

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 29 June 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 (*Acting*)

MR. DAVID ALAN CHALLONER NENDICK, J.P.

THE HONOURABLE THE ATTORNEY GENERAL

MR. JEREMY FELL MATHEWS, J.P.

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

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

DR. THE HONOURABLE HO KAM-FAI, O.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 WONG PO-YAN, C.B.E., J.P.

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

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

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

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

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

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

THE HONOURABLE CHAN YING-LUN, J.P.

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

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

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

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

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

THE HONOURABLE CHUNG PUI-LAM

THE HONOURABLE THOMAS CLYDESDALE, J.P.

THE HONOURABLE HUI YIN-FAT

THE HONOURABLE RICHARD LAI SUNG-LUNG

DR. THE HONOURABLE CONRAD LAM KUI-SHING
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.
THE HONOURABLE DESMOND LEE YU-TAI
THE HONOURABLE DAVID LI KWOK-PO, J.P.
THE HONOURABLE LIU LIT-FOR, J.P.
THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.
THE HONOURABLE PANG CHUN-HOI, M.B.E.
THE HONOURABLE POON CHI-FAI
PROF. THE HONOURABLE POON CHUNG-KWONG
THE HONOURABLE HELMUT SOHMEN
THE HONOURABLE SZETO WAH
THE HONOURABLE TAI CHIN-WAH
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING
THE HONOURABLE TAM YIU-CHUNG
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.
THE HONOURABLE ANDREW WONG WANG-FAT
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.
THE HONOURABLE 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
THE HONOURABLE CHARLES ROBERT SAUNDERS, J.P.
SECRETARY FOR LANDS AND WORKS (*Acting*)
THE HONOURABLE DOMINIC WONG SHING-WAH, J.P.
SECRETARY FOR EDUCATION AND MANPOWER (*Acting*)
THE HONOURABLE ADOLF HSU HSUNG, J.P.
SECRETARY FOR HEALTH AND WELFARE (*Acting*)

ABSENT

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.
SECRETARY FOR DISTRICT ADMINISTRATION
THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.
THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, O.B.E., J.P.
THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

IN ATTENDANCE

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

Papers

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

Subject *L.N. No.*

Subsidiary Legislation:

Shipping and Port Control Ordinance Shipping and Port Control (Hong Kong-China and Macau Ferry Terminals) (Amendment) Regulations 1988.....	168/88
Public Health and Municipal Services Ordinance Designation of Libraries (Urban Council Area) (No.3) Order 1988	169/88
Public Health and Municipal Services Ordinance Public Health and Municipal Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.3) Order 1988	170/88
Road Traffic (Parking) Regulations Designation of Car Parks (Amendment) Notice 1988	171/88
Water Pollution Control Ordinance Tolo Harbour and Channel Water Control Zone Statement of Water Quality Objectives for Watercourses	172/88
Inland Revenue Ordinance Inland Revenue (Interest Tax) (Exemption) (Amendment) (No. 6) Notice 1988	173/88
Tax Reserve Certificates (Fourth Series) Rules Tax Reserve Certificates (Rate of Interest) (No.5) Notice 1988	174/88

Sessional Paper 1987-88:

No. 63—1987 Annual Report by the Commissioner of the
dependent Commission Against Corruption

Address by Member presenting paper**1987 Annual Report by the Commissioner of the Independent Commission Against Corruption**

DR. TSE: Sir, as Chairman of the Advisory Committee on Corruption, I am pleased to introduce the 1987 Annual Report by the Commissioner of the Independent Commission Against Corruption, which is tabled today in this Council.

The report shows that statistically 1987 was a year of contrasts. There were fewer reports of corruption overall, with the 2 299 reports received being 11 per cent less than in 1986. Yet the commissioner's caseload, and the 1 068 corruption reports involving the private sector, were the highest ever. There were welcome reductions in corruption reports against the police—536 reports, and other government departments—624 reports, both of which were 15 per cent below the equivalent reports in 1986. At the same time there was an 86 per cent increase to 514 in the number of persons charged with offences.

The commission continued its three-pronged attack on corruption with the Operations Department investigating complaints of corruption and other offences within the commission's jurisdiction, the Corruption Prevention Department examining practices and procedures so as to reduce opportunities for corruption and the Community Relations Department educating the public on the evils of corruption.

