tong to Central, you are denying some passengers of getting on at certain stations and delaying the frequency to three to four minutes, which means a very big build-up during the morning rush hour. And, finally, if you reduce the non-peak fares, the corporation will be losing revenue which is tremendously important to its ability to pay debt, as mentioned by the Financial Secretary earlier.

So, Sir, in all these circumstances, a pricing mechanism charging 50 cents only is considered the best way to maintain the balance of supply and demand.

MISS DUNN: *Sir, I have no doubt the board of the MTRC has acted responsibly but may I ask that since the peak hour loading is 81 000 to 82 000 passengers representing an overloading of 40 per cent of capacity, and given that the proposed peak hour surcharge is aimed at inducing only 5 000 to 6 000 passengers to travel outside the peak hour—that is to say, about 6 per cent of the peak hour loading—how effective is this proposal likely to be in tackling the real problem of overcrowding and safety?*

SECRETARY FOR TRANSPORT: Sir, the corporation did consider this point very fully and carefully. It is true that the present overloading is over 40 per cent, that is, up to 81 000 to 82 000 compared with the design capacity of 75 000 or so. The purpose is to induce about 5 000 to 6 000 passengers to travel before 8 am.

To cater for this, the MTRC has started an extra three trains in the morning at 7.40 am providing a capacity of 7 500 passengers during those hours. In addition, if required, the corporation can deploy more trains in those hours to meet more demand from the passengers who wish to travel earlier than the congestion hour. So overall while the target is 5 000 to 6 000 passengers the corporation can and will provide extra capacity for the morning rush hour to meet the demand of those who wish to travel earlier and we do believe and the corporation does believe that this should relieve overcrowding considerably.

MR. NGAI (in Cantonese): *Sir, the MTRC has planned to introduce the peak hour congestion fare. It will encourage commuters to take the trains outside the peak hours. If after the peak hour fare is imposed and if the effect is not achieved, does the MTRC have any plans to cancel the fare and will the staff of the MTRC resign as a result of causing inconvenience to the public?*

SECRETARY FOR TRANSPORT (in Cantonese): Sir, I can assure Mr. NGAI that the MTRC has announced to the public formally that, should the new measure not be effective, it will definitely review it. This can definitely be conveyed to the corporation and I am sure it will review the measure.

MRS. FAN: *Sir, from the Secretary's answer it seems that if this measure does not work, then the board of directors of MTRC will consider other measures. The other measures could well be to increase the peak congestion rate to a higher rate. If it does not work, it means that the peak congestion rate does not achieve its desired purpose. In this case should the congestion rate be removed?*

SECRETARY FOR TRANSPORT: Sir, again this question has been addressed very carefully. I personally would not like to see a further surcharge if this would not work, but it is early days yet, Sir, to tell. We must give the corporation a chance to test their theory and their practice. If it does not work, we will look at it again.

HIS EXCELLENCY THE PRESIDENT: This is a popular question. I have a further eight names down for supplementaries. I shall limit it at that point.

MR. DESMOND LEE: *Sir, will the Secretary for Transport explain the statement in the last paragraph of his answer that the build-up of passengers using the MTR will escalate during the summer as no fewer than 1 million school children and students will go on holiday and stop using transport at peak hours?*

SECRETARY FOR TRANSPORT: On the contrary, the main users are the adults, not students, throughout the summer months, as shown by statistics. Students normally travel earlier than 8 am to school. In fact, virtually most of the congestion is caused by adults during peak hours, and the past pattern has shown that the peak seasons are from June to September, which is the peak of the peak in the year, and this is precisely where we must apply this mechanism now to solve the overcrowding and safety problem.

MR. SOHMEN: *We are dealing here with human nature and are trying to break ingrained habits. In my opinion, would it not be better, instead of using a whip, to use the carrot, and reduce the fares prior to 8 am? The argument that the MTRC will be losing money does not really wash if we are trying to get the passengers into other modes of transport anyway, so they are not really losing any money. I would suggest that to use the incentive of cheaper fares before 8 am would have a more dramatic effect than penalising the travellers after 8 am.*

SECRETARY FOR TRANSPORT: Sir, the total revenue forgone if the corporation were to reduce all non-peak fares would be almost \$2 billion because the large bulk of income would come from the non-congestion period rather than the congestion period, which is only one hour in the morning. So this is a very serious revenue implication. As regards the so-called carrot, yes, there is a carrot now being applied. As from this week, in fact, the corporation has started a campaign: to travel early you get a discount in your breakfast as well. So that is the carrot we are now applying, not just the stick.

MR. JACKIE CHAN (in Cantonese): *Sir, the Secretary for Transport said a moment ago that there would be a review of the surcharge in due course. Can I know when the review will be undertaken and when the review will be completed?*

SECRETARY FOR TRANSPORT (in Cantonese): Sir, the MTRC will, from the first day of implementation, start the process of review. It will monitor the situation every day and every week and if it is proved ineffective, it would take immediate action to achieve the original purpose. So it does depend on the situation, Sir.

MR. CHEONG-LEEN: *Sir, why was there not sufficient advance consultation between the MTRC and the Government and, in particular, the Transport Advisory Committee so that additional steps such as having more buses on the related routes*

*could have been planned in advance and announced at the same time as the increase so that the public could have had a better understanding of the situation? And, furthermore, can an assurance be given that this problem of peak period during these summer months can be addressed in depth for a more long-term and effective solution?*

SECRETARY FOR TRANSPORT: Yes, Sir, there have been very detailed discussions before this was implemented. Actually, the MTRC did expect the passengers to use the MTR rather than other modes of transport, for very clear reasons: they want them to go earlier and use the MTR only and not other modes of transport. And there is, as I said earlier, adequate capacity to cope with such volume before the morning rush hour. However, the matter has been discussed by the Transport Advisory Committee recently and the committee did make the suggestion that there should be a provision of extra transport in terms of buses and ferries to reassure the public that there is a wide range of transport services to meet demand, although, in fact, demand can be met even under existing arrangements.