Touching briefly on the activities of each of the three departments during 1987, the Operations Department, as the figures I have quoted suggest, had another busy and successful year, and was heavily involved in a number of protracted corruption based investigations. Of particular significance has been the co-operation with other law-enforcement agencies. For example, one notable case concerned the Overseas Trust Bank in which after 16 months of joint effort by officers of the police and the ICAC, the main part of this enquiry was concluded and all the four major offenders were successfully prosecuted for fraud. In three drug related cases there was very close co-operation with the Federal Bureau of Investigation of the United States in respect of one of them and with the Customs and Excise Department here for the other two.

During the year, the Corruption Prevention Department completed 91 reports and papers on a wide range of subjects in the public and private sectors. Most of the department's work concerned government departments, for example, assignments involving the sale of buildings which have illegal structures, the control of social welfare subventions and film censorship. But it is encouraging to see that companies in the private sector have been taking a greater interest in improving their systems and their management so as to reduce the opportunities for corruption. For example, during the year, the department was invited to undertake studies to improve the procedures of the Hong Kong School of Motoring. Another example was an assignment designed to prevent touting by solicitors' clerks.

The Community Relations Department continued its efforts to educate the public on the evils of corruption and how to deal with it. For example, it organised functions involving 327 000 people during the year. These functions included a seminar organised with the Travel Industry Council for which my hon. Friend Dr. Henrietta IP gave the key-note address.

One of the highlights of the year was the Third International Anti-Corruption Conference, which the ICAC hosted in Hong Kong from 2 to 6 November.

Eighteen months of careful planning paid off and the conference, which was attended by some 250 delegates, 105 of whom were from overseas representing 72 organisations and 32 countries, proved to be a great success.

The international dimension to the work of the commission, which was reflected by the conference, is very much a reality. You, Sir, made the point in your opening speech at the conference that, as with many other forms of crime, corruption now transcends city, state and national boundaries. This development, and the fact that corruption is often a component of other major crime, has involved the commission in a wide range of investigations into offences which were committed in Hong Kong but which have implications overseas. The co-operation overseas agencies have given to ICAC is very much appreciated. For its part the commission in turn tries to meet requests from overseas for assistance on operational, training and administrative matters.

Finally, the commissioner has drawn attention in his report to the help and advice given during the year by the various advisory committees to the commission and, in particular, by the former Chairman of the Advisory Committee on Corruption, Mr. S. L. CHEN who retired at the end of the year.

Oral answers to questions

Diversion of Air Traffic to Shek Kong Airport

1. MR. CHEUNG asked: *In view of the heavy air traffic in and out of Kai Tak Airport, will Government inform this Council whether consideration has been given to the possibility of diverting some of the traffic, particularly smaller aircraft, to the airport at Shek Kong, so as to relieve congestion at Kai Tak Airport and to increase its capacity for larger airliners?*

FINANCIAL SECRETARY: Sir, in replying to Mr. CHEUNG's question, I should first mention that Kai Tak Airport has served Hong Kong's aviation needs well and is expected to continue to do so for a number of years.

At present, the number of general aviation movements involving small locally-registered private aircraft and executive jets, constitutes a small proportion of the total traffic. The relatively low volume of such aircraft movements has permitted these flights to be accommodated at Kai Tak, albeit with certain restrictions to ensure that they do not impinge upon the demands placed on the use of the airport by commercial airline operations. In 1987, local civil aircraft movements at Kai Tak accounted for approximately 5 000 of the total of some 87 000 movements. The Government therefore sees no need to divert such traffic away from Kai Tak to Shek Kong.

As regards the commercial civil international aircraft that currently operate at Kai Tak, none can be safely operated on a regular basis at Shek Kong. The topography of Shek Kong would not allow safe takeoffs and landings for these

aircraft. The mountains to the north, east and south present obstructions which preclude most operations. Some high performance aircraft could be accommodated but hardly any of these operate into Hong Kong at present.

The development potential of Shek Kong Airfield is, in any event, limited and any relief which it could offer to Kai Tak would be short-lived. Considerable costs would have to be incurred for the runway to be upgraded to bring it up to a standard compatible with aerodrome licensing requirements for public transport. Other airport and passenger terminal facilities would also be necessary, not to mention the very substantial costs of providing additional local transport infrastructure to facilitate access, if this option were to be pursued. Apart from cost considerations, such developments are considered incompatible with the military usage of the airfield.

MR. CHEUNG: *Sir, the Financial Secretary said that Kai Tak Airport is expected to serve Hong Kong for a number of years. Does that mean that the replacement airport will not be built in the near future? And what restrictions are small aircraft using Kai Tak subject to?*

FINANCIAL SECRETARY: Sir, consultants have been employed to study the capacity and development potential of Kai Tak, the findings of which will be available by the final quarter of this year. They will provide a comprehensive assessment of the forecast growth in traffic and possible enhancements to facilities at Kai Tak to extend its capacity. Of course, in addition to that there is a much wider study taking place in relation to an alternative airport. On the question of the restrictions which are imposed on the small aircraft using Kai Tak, it is a restriction as to the timing in which they can use the airport.

MR. CHEONG-LEEN: *Sir, the Financial Secretary has said that the development potential of Shek Kong Airport is limited. Are there or will there be plans at an appropriate time in the run up to 1997 for a gradual run-down of Shek Kong Airport?*

FINANCIAL SECRETARY: Sir, first of all, there are plans for extending the length of the runway. The present runway is, in fact, very short and could not be used at all for commercial aircraft. It is only 820 metres. There are plans being considered to lengthen it to 1 800 metres, which is still a long way short of Kai Tak's 3 400 metres, but as far as plans for the future of that airport are concerned, it is still in use by the military aircraft and we have not, as yet, developed any long-term plans for it after the Royal Air Force and Army Air Corps leave. However, as part of the plan to expand the Royal Hong Kong Auxiliary Air Force (RHKAAF) to take over the roles of military aircraft, it is intended to establish a flying school at Shek Kong which will provide basic training in fixed wing aircraft for RHKAAF pilots.

DR. CHIU: *Sir, will Government inform this Council whether it will consider extending the non-curfew hours at Kai Tak airport after midnight, so as to relieve the heavy congestion anticipated in the future?*

FINANCIAL SECRETARY: Sir, I have no doubt that is one of the issues being considered by the consultants.

Employment opportunities in the new towns

2. DR. CHIU asked: *in order to achieve a more balanced distribution of jobs relative to population concentrations, will Government inform this Council whether it has any policies to encourage jobs to be created in the New Towns and, if so, what are the measures to achieve this objective?*

SECRETARY FOR LANDS AND WORKS: Sir, the present distribution of employment throughout Hong Kong is, to a great extent, a matter of history, hinging upon such things as the location of the old-established trading centres, post-war industrial areas, the central business district, and the availability of transport facilities, including the port. In developing the New Towns, therefore, it has not been easy for the Government to achieve a balance between the distribution of jobs and population, as this would have involved direct intervention to relocate jobs in parallel with the redistribution of population.

The new towns have all been developed, however, with the concept of 'balanced development' in mind, and the policy from the beginning has been to try and create an even 'balance' between population and employment opportunities in each new town. This objective is expressed in terms of the production, reservation and disposal of land to accommodate industrial and commercial activities in quantities commensurate with the anticipated numbers of resident workers. The essential supporting infrastructure, such as water supply, drainage, sewerage and transport is developed in phase with this, the aim being to create adequate opportunities for, and an environment which is conducive to, the establishment of economic enterprises in the new towns as the populations build up.

Once these opportunities have been provided, however, the Government does not generally intervene directly in the process of creating job places, and it cannot direct potential employers to set up business in any particular location. Other than the incentives of lower land costs, an inbuilt workforce, and suitable supporting infrastructure, therefore, there are no other specific incentives offered to private developers to encourage the creation of jobs.

The Administration will continue to make available land and infrastructure to provide the opportunities for business enterprises to set up in the New Towns. Beyond that, there is little else that I can add except to say that the

Government is endeavouring to achieve a fair balance in the distribution of jobs relative to population concentrations, and that it will continue with the policy that I have described.

DR. CHIU: *Sir, the Secretary for Lands and Works has not given us a clear answer regarding the efforts he has made to improve job opportunities in new towns. As the biggest employer in Hong Kong, will the Government take the lead to re-locate some Government offices to new towns, in addition to the existing regional offices. If so, what are the measures?*

SECRETARY FOR LANDS AND WORKS: Sir, I think it is true to say that the Government itself is a very large employer in the new towns. There are many Government officers working in the new towns already and indeed there is no intention of changing that; in fact, it is intended that we should continue with the development of offices on a regional basis so that Government staff can be re-located in the regions which they serve. I cannot be too specific as to numbers, I am afraid, but if Dr. CHIU wishes, I may be able to provide some numbers on that and a possible forecast of how this might develop in the future.