As regards the details of meeting with the overcrowding, we have, in fact, over the last 12 months introduced two new bus routes and four other routes have their frequencies and capacity increased. And from 1 June, one new cross-harbour route will be introduced from Kwun Tong to Central. In addition, a ferry service started on 1 April between Wan Chai and Tsim Sha Tsui. We now have a total of 16 cross-harbour routes running between Kowloon and Hong Kong and, as I said earlier, 30 more buses can be re-deployed to cope with more demand if necessary and, of course, the ferries are still only half full. So there is plenty of capacity to cope with the demand if passengers could choose different modes, and it is up to them to choose.

MR. ALLEN LEE: *Has the MTRC looked at the other alternatives about passenger safety, for example, providing a shield between the cars and the station to make absolutely sure that there will be no push and shove resulting in passengers being hit by trains? This alternative has been used by Singapore. I just want to ask whether MTRC has looked into a more effective method on safety other than such a 50-cent increase in the fares to deter passengers from taking the MTR in peak hours.*

SECRETARY FOR TRANSPORT: Sir, it is not just a question of avoiding overcrowding and safety of passengers in the car. It is a question of diverting a large number of passengers away from the peak of the peak hours. Certainly I will pass the suggestion of having extra safety measures to the corporation for consideration. It is a technical matter and I do not know the details of the Singapore system and will find out from the corporation. May I reiterate that there is a clear need to divert passengers away from the peak of the peak hours to earlier hours to avoid overcrowding in the trains at those hours, and this is the main point at issue.

MR. EDWARD HO: *Sir, I agree with Mrs. Selina CHOW and Mr. SOHMEN that reducing the non-peak fare as an incentive is more effective than a surcharge, and I am not satisfied with the Secretary's replies because if revenue from non-peak hours is so high, a slight increase in the general fare in non-peak hours would give the MTRC a very attractive incentive to reduce the fares in the peak hours.*

SECRETARY FOR TRANSPORT: Sir, this point again has been raised before. The MTRC considers, and I agree, that to raise fares artificially to hide this question of congestion element is unfair, dishonest and unjust. The corporation does not want to do this. It wants to show to the public clearly that they have a choice and the fares are not inflated because of this and the fares are applied to only the congestion hours and passengers have a choice to use it or not. And this is its stand on the matter. It is not a question of trying to cook up the books and hide the congestion element and try to sell it to the public and deceive them. This is not its stand. It is perfectly honest and open in this matter and this is precisely why it wants to go open on this matter.

MR. CHEONG: *Sir, I would be obliged if the Secretary can enlighten me, who may not be a good mathematician. He said that the designed capacity is 75 000 and that the current loading is 81 000 to 82 000, saying in the same breath that there is an overloading of 40 per cent. But if you consider the designed capacity as 75 000 and then minus 82 000, I cannot for the life of me work it out to be 40 per cent. Secondly, Sir, he said while train safety was not in any way at risk, overcrowding has reached such an intolerable stage that passenger safety could be compromised. I commend the MTRC for thinking about this but has it also considered that by diverting traffic to other modes of transport it would probably add tremendously to the burden of the current road system and other modes of transport at peak hours and this might have an adverse impact on the overall productivity of Hong Kong?*

SECRETARY FOR TRANSPORT: Sir, I can clarify the first point first. The 40 per cent increase refers to the original designed capacity of 60 000 passengers. It has since then been revised to 75 000 as the tolerable level, so I should perhaps have said 60 000 was the original capacity and 75 000 was the revised capacity.

As regards the question of passing on the problem to other transport modes, this is precisely what the corporation does not want to do. It has applied this congestion fare only for a period of 45 minutes in the morning and has provided enough trains in the early hours from 7.40 am onwards to give the passengers a full choice to still use the MTR and not the buses, which means a longer and more tortuous journey. So the MTRC, in fact, has taken the full responsibility in trying to attract passengers to use the early morning trains and not to use the congestion hour trains, and it does have the capacity to cope with such early risers.

MRS. CHOW: *Sir, may I have your tolerance to go back to Mr. SOHMEN's suggestion, which I think is a very worthwhile one and I think the Secretary has actually over-estimated the size of the carrot being proposed by Mr. SOHMEN because as has been suggested by many members on the transport panel and in our Council, in fact, the carrot is no bigger than the stick. In fact, we were proposing a non-peak incentive for the hour prior to 8 am and the 45 minutes after 8.45 am, which could not be a very huge loss of revenue for the MTRC.*

*May I put it to the Secretary that since the date for implementing the fare increase for the congested period has now been deferred to 30 May, may I ask the Secretary to put it to the board of the MTRC to implement the carrot as well as the stick at the same time and to implement a price mechanism in a positive manner as an incentive to try and persuade people to use the MTR, an hour before 8 am and 45 minutes after 8.45 am by a reduction in fare at the same time as they increase the fare during the congested period, which I think is totally fair and it is something which is well-affordable as far as the MTRC is concerned. May I request that the Secretary put this to the board?*

SECRETARY FOR TRANSPORT: Sir, I think the logic escapes me on this particular proposal. If you were to apply a reduction outside the peak hours and an increase in the peak hours, the two would neutralise each other. So where, in fact, is the impact? I really do not see the point in doing both at the same time. There should be effect on passengers who choose to travel in the congestion hours capable of inducing them to travel before 8 am. If you reduce the fare for non-congestion hours, you are, in fact, maintaining the same attractiveness for the congestion hours as it is now, which has no effect whatsoever. So there must be a net increase in the congestion hour fare to achieve the impact designed for this purpose, and 50 cents is considered to be the right balance to induce that number of passengers to use the early morning trains.

HIS EXCELLENCY THE PRESIDENT: Mrs. Selina CHOW, do you wish to elucidate the point you made in a final supplementary?