MR. TAI: *Sir, in order to increase job opportunities in the new towns, will Government consider relaxing the control over the use of agricultural land near the new town fringe and in other suitable areas, and at the same time providing suitable infrastructure facilities. More land will then be made available for industrial use and the land cost will be lowered. If the answer is in the affirmative, how would the Government go about doing it?*

SECRETARY FOR LANDS AND WORKS: Sir, I think, in short, the answer is not in the affirmative. It is not our intention to re-zone agricultural land in order to facilitate commercial or industrial development. Indeed, we would really like to see better control in the use of agricultural land, really to prevent further development for commercial or industrial use. I do not feel myself, Sir, that there is, in fact, a shortage of land. I think that the amount of land which is being provided in the new towns for commercial and industrial development is sufficient for the purpose and the land is disposed of generally in accordance with demand, so our planning really is to provide the jobs where the populations are and in the fringes of the new towns and this will be done on land which is specifically zoned for that purpose.

MR. TAI: *Sir, can the Secretary elucidate how he offers the incentive by providing land at low cost?*

SECRETARY FOR LANDS AND WORKS: Sir, the land for development by the private sector is normally tendered although occasionally it is let by private treaty grant. And it is very much a question of the open market. The land goes for the price which is bid for it. There is no specific incentive offered by the Government

or a measure taken by the Government to force down prices for land for these purposes, so we are really talking about land at market value.

DR. CHIU: *Sir, will the Government inform this Council what is the proportion of civil servants in the new towns, as compared with that in urban areas, bearing in mind that the population in the new towns accounts for more than one quarter of the total population in Hong Kong?*

SECRETARY FOR LANDS AND WORKS: Sir, as I mentioned earlier, I am afraid that I am not able to provide figures off the top of my head but I am sure that we could make a fair assessment of the numbers certainly in the Civil Service of those people employed in the new towns and those employed elsewhere and I will be happy to give Dr. CHIU a written answer to that question. (See Annex I)

MR. POON CHI-FAI (in Cantonese): *Sir, in the development of new towns, very often the Government takes into consideration a balance, particularly in co-ordinating land uses for the purpose of providing job opportunities. Can this Council be informed why a large number of people still have to work in places away from the new town in which they live?*

SECRETARY FOR LANDS AND WORKS: Well, the short answer to this, Sir, is that we do not have a balance between resident population and job places. In some of the new towns, we are very close to achieving a balance; in others, we have not yet achieved a balance, although the figures are improving all the time and it is interesting to note that if one were to compare the figures over the last 10 or 15 years, you would find that the numbers of job places or potential job places in the new towns are actually growing faster than the population. Unfortunately, it is not simply a question of balance because there are inevitably people who live in the new towns who do not want to work in the new towns; they want to commute out. And conversely, there are people working in the new towns who do not live in the new towns and who commute in. This, I am afraid, is a factor over which we have no control. We cannot direct people as to where they work and if a new town resident chooses to work in the urban areas, then so be it—we really have no control over that.

MR. TAI: *Sir, may I ask the Secretary if land cost is a determining factor for investment for industrialists, and low land cost becomes an attraction for them to move to the new towns? If that is the case, what is the Government's policy to encourage industrialists to create jobs in the new towns?*

SECRETARY FOR LANDS AND WORKS: Sir, I am sure that land cost must be a factor but it is only one of a number of factors which will determine whether or not a developer is going to buy land or rent land to create jobs, either industrial or commercial. But there are, of course, other factors; availability of labour of the right sort at the right price must be a factor; the traditional links that an

industry or trade may have with the urban area would be another factor, because people may not wish to move to the new towns if that does not happen to suit their particular business. And, of course, the availability of labour and labour costs must also be a consideration. So, here again it is not really something over which we can have a great deal of control. I have already stated in an earlier answer that the land for commercial and industrial development which is a pre-requisite for the creation of jobs is at market value. If we were to deliberately embark on a policy of letting out or disposing of land cheaply—I am not including now the Industrial Estates Corporation because that is a special case—but if we were, I think that this would have a very great effect on the market generally and would be undesirable.

Post-graduate training in environmental protection

3. PROF. POON asked: *In view of the anticipated expansion of the Environmental Protection Department in the coming years, will Government inform this Council whether there is any long-term plan to provide training for graduates in environmental protection studies, either locally or overseas, to ensure that the planned anti-pollution projects will not be affected by staff shortages?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Environmental Protection Department (EPD) does not generally seek to recruit graduates with a first degree in environmental sciences. Rather, the department looks for staff with a good basic degree in a scientific or engineering discipline, together with some relevant experience in industry or consultancy.