MRS. CHOW: *Sir, that is the most illogical reply that one could get from the Secretary. Perhaps I ought to clarify. The request is for the Secretary to put to the board of the MTRC when they apply the stick they also apply the carrot at the same time. When imposing the congestion fare from 8 am to 8.45 am, the MTRC should reduce the fare from 7 am to 8 am and 8.45 am to 9.30 am so as to induce passengers who would normally travel between 8 am and 8.45 am to travel during those two periods immediately prior to and immediately after the congested period. The Secretary's logic entirely escapes me but I would honestly request that the Secretary put this request to the board of the MTRC for consideration before the implementation of the price increase.*

SECRETARY FOR TRANSPORT: Sir, before I do so I must understand it myself, but honestly I do not. This is the plain answer. Before I pass it on I must know what

the suggestion is. Is it your suggestion that the morning non-rush hours be reduced? If so, by how much? And the rush hours? If so, by how much? And what impact it would achieve to have the same effect as is now being proposed. I must know the details before I can do this.

HIS EXCELLENCY THE PRESIDENT: I must interrupt you. This cannot become a debate. I am sure Mrs. Selina CHOW would be prepared to explain outside the Chamber precisely what her proposal is.

SECRETARY FOR TRANSPORT: I am happy, Sir, to receive the proposal in more detail outside the meeting.

### Written answers to questions

#### Traffic congestion during peak hours

10. DR. LAM asked: *Will Government inform this Council whether there is any overall plan to alleviate traffic congestion during peak hours and whether fare increase is an effective measure for resolving the problems?*

SECRETARY FOR TRANSPORT: Sir, much of government's transport planning is designed to reduce congestion and to improve the mobility of people and goods. As the demand for most transport facilities is at a maximum during the morning and evening peak periods, most of our planning efforts are directed towards ensuring that travel during these peak periods is as efficient as possible.

Peak-hour congestion, which includes both traffic congestion and congestion on public transport, is an ongoing problem. It can be addressed through the adoption of a variety of measures most appropriate at the time, including:

- (a) the provision of additional transport facilities for both vehicular traffic and pedestrian movement;
- (b) the provision and co-ordination of a range of public transport services;
- (c) the adoption of traffic management measures to increase the efficiency of existing facilities; and
- (d) the use of policy initiatives to make the most economic use of our transport system given that demand almost always exceeds supply.

As regards (a), examples of new transport facilities are the numerous road and pedestrian facilities built or under construction. The better known examples are the Eastern Harbour Crossing and Tate's Cairn Tunnel. Their completion in 1989 and 1991 respectively will bring long-term relief to the congestion problem at the Cross-Harbour and the Lion Rock Tunnels. Other highways and trunk roads which are being built include Route 5 and the New Territories Circular Road.

As regards (b), some 9 million passengers use public transport every day. The MTR now carries a daily average of 1.8 million passengers. Trains are already running at two-minute frequency to cope with demand during peak periods. With the extension of the MTR through the Eastern Harbour Crossing between Kwun Tong and Quarry Bay, there should be much needed relief along the Nathan Road corridor.

The KCR currently carries over 400 000 passengers a day. The train capacity will be further increased through the acquisition of nine additional sets of six-car units for introduction by stages before 1992. Phase I of the light rail transit system between Tuen Mun and Yuen Long is due to be completed in August 1988. Five additional regional extensions of the system are also planned over the next six years.

Meanwhile, the standard and level of bus and ferry services has continued to be improved through more effective planning and monitoring of the five-year plans of the franchised bus and ferry companies. Between them, they now carry about 4.3 million passengers per day. In addition, studies are also undertaken on a regular basis to identify deficiencies of public transport services. One example is the further study of cross-harbour public transport services to commence later this year.

The Government also maintains an intermodal co-ordination policy which aims at maximising the use of the various transport modes. The policy allows for adjustment of services to cope with the changing congestion situation. An obvious example is the overcrowding currently experienced along certain MTR stations along the Nathan Road corridor during the peak of the morning peak. To cope with passenger demand at this critical period, alternative public transport services have been and will be provided. For example, frequencies of cross-harbour bus services and feeder bus services to ferry concourses are being increased as far as necessary.

As regards (c), some examples of traffic management schemes to improve traffic flow are grade separation access facilities for the Wan Chai reclamation to help alleviate congestion at the Cross-Harbour Tunnel and the proposed traffic management scheme for Kwun Tong town centre and Kwun Tong industrial area to coincide with the opening of the Eastern Harbour-Crossing. Moreover, computerised area traffic control systems are now being extended to Kwun Tong and Tsuen Wan. More advanced and effective programmes are also being experimented on Hong Kong Island.

As regards (d), two examples of policy initiatives to achieve more economic use of the transport system are the increases in car registration tax and licence fees in 1982 and the introduction of a passage tax for users of the Cross-Harbour Tunnel in 1984. Pricing can be an effective means of control as proven by the improvement of the congestion situation at the Cross-Harbour Tunnel following the imposition of the passage tax in 1984. Congestion levels took nearly three years to return to levels comparable with the pre-tax situation.

However, it is Government's policy to avoid using congestion pricing if other alternative means are available to solve the problem. For example, tidal flow and bus-only lanes are used to alleviate the congestion problem at the Lion Rock Tunnel and have proved to be effective, at least in the short term.

The Second Comprehensive Transport Study, scheduled for completion later this year, should provide, among other things, a comprehensive review of

overall congestion and a range of policy recommendations to deal with the problem, as well as an investment programme for major new roads, railways and other transport facilities to meet the increasing demand for travel up to the year 2001.