Staff with this sort of background are able to contribute more effectively to the various multi-disciplinary teams that make up the department. So far as training in specific environmental subjects is concerned, the emphasis is placed on post-graduate training. Accordingly, the department has been collaborating with various tertiary educational institutions in Hong Kong to develop courses in such subjects as public health engineering, noise and vibration, air pollution chemistry and control and environmental policy and management.

Staff who join the EPD are encouraged to participate in these courses as well as attending specialist short courses both locally and overseas, or are attached to relevant institutions abroad. In 1987-88, seven environmental protection officers attended part-time MSc courses and 29 attended seminars and international conferences in Hong Kong. In addition, 15 officers were sent overseas to attend conferences, specialist short courses or on attachment. Forty-four training courses have been organised for 1988-89.

It is considered that the present arrangements, supplemented by the use of consultants, who are able to respond more quickly to peaks in demand, are adequate to ensure that planned anti-pollution projects are not affected by staff shortages. There may, however, be temporary difficulties in the short term, due to the dramatic increase in activity in this field.

PROF. POON: *Sir, it is very unlikely that fresh graduates will have real experience in industry or consultancy. Will the Government, being the largest employer in Hong Kong, re-consider recruiting fresh graduates and give them on-the-job training, in order to prepare enough local graduates and local officers for the needs of EPD?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as I mentioned in the main reply, the EPD already undertakes a great deal of in-house training and its staff are sent on specialised courses, both in Hong Kong and overseas. To take in fresh graduates with no experience would greatly increase the workload of the already hard-pressed experienced staff. There is therefore a very limited capacity at the moment for the department to take in fresh graduates.

DR. LAM (in Cantonese): *Sir, the Secretary has said that because of the increase in activity in the field, there are temporary problems? Can I ask why there has been this dramatic increase in activity? Is it because of an under-estimate of the work or whether there have been any sudden emergencies and how long will this situation last?*

SECRETARY FOR HEALTH AND WELFARE: Sir, recruitment of staff has been going on for a long time and the problems encountered are being resolved gradually. We also employ consultants as well and the criteria for employing them are that if the work is of a nature where expertise is not available in-house, or the staff required for the work is in excess of the resources that are available in-house. Another factor is that the Government is now able to devote more resources to the problem of anti-pollution matters and this adds to the burden of the EPD. The situation is going to go on for a while because, as you, Sir, have said when addressing the Council earlier in the year, in the next decade Government is going to spend about \$15 billion on anti-pollution measures.

MR. EDWARD HO: *Sir, can the Secretary state how long these temporary difficulties are expected to last?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the temporary difficulties will go away as soon as all the recruitment exercises are successfully completed and when the bulk of the work which is going to take place in the next few years is completed.

MR. SOHMEN: *Sir, is the Secretary for Health and Welfare able to advise whether the curriculum of the new University for Science and Technology will focus on post-graduate studies related to subjects concerned with environmental protection, not only because of the greater need to pay attention to this subject in Hong Kong but elsewhere round the world?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I understand both universities and both polytechnics are in fact running courses relating to environmental studies. A new master's degree programme in environmental management is being planned by the University of Hong Kong to start in 1989. The Hong Kong Polytechnic, starting from this academic year, is also going to include an optional specialist module in environmental technology in the higher diploma course in chemical technology; the City Polytechnic will also include an environmental technology stream in the higher diploma course in applied science. So a number of new courses on environmental studies are being planned and will be implemented in the next few years.

DR. TSE: *Sir, in the light of the fact that it is difficult for Government to provide on-the-job training for fresh graduates, would the Government advise the tertiary institutions to introduce environmental elements to degree courses at the undergraduate level?*

SECRETARY FOR HEALTH AND WELFARE: Sir, as I have explained, there are a number of these courses already being provided or are being planned. The University of Hong Kong, the Chinese University, Baptist College and the polytechnics are all planning or implementing degree programmes in various sciences and master degree programmes, in all the different disciplines.

PROF. POON: *Sir, if the Government is reluctant to recruit fresh graduates with a first degree, which I agree, would the Secretary confirm that the EPD would consider recruiting local graduates who have received post-graduate training in some of the courses outlined in the second paragraph of the answer although these graduates may not have real experience in industry or consultancies?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the EPD has not recruited any staff from overseas in the past two years. We have only conducted recruitment exercises locally over the two years. I can tell Prof. POON that in the last two years, recruitment exercises have led to the successful recruitment of 82 professional grade officers of whom only 13 are overseas officers. Another point I wish to make, Sir, is that the entry requirement of the environmental protection officer rank is either a first or second class honours degree in a science or engineering subject from a Hong Kong or British university or equivalent, plus three years' relevant experience, but allowance is normally made for the time required to obtain the professional qualification. In the case of a master's degree, it is equivalent to two years' experience; in the case of a Ph.D, three years' experience.

MR. SOHMEN: *Sir, if the Government is not willing to recruit graduates with first degrees, then all these new courses that are being planned within the various institutions will perhaps not attract so many applicants because they see no career prospects locally. Could the Secretary advise how he tries to reconcile the two factors in his answer?*

SECRETARY FOR HEALTH AND WELFARE: Sir, EPD is looking for candidates with a first degree plus three years relevant experience at an appropriate level of responsibility, so if a first degree holder, after graduating from university, will work and acquire experience at an appropriate level of responsibility, he can then apply to become an environmental protection officer.

PROF. POON: *Sir, If the Hong Kong Government, being the largest employer, is not prepared to offer any training programme to fresh graduates, where else can these graduates obtain training? If they are not trained, how can they be recruited by Government?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I believe there is another possible avenue to join the department which is assistant environmental protection officer. This rank accepts first degree holders, but as I have explained, the department is more keen to recruit people with a basic degree plus relevant experience.

Food containers

4. DR. IP asked: *Will Government inform this Council what measures are being taken to ensure that containers (such as cups, boxes and bags made of paper, plastic or foam rubber) used for holding food or drinks sold by fast food outlets do not pose health hazards to members of the public?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the use of paper for wrapping or holding open food is controlled under the provisions of the Food Business (Urban Council) and the Food Business (Regional Council) By-laws made under the Public Health and Municipal Services Ordinance, which stipulate that no person shall wrap up or otherwise bring any open food into direct contact with any printed newspaper or unclean paper or wrapping material. Any food business operator who contravenes this by-law commits an offence.

As regards food containers made of other materials, such as plastic or foam rubber, the Municipal Services Branch has been collecting samples from food outlets, which include fast food outlets, for chemical analysis of the material in order to detect undesirable substances. There is no indication that such containers currently being used pose a health risk to the public if hygienically handled. This monitoring process will continue. Food business operators found to be using unclean or unsuitable containers which have contaminated the food contained therein will be prosecuted under the Public Health and Municipal Services Ordinance.

The Municipal Services Branch is also planning to create a post of food chemist within its Food Section to enhance the level of expertise whereby, among other things, the safety of packaging materials will be fully investigated and evaluated.

DR. IP: *Sir, in investigating and evaluating the safety of packaging materials for food, would Government also look into whether microwave, now commonly used in fast food shops, does not alter the nature of the packaging material to make it unsafe when in contact with food?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I will certainly refer this to the relevant authorities.

MR. YEUNG: *Sir, how many food business operators have been successfully prosecuted under the Public Health and Municipal Ordinance in the past two years? And in this period have there been cases of repeated offences resulting in the cancellation of the business registration certificate?*

SECRETARY FOR HEALTH AND WELFARE: Sir, over the last three years, there were 12 prosecutions for wrapping open food with unclean paper. There was, however, no prosecution for using unclean or unsuitable containers for food. As regards repeated offences, I am sorry I do not have that figure in hand and shall write to Mr. YEUNG. (See Annex II)

MRS. NG (in Cantonese): *Sir, is there legislation providing for that such containers may be used only once because I have received complaints that some traders retrieve used containers from rubbish bins, wash them, and then re-use them? That would be a health hazard indeed.*

SECRETARY FOR HEALTH AND WELFARE: Sir, I believe there is no law as such restricting the number of times these containers may be used but as the use of wrapping material and containers is all controlled under the Food Business (Urban Council and Regional Council) By-laws, the staff of the two executive departments will certainly take this into account.