### Applications for visit permit from Taiwan residents

11. MR. CHEONG-LEEN asked: *Will Government inform this Council whether it is aware of the many complaints that it takes as much as six weeks for the Hong Kong authorities to process applications for permits to visit Hong Kong by Taiwan residents, with the result that many tourists bypass Hong Kong, and whether Government can shorten the processing time to, say, one week?*

SECRETARY FOR SECURITY: Sir, the Government welcomes the increase in tourism from Taiwan and is aware that complaints have been made over delays in processing applications for visit permits. The unexpectedly large upsurge in these applications, currently running at 150 per cent above the corresponding period in 1987, resulted in a deterioration of service which the Director of Immigration has taken steps to restore.

Measures which have been taken include the streamline of procedures and a doubling of the staff from 39 to 81. An additional 48 staff are being sought to restore the service to its former level, that is, to despatch permits within two weeks of the receipt of application. The costs will be covered by the revenue from fees. Meanwhile, permits are being issued within three weeks for group tours and within five weeks for individuals.

The feasibility of computerising this activity is now receiving urgent attention.

Statistics of applications are at appendix.

### Appendix

#### *Monthly statistics of Taiwan visit applications*

<i>Month</i>	<i>1986 Applications received</i>	<i>1987 Applications received</i>	<i>± % (over 1986)</i>	<i>1988 Applications received</i>	<i>± % (over 1987)</i>
Jan	28 800	35 460	+ 20	64 070	+ 81
Feb	13 110	26 340	+ 101	59 430	+ 126
Mar	17 460	35 130	+ 101	89 670	+ 155
Apr	18 840	22 800	+ 21	32 580	
May	19 890	25 050	+ 26	(up to	
June	19 350	28 710	+ 48	19-4-88)	
July	28 590	40 380	+ 41		
Aug	22 290	31 710	+ 42		
Sept	20 250	38 100	+ 88		
Oct	24 270	41 731	+ 72		
Nov	26 540	46 259	+ 74		
Dec	31 200	52 980	+ 70		
Total	270 590	424 650	+ 57		

**Planning ratio for provision of social centres for the elderly**

12. MRS. TAM asked: *In view of the differences in the number of old people among various districts in Hong Kong, will Government inform this Council whether it has considered adopting a new approach, as in the case of youth centres, by using a flexible planning ratio in providing elderly centres so as to cater for the differences in the demographic structures of various districts; and if so, what will the new planning ratio be?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the current planning ratio for the provision of social centres for the elderly is one centre for 30 000 general population. This is a broad guideline and is used, for example, in the planning of services and reservation of premises in new public housing estates where the demographic structure will not be apparent until the actual intake of population. In practice, however, this standard is applied with flexibility (with a deviation of plus or minus 20 per cent) to take account, for example, of areas with a concentration of elderly people or of remote areas of scattered population.

The Social Welfare Department is now examining the mode of operation of social centres for the elderly with a view to providing services on a more flexible basis to meet the needs of a greater number of elderly people. The current planning ratio will be reviewed in the light of the results of this study.

In addition to social centres, there are multi-service centres and day-care centres for the elderly. However, both of these services are provided on a district basis and provision is not calculated by reference to a specific planning ratio.

**Interface between ICAC and police**

13. MR. SOHMEN asked: *Would Government inform this Council of the interface between the Independent Commission Against Corruption and the police in handling corruption cases which are connected with conspiracy to defraud or trafficking in dangerous drugs, and the criteria for determining whether a case should be referred by the ICAC to the police for action?*

SECRETARY FOR SECURITY: The 'interface' between the Independent Commission Against Corruption and the police in handling corruption cases which are connected with conspiracy to defraud or trafficking in dangerous drugs is the close liaison that exists between ICAC and the police and also with the Customs and Excise and with the Legal Department.

The criterion for deciding whether ICAC or one of the other law enforcement agencies should investigate a case involving conspiracy to defraud or trafficking in dangerous drugs depends on whether there is an allegation of corruption or an indication that corruption has taken place. If a corruption offence is suspected the ICAC will invariably undertake the investigation. If there is no indication of corruption, the police or Customs and Excise will carry out the

investigation. If in the early stages of an investigation by the ICAC, the commission is satisfied that no corruption is involved, then it invariably refers the case to one of the other agencies. But where the ICAC has become heavily engaged in a case before it appears that the corruption aspect is lacking, or insufficient for prosecution purposes, it would be a waste of time and manpower for the ICAC to hand the case over to another agency to start the investigation again. So, following consultation, including the Legal Department, it will continue to investigate the case in close co-operation with the appropriate agency, sometimes in what is deliberately designed as a joint operation. Equally, if the police are investigating a case and discover that corruption offences may be involved, they normally refer it to the ICAC. The ICAC will then assume responsibility for the investigation.

The guiding principle is that the ICAC is responsible for the investigation of offences under the Prevention of Bribery Ordinance, the Independent Commission Against Corruption Ordinance and the Corruption and Illegal Practices Ordinance.

### **Salary for foreign domestic helpers**

14. MR. POON CHI-FAI asked: *With regard to the policy of stipulating a minimum monthly salary for foreign domestic helpers, such as Filipino maids, will Government inform this Council:*

- (a) *of the rationale for adopting such a policy;*
- (b) *of the criteria used to determine the amount of minimum monthly salary; and*
- (c) *whether any organisations are consulted before such a minimum salary is set or revised?*

SECRETARY FOR SECURITY: Sir, when a foreign national is permitted to enter Hong Kong to work, one of the conditions of entry imposed by the Director of Immigration is that the salary to be paid should not be less than the current market rate for the job to be performed.

The rationale behind this policy is to protect the interests of local employees, who would suffer a loss of real earnings if cheaper sources of labour were readily available from overseas. The Government therefore ascertains what the current market rate is for a particular job, so that it can be satisfied, when employment contracts are presented for approval, that the salary to be paid is not less than the market rate.

Information about current market rates is provided by relevant government departments with expert knowledge of the types of employment concerned. In the case of domestic helpers, the Labour Department surveys the salaries offered to local employees, and informs the Director of Immigration of current salary levels. It is not the normal practice to consult external organisations about these matters which are part of immigration entry policy.

The purpose of announcing publicly the current salary levels for domestic helpers is to assist the large numbers of employers who present employment contracts to the Immigration Department to obtain speedy approval.

### **Merger of Model Scale 1 and Master Pay Scale**

15. MR. TAM asked: *Will the Government inform this Council:*

- (a) *the original reasons for setting up Model Scale 1 and the criteria in determining what type of posts should be grouped under this scale; and*
- (b) *whether consideration will be given to the suggestion made by a number of trade unions that the two salary scales should be merged?*

CHIEF SECRETARY: Sir, prior to 1971, Civil Service grades were remunerated on 10 Model Scales (namely Model Scales 1 to 10) according to entry qualifications and occupational grouping. Following the 1971 Salaries Commission, Model Scales 2 to 10 were replaced by a consolidated pay scale known as the Master Pay Scale with educational qualifications being the main determinant for entry into the grades concerned. Model Scale 1 remained comprising Workman and Artisan grades for which the requirement was operative skill rather than educational qualifications.

As regards the second part of Mr. TAM's question, in 1980, the Government accepted the advice of the Standing Commission on Civil Service Salaries and Conditions of Service that steps should be taken gradually to reduce the differences between Model Scale 1 and Master Pay Scale staff, and that a complete merger of the two salary scales should be a long-term objective. Since then, substantial improvements to the pay and conditions of service for Model Scale 1 staff have been made. The more recent of these have been the improved pension arrangements implemented with effect from 1 July 1987 which have brought them closer into line with pensionable staff on the Master Pay Scale and the improvement package comprising a salary increase and a reduction in working hours which was implemented in March 1988 to reflect the results of the 1986 Pay Level Survey.

### **Government Business**

#### **Motions**

#### **MATRIMONIAL CAUSES ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion: That the Matrimonial Causes (Fees) Rules 1988, made by the Chief Justice on 15 February 1988, be approved.

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

It is proposed to increase the fees payable under the Matrimonial Causes (Fees) Rules by approximately 20 per cent to restore their real value to that of 1985 when they were last revised.

Additional annual revenue is estimated to be \$1.5 million. There are no staffing implications.

Sir, I beg to move.

*Question proposed, put and agreed to.*

### **MAGISTRATES ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion: That the Magistrates (Fees) Regulations 1988, made by the Chief Justice on 15 February 1988, be approved.

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

It is proposed to increase the fees payable under the Magistrates (Fees) Regulations by approximately 20 per cent to restore their real value to that of 1985 when they were last revised.

Additional annual revenue is estimated to be \$440,000. There are again no staffing implications.

Sir, I beg to move.

*Question proposed, put and agreed to.*

### **CRIMINAL PROCEDURE ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion: That the Criminal Appeal (Amendment) Rules 1988, made by the Chief Justice on 15 February 1988, be approved.

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

It is proposed to increase the fees payable under the Criminal Appeal Rules by approximately 35 per cent to restore their real value to that of 1982 when they were last revised.

Additional revenue per annum is estimated to be \$27,000. There are no staffing implications.

Sir, I beg to move.

*Question proposed, put and agreed to.*

**COMPANIES ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion: That the Companies (Fees and Percentages) (Amendment) Order 1988, made by the Chief Justice on 15 February 1988, be approved.

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

It is proposed to increase the fees payable under the Companies (Fees and Percentages) Order by approximately 20 per cent to restore their real value to that of 1985 when they were last revised.

Additional revenue per annum is estimated to be \$900,000. There are no staffing implications.

Sir, I beg to move.

*Question proposed, put and agreed to.*

**BANKRUPTCY ORDINANCE**

THE FINANCIAL SECRETARY moved the following motion: That the Bankruptcy (Fees and Percentages) (Amendment) Order 1988, made by the Chief Justice on 15 February 1988, be approved.

He said: Sir, I move the fifth and last motion standing in my name in the Order Paper.

It is proposed to increase the fees payable under the Bankruptcy (Fees and Percentages) Order by approximately 20 per cent to restore their real value to that of 1985 when they were last revised.

Additional revenue per annum is expected to be \$1.2 million. There are no staffing implications.

Sir, I beg to move.

*Question proposed, put and agreed to.*

**First Reading of Bills****LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS)  
(AMENDMENT) BILL 1988****SECURITIES (AMENDMENT) BILL 1988**

**INSURANCE COMPANIES (AMENDMENT) BILL 1988****CRIMINAL PROCEDURE (AMENDMENT) BILL 1988****EMPLOYMENT (AMENDMENT) BILL 1988****POST OFFICE (AMENDMENT) BILL 1988**

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

**Second Reading of Bills****LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS)  
(AMENDMENT) BILL 1988**

THE CHIEF SECRETARY moved the Second Reading of: 'A Bill to amend the Legislative Council (Electoral Provisions) Ordinance'.

He said: Sir, I move that the Legislative Council (Electoral Provisions) (Amendment) Bill 1988 be read a Second time.

The principal purpose of the Bill is to encourage as many eligible voters as possible to vote in the functional constituency elections to the Legislative Council in September this year. To this end, the Bill seeks to make special arrangements to enable those who are not yet registered as electors on the General Electoral Roll, but who are eligible to do so, to be registered as electors on the Legislative Council Electoral Roll. This will, in turn, make them eligible to nominate, or be nominated as candidates. Sir, these are special arrangements because, under existing legislation, a person is not entitled to be registered as an elector for the Legislative Council elections unless he is already registered on the General Electoral Roll.

Sir, the Administration will be examining, in the longer term, whether it should remain a requirement for a person to be included on the General Electoral Roll before he may be registered on the Legislative Council Electoral Roll.

In the meantime, the Bill makes it clear that the special dispensation—namely the dispensation from prior registration on the General Electoral Roll—is only good for the 1988 Legislative Council elections.