MR. DESMOND LEE: *Sir, what kinds of foodstuffs are sold by the people who are commonly prosecuted under the Public Health and Municipal Services Ordinance?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am sorry I do not have that information in hand. I will write to Mr. LEE. (See Annex III)

DR. IP: *Will Government inform this Council whether, in the chemical analysis of the packaging material, traces of polychlorinated biphenyl have been detected and whether chronic accumulation of such a chemical in human bodies does any harm?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I am advised that the materials used for manufacturing these food containers are generally found to be polystyrene, plasticised polyvinyl chloride, polyethylene and polypropylene, which are not mutagens nor carcinogens and they are therefore suitable for holding food. I do not have that particular chemical mentioned by Dr. Ip. I will certainly ask the relevant authority to check and will reply in writing. (See Annex IV)

Chinese permit holders in Hong Kong

5. MR. SOHMEN asked: *Could Government give precise figures for the number of workers from China, particularly in the construction field, who have been permitted to enter and work in Hong Kong legally, and under what circumstances are these Chinese workers permitted to work in Hong Kong?*

SECRETARY FOR SECURITY: Sir, I am unable to provide such figures because under existing immigration policy, there is no provision for workers from China to enter Hong Kong for employment purposes, be it in the construction or other fields.

A separate category of entrant is, however, those who arrive legally from China for residence purposes by means of Chinese one-way exit permits issued by the Chinese authorities. By agreement with the latter these are restricted to 75 permits per day, amounting to about 27 000 persons per year as a permanent addition to Hong Kong's population. Since 1979, 220 000 Chinese permit holders have entered Hong Kong. They are, of course, free to take up employment after arrival, and I have no doubt that many of them have in fact entered the local labour market.

MR. SOHMEN: *Sir, does the definition of 'workers' in the Secretary's reply include or exclude white-collar workers from the People's Republic of China (PRC), for example, those who are employed in organisations with PRC-connections? If they are excluded from his definition, could the Secretary give the approximate number of Chinese nationals presently being employed in Hong Kong?*

SECRETARY FOR SECURITY: My answer, Sir, excludes the white-collar workers that Mr. SOHMEN has mentioned. I presume he is referring to those Chinese nationals holding official or semi-official passports who enter Hong Kong for specific periods of employment in Chinese companies or joint-venture companies in Hong Kong of which China is a partner. These Chinese nationals are permitted entry into Hong Kong to work only if they possess a special skill, knowledge or experience of value to and not readily available in, Hong Kong, or are in a position to make a substantial contribution to the economy of Hong Kong. As to the numbers, they are small; they are admitted to fill managerial or supervisory posts or as technicians. So far this year, a total of 891 Chinese nationals have been so admitted and 89 of these are in the construction or related fields.

MR. CHEONG-LEEN: *Sir, are there any statistics on the age groups and the working background of the 27 000 one-way permittees from mainland China who come in annually, so that some of them can be encouraged to join the construction field where the labour shortage is the most serious? And furthermore, Sir, would it be possible for something of this nature to be taken up at the Joint Liaison Group*

(JLG) since both China and Britain and the Hong Kong Government are very concerned about preserving Hong Kong's prosperity and continued economic prosperity?

SECRETARY FOR SECURITY: Sir, the 27 000 persons per year who come into Hong Kong are mostly coming for family reunion. They are men, women and children of all ages; I do not have the breakdown but it is possible that this could be obtained from the Immigration Department. I shall certainly consult the Immigration Department about that matter and let Mr. Hilton CHEONG-LEEN have a written reply on that particular point. (See Annex V) The purpose of these people coming in is not for employment; they are not workers in the sense to which Mr. SOHMEN was referring. Whether this is a matter for the JLG or not to consider is rather outside my policy branch's area, but this is something which I shall consult the Chief Secretary about.

MR. TAM (In Cantonese): *Sir, will the Government change its present immigration policy and if it will, has the Government considered the impact this may have on the local labour market and society?*

SECRETARY FOR SECURITY: Sir, the Administration is well aware of the tight labour market in Hong Kong and the concern that has been expressed in some quarters. It is currently reviewing the problems associated with this situation within the framework of existing legislation.

MR. SOHMEN: *Sir, is preferential treatment given to people who come to work in PRC-affiliated organisations?*

SECRETARY FOR SECURITY: I am not aware of special preferential treatment being given, because they are two separate matters. Those who come in under separate diplomatic and semi-diplomatic passports are in a completely different category to those who enter under the one-way entry permit scheme issued by the Chinese authorities.