Persons who benefit from this dispensation will have to be properly registered on the General Electoral Roll at the next opportunity, if they wish to remain on the Legislative Council Electoral Roll after the forthcoming September elections. Those concerned are therefore being advised and encouraged to submit

their applications for registration on the General Electoral Roll at the same time as they submit their applications for registration on the Legislative Council Electoral Roll.

The second purpose of the Bill is to provide for the automatic acceptance of office by the Elected Members of the Legislative Council and to reduce from 30 days to seven days the period during which such Members may decide not to accept office.

The purpose of doing so is to shorten the election timetable, and to make it easier to meet the requirement in the Royal Instructions whereby the period between the last sitting of a session of the Legislative Council and the first sitting of the next session is not to exceed three months. The proposed amendment, to provide for automatic acceptance unless non-acceptance is notified to the Governor within seven days of publication of election results in the Gazette, will make it simpler to keep to this timetable. Separate consideration will be given as to whether similar arrangements should be introduced for the municipal councils and district board elections.

Sir, the Bill also amends the Post Office Regulations, by adding reference to the Legislative Council (Electoral Provisions) (Procedure) Regulations, so as to make it clear that candidates in the Legislative Council elections qualify for free postage under the Post Office Ordinance.

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

*Question on adjournment proposed, put and agreed.*

## **SECURITIES (AMENDMENT) BILL 1988**

THE FINANCIAL SECRETARY move the Second Reading of: 'A Bill to amend the Securities Ordinance'.

He said: Sir, I move that the Securities (Amendment) Bill 1988 be read a Second time.

The purpose of this Bill is to amend section 19 of the Securities Ordinance to empower the Commissioner for Securities to release to specified persons information obtained in the course of his duties under the Ordinance. This will permit increased co-operation with law enforcement agencies in Hong Kong and with overseas regulatory authorities concerned with securities markets and will bring the provisions of the Ordinance into line with the relevant provisions of the Banking Ordinance.

Section 19 of the Securities Ordinance provides that, except in the performance of their duties under the Ordinance, persons appointed under or employed in assisting any person to carry out the provisions of the Ordinance should

preserve secrecy with regard to all matters coming to their attention in the performance of their duties. Members of the Securities Commission, the Commissioner for Securities and his staff, and inspectors appointed under the Securities Ordinance are subject to the secrecy provisions of this section.

The restrictive nature of section 19 has meant that the commission and the commissioner have been unable to offer their full assistance to law enforcement agencies in Hong Kong and to overseas regulatory authorities. Nor has it been possible for the commission to release information obtained by inspectors to law enforcement agencies in Hong Kong.

Sir, this situation is wholly unsatisfactory. As the financial services industry becomes increasingly integrated, it is essential that the commissioner and any inspectors appointed under the Ordinance should be able to co-operate fully with law enforcement agencies. Moreover, with the increasing internationalisation of securities markets, it is becoming essential for regulatory authorities in different jurisdictions to be able to co-operate fully with each other in the general interest of investors.

The need to respond to these changes in the market has already been recognised in the field of banking supervision. The secrecy provisions in the Banking Ordinance were relaxed in 1986 to allow the Commissioner of Banking to co-operate with domestic and overseas agencies. It is now proposed to bring the relevant provisions in the Securities Ordinance into line with those in the Banking Ordinance so as to permit greater discretion in the disclosure of information in specified circumstances, whilst preserving the general obligation of secrecy.

Clause 2(a) of the Bill deletes and replaces section 19 of the Securities Ordinance. The new subsection (1) creates a general prohibition against the disclosure of information under the Ordinance. Notwithstanding this general prohibition, new subsection (2) specifies the persons to whom and, in some cases, the purposes for which such information may be disclosed by the Commissioner for Securities; such purposes include any investigation or criminal proceedings in Hong Kong, or civil proceedings under the Ordinance. Information may also be disclosed to the Insider Dealing Tribunal and to the Financial Secretary, the Secretary for Monetary Affairs, the Registrar General and any public officer authorised by the Financial Secretary, the Commodities Trading Commission, the Futures Exchange, overseas regulatory authorities and other organisations concerned with the securities and commodities markets, and to professional and semi-professional bodies specified by the Securities Commission. Provision is also made to allow the disclosure of notes and information obtained by inspectors in the course of investigation to specified public officers and bodies.

It is important to ensure that persons receiving such information do not further disclose without the consent of the proper authorities. Under new subsection (3), the original recipient of information and any third party may not

disclose without the consent of the Securities Commission or commissioner as appropriate. Clause 2(b) amends section 19(7) of the Ordinance to make any such unauthorised disclosure an offence.

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

*Question on adjournment proposed, put and agreed to.*

## **INSURANCE COMPANIES (AMENDMENT) BILL 1988**

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

He said: Sir, I move that the Insurance Companies (Amendment) Bill 1988 be read a Second time.

The Bill has three main objectives. First, it clarifies the rights and obligations of the Insurance Authority on the disclosure of information to domestic and overseas regulatory authorities. Secondly, it gives the authority a discretion to determine when conditions imposed at the time of authorisation of an insurance company should be revoked. Thirdly, it empowers the authority to withdraw authorisation where an authorised insurer has ceased to carry on any class or part of any class of insurance business.

There are currently no provisions in the Insurance Companies Ordinance governing official secrecy or the disclosure of information. The Insurance Authority's position is therefore uncertain. For reasons similar to those I gave when moving the Second Reading of the Securities (Amendment) Bill a moment ago, this causes problems for those involved on the regulatory side. So clause 6 inserts new provisions on secrecy, disclosure of information and examination by outside authorities. These new provisions create a general prohibition against the disclosure of information obtained under the Ordinance and, notwithstanding that prohibition, specify in what circumstances and to whom such information may be disclosed. This will enable the Insurance Authority to exchange information on authorised insurers with regulatory bodies in Hong Kong and insurance supervisory authorities overseas in the interests of policy holders or potential policy holders. Again, in doing so, it will bring the Ordinance into line with the relevant provisions of the Banking Ordinance.

Sir, any company wishing to carry on any class of insurance business must first seek and obtain authorisation from the Insurance Authority. Section 8 of the Ordinance enables the authority to impose conditions, as necessary, for the better regulation of the insurer and the protection of policy holders. Section 12 provides that any such conditions will automatically cease to have effect five years after the date of authorisation. However, the authority does need to impose conditions which are of a continuing nature for the protection of policy

holders. Clause 3 amends section 12 to give the authority a discretion to determine when conditions imposed under authorisation should be revoked. This will allow a distinction to be drawn between conditions imposed for an initial period and those intended to be of a continuing nature.

Section 40 of the Ordinance empowers the Insurance Authority to withdraw authorisation where an authorised insurer ceases to carry on any insurance business, or insurance business of any class, or has not commenced to carry on insurance business of any class within 12 months of his being authorised for that class. As the law now stands, the authority has no power to withdraw the authorisation of a type of insurance business which is not a 'class' of insurance within the meaning of the First Schedule to the Ordinance. This has caused practical difficulties. Clause 5 amends section 40 to enable the Insurance Authority to withdraw authorisation for a part of a class of insurance business in the circumstances set out in the Ordinance.

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

*Question on adjournment proposed, put and agreed to.*

### **CRIMINAL PROCEDURE (AMENDMENT) 1988**

THE ATTORNEY GENERAL moved the Second Reading: 'A Bill to amend the Criminal Procedure Ordinance'.

He said: Sir, I move that the Criminal Procedure (Amendment) Bill 1988 be read a Second time.

The Bill addresses a problem which can lead to delays in criminal trials.

Section 65B of the Criminal Procedure Ordinance allows the admission into evidence of written statements in a criminal proceeding, other than a committal. Certain conditions must be met. One of the conditions under section 65B(3)(c) a statement in a language other than English, must be accompanied by an English translation certified by the court translator.

Sir, this requirement that an English translation be certified by the court translator can cause problems at the trial. A statement may be agreed by the parties and a translation available, but it cannot be admitted until a certified translation is obtained. Delay is experienced while the court translation service produces a certified translation. The usual length of time required for certification of translations to be used in the High Court is 21 days. In cases where there are lengthy and bulky documents the certification of translations takes much longer.

This Bill amends section 65B(3)(c) to remove the requirement for a certified translation where the parties agree. The section, as amended, will provide that if a statement tendered in evidence is made in a language other than English, it

shall be accompanied by an English translation, which will be certified, unless otherwise agreed by or on behalf of the prosecutor and the defendant (or, if more than one, all the defendants).

Where all the parties are in agreement that an available translation is satisfactory, no useful purpose is served by requiring the court to certify the translation, and time may be lost and cost incurred while waiting for it to do so.

The amendment proposed in this Bill was unanimously recommended by a committee, which included representatives of the Bar Association and the Law Society, set up by the former Chief Justice to examine questions of criminal procedure.

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

*Question on adjournment proposed, put and agreed to.*

## **EMPLOYMENT (AMENDMENT) BILL**

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: 'A Bill to amend the Employment Ordinance and its subsidiary legislation'.

He said: Sir, I move that the Employment (Amendment) Bill 1988 be read a Second time.

This Bill seeks to increase the maximum levels of fines for offences under the Employment Ordinance and its subsidiary legislation.

The Employment Ordinance was enacted in 1968 and the maximum penalties for contravention of its provisions were set at \$5,000. Since then, we have added many new provisions; most notably provisions for severance pay, maternity protection, annual leave with pay, sickness allowance and long service pay. Maximum penalties under these provisions have been set between \$1,000 and \$5,000.

In 1973 a new part was added to the Ordinance to cover employment agencies and the Employment Agency Regulations were made. Maximum penalties under this new part of the Ordinance ranged from \$5,000 to \$10,000 and under the regulations were \$2,000. The Employment of Children Regulations were made in 1979 and the Women and Young Persons (Industry) Regulations in 1980. Offences relating to the illegal employment of children carry maximum fines of between \$5,000 and \$10,000 and breaches of the Women and Young Persons (Industry) Regulations carry fines of between \$1,000 and \$5,000.

The deterrent effect of penalties under the Ordinance and its subsidiary legislation has declined over the years and a review in 1987 showed that fines needed to be increased to maintain their value in real terms. In proposing the new levels of fines account has been taken of inflation of about 400 per cent and

wage increases of about 700 per cent over the period since 1968. There are now five maximum levels of fines, and it is proposed to reduce these to three: \$5,000, \$10,000 and \$20,000. When reviewing the levels of fines, we have also considered introducing custodial sentences for very serious offences. Proposals are being developed and I hope to put these to this Council before the end of this legislative session.

Sir, the purpose of the present Bill is to increase fines so as to restore their original deterrent effect. The Bill has the support of the Labour Advisory Board.

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

*Question on adjournment proposed, put and agreed.*

### **POST OFFICE (AMENDMENT) BILL 1988**

THE SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION moved the Second Reading of: 'A Bill to amend the Post Office Ordinance'.

He said: Sir, I move the Second Reading of the Post Office (Amendment) Bill 1988.

The effect of the Bill is to permit the Postmaster General, with the prior approval of the Governor in Council, to issue postage stamps which incidentally also raise money for charity. It is the Government's intention if the Bill is passed that there should be a special issue of charity stamps later this year to raise funds on behalf of the Community Chest. 1988 is, as Members will be aware, the chest's 20th anniversary and the chest is the umbrella organisation for many of Hong Kong's most deserving causes.

Very simply, the idea is that stamps should show both the postage amount and, separately, the donation element. I would like to make clear that members of the public will have the choice of buying the slightly more expensive charity stamps or stamps at normal prices. There will be no pressure on people buying stamps to opt for the charity ones.

I hope hon. Members will agree that this is a reasonable proposal which will provide a convenient opportunity for members of the public to make a donation towards a worthy cause if they choose to do so.

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

*Question on adjournment proposed, put and agreed to.*

**HEUNG YEE KUK (AMENDMENT) BILL 1988****Resumption of debate on Second Reading (16 March 1988)***Question proposed.*

MR. CHEUNG (in Cantonese): Sir, as proposed by the Heung Yee Kuk, the major amendment in the Heung Yee Kuk (Amendment) Bill 1988 is to expand the membership of the Executive Committee of the Heung Yee Kuk by up to 15 additional persons known as co-opted councillors. From my observation, the Heung Yee Kuk Ordinance (Cap 1097) has been put into force for 28 years since its passage into law by this Council in 1959. Throughout these years, our community in the New Territories has witnessed considerable changes. Consequently, the workload of the Heung Yee Kuk has become increasingly heavy. As provided in section 9 of the Heung Yee Kuk Ordinance, one of the objectives of the Kuk is 'to advise the Government on social and economic developments in the interests of the welfare and prosperity of the people of the New Territories.' Thus, the proposed amendment is in no way contradictory to the spirit of the Ordinance. In fact, it enhances the capability of the Kuk in coping with the changing needs and enables it to open its door and draw from a wider pool of available talents to improve its efficiency in serving the community. It is a good thing that the Kuk can make such a reform. It deserves our support.

These additional co-opted councillors of the Kuk cannot be members of a rural committee, but are otherwise unrestricted as to their eligibility for office. This is a clear indication of the Kuk's determination to change its rules. If talented people are to become co-opted councillors only by way of election or nomination on a district basis, it would be difficult for the Heung Yee Kuk to draw benefit from the talent of individuals of high calibre. However, it is necessary that these co-opted councillors should have certain links with the local community in the New Territories.

As regards the introduction of the offices of non-voting permanent advisers and the new provision to disqualify members who fail to regularly attend the Kuk's meetings, these are considered as tangible measures to enhance the Kuk's efficiency aiming at fostering a better sense of responsibility among members in a bid to prevent members from holding their positions merely in name. Such pragmatic attitude is indeed commendable.

Consequential upon the expansion of membership by 15 co-opted councillors, amendments to the provisions regarding the Kuk's meetings and its election procedures are also necessary. I, therefore, shall move some amendments to this Bill at the Committee stage to ensure that these procedures will be clearly provided in law.

Sir, with these remarks, I fully support the motion.

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, I would like to thank Mr. CHEUNG Yan-lung for his support to the Bill. I agree with Mr. CHEUNG's amendments which he will propose to be made to the Bill at the Committee stage.

*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).*

## **EDUCATION SCHOLARSHIPS FUND (AMENDMENT) BILL 1988**

### **Resumption of debate on Second Reading (9 March 1988)**

*Question proposed, put and agreed to.*

Bill read the Second time.

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

### **Committee stage of Bills**

Council went into Committee.

## **HEUNG YEE KUK (AMENDMENT) BILL 1988**

Clauses 1 to 3 and 6 to 8 were agreed to.

Clauses 4, 5, 9 and 10

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

### *Proposed amendments*

Clause 4

That clause 4 be amended by deleting clause 4 and substituting the following—

‘Section 4 of the principal Ordinance is amended—

- (a) in subsection (1) by deleting “and Ordinary Members” and substituting the following—  
“, Ordinary Members and all of the Co-opted Councillors”; and
- (b) in subsection 2(a)(ii) by deleting “Unofficial”.’.

## Clause 5

That clause 5 be amended by inserting after 'amended' the following—

- ‘—
- (a) in subsection (1) by inserting after “elected” the following—  
“or confirmed”; and
  - (b) ’.

## Clause 9

That clause 9(a) be amended by deleting ‘All Councillors other than Ex Officio Members of the Executive Committee’ and substituting the following—

‘All Special Councillors and Vice Chairmen of Rural Committees’.

## Clause 10

That clause 10(a) be amended by deleting ‘members’ in both cases and substituting the following—

‘Councillors’.

The amendments were agreed to.

Clauses 4, 5, 9 and 10, as amended, were agreed to.

**EDUCATION SCHOLARSHIPS FUND (AMENDMENT) BILL 1988**

Clauses 1 to 3 were agreed to.

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

EDUCATION SCHOLARSHIPS FUND (AMENDMENT) BILL 1988

had passed through Committee without amendment and the

HEUNG YEE KUK (AMENDMENT) BILL 1988

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

*Question on the Bills proposed, put and agreed to.*

Bills read the Third time and passed.

**Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 4 May 1988.

*Adjourned accordingly at twenty-one minutes past Four o'clock.*

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

**WRITTEN ANSWER****Annex I****Written answer by the Secretary for Lands and Works to Mr. YEUNG's supplementary question to Question 5**

In 1987, 746 orders were issued with varying starting and completion dates, according to the complexity of the work to be done. About 300 (or 40 per cent) of these have not yet been complied with. This includes orders whose deadlines for completion have not yet expired and the figure will decline as the deadlines approach. Based on past trends, about 75 per cent of all repair orders may be expected to be complied with voluntarily by owners and only 25 per cent will become the subject of works orders to be carried out by the BOO's contractors.

Satisfactory action is taken to recover the cost for contractors' works, that part of the investigation which forms part of the repair order, plus a government supervision charge. These are fully recoverable under sections 32A and 33 of the Buildings Ordinance. Upon completion of work, costs are apportioned for common and internal areas and demand notes are sent to owners. 90 per cent of these settle payment. The remaining 10 per cent who default (that is 2.5 per cent of the total owners served with repair orders) have the costs registered in the Land Office by a memorial against the title of the property. Costs are then recovered (with interest) when ownership of the property is transferred.