MR. DESMOND LEE: *Sir, in addition to one-way permits, people from China are allowed to visit Hong Kong on two-way permits. How many such permits are issued each day, and are two-way permit holders allowed to work in Hong Kong during their period of stay?*

SECRETARY FOR SECURITY: To answer the second point first, Sir, they are not allowed to take up employment in Hong Kong during their stay. This is illegal and if they are caught, they are of course prosecuted, and I think that really answers your question.

Congestion in typhoon shelters

6. MR. LIU asked (in Cantonese): *Will Government inform this Council whether it is aware of the potential navigation risks that may be caused by congested vessel traffic in certain harbour areas within Hong Kong, such as Aberdeen and Ap Lei Chau; and whether there are any improvement plans to ensure the safety of the fisherfolk and boat dwellers in those areas?*

FINANCIAL SECRETARY: Sir, the problem of congestion is not generally serious in Hong Kong waters. The harbour itself is busy but not congested. There is, however, congestion in most typhoon shelters. Government is well aware of the potential dangers to navigation that this congestion may cause. The problem is being tackled in three ways.

First, by operational control. The Marine Department maintains regular patrols in typhoon shelters and in areas frequented by local craft to ensure safe navigation and to maintain general discipline. Twenty four-hour patrols are mounted during festivals and in inclement weather conditions when there is a high concentration of local craft in typhoon shelters.

A second approach is to examine the supply and demand for water space by local craft. Biennial reviews of typhoon shelter space requirements are conducted by the Marine Department. The conclusions of these reviews are incorporated into the territorial development programmes. The enlargement of the Aldrich Bay Typhoon Shelter is an example of the system at work.

A third approach, is to reduce the number of dwelling vessels in typhoon shelters. The number of dwelling vessels, which are a main contributing factor to congestion in typhoon shelters, has been reduced from 2 700 in 1983 to 658 to date. This number will be further reduced in the coming years through the clearance programmes initiated by the Housing Department.

The situation in Aberdeen and Ap Lei Chau, to which Mr. LIU referred by way of example, is not serious. The number of dwelling boats has reduced from some 680 to 250 in the past three years. The squatter problem has been eliminated and there have been no serious navigational accidents for a number of years.

MR. LIU (in Cantonese): *Sir, will Government inform this Council whether our reclamation programme affect navigation in Aberdeen? We know that the navigation area is already very small.*

FINANCIAL SECRETARY: Sir, the reclamation projects now planned for Aberdeen and Ap Lei Chau will reduce the water area within the typhoon shelter. However, the locations of these reclamations are in shallower parts of the shelter and away from the fairways, thus they will not adversely affect navigation in the shelter. As for reclamation elsewhere in the port of Victoria, it

will have an effect upon usable water area. However, before any reclamation project is approved, the Administration will examine the situation closely and make every effort to minimise any adverse effect that reclamation may have.

DR. CHIU: *Sir, in view of the potential danger posed by the congestion of vessel traffic in the harbour, will the Government inform this Council whether it has any plans to require all vessels to have insurance cover for third parties against navigation risks?*

FINANCIAL SECRETARY: Sir, I am afraid I do not have the answer to that question; I will give a written reply. (See Annex VI)

Restrictions in the use of handcuffs and plastic restrainers

7. MR. NGAI asked (in Cantonese): *Will Government inform this Council whether there are special reasons that the use of handcuffs and plastic restrainers are necessary in the arrest of Chinese illegal immigrants?*

SECRETARY FOR SECURITY: Sir, handcuffs and plastic restrainers are not used automatically or indiscriminately when illegal immigrants are arrested. They are used only when necessary for special reasons: that is, if the arresting officer, taking into account the particular circumstances at the time, believes that the illegal immigrant may become violent or may try to escape.

These restrictions in the use of handcuffs and plastic restrainers are stipulated in police general orders and apply to all police arrests, not only arrests of illegal immigrants.

The particular circumstances which an arresting officer might take into consideration at the time of arrest would include the number, type and mood of the illegal immigrants, the location, the time of day or night, the distance to be transported, mode of transport, and availability of support for his action.

MR. NGAI (in Cantonese): Sir, when the officers conduct the operations, do they usually encounter resistance, or even violent resistance? Are the measures applied to male illegal immigrants different from those for female immigrants?

SECRETARY FOR SECURITY: Sir, normally resistance is not encountered. Some indication of this can be obtained by looking at the numbers of illegal immigrants who have been charged with assault or resisting arrest over the last four and a half years. These amount to 256, of whom eight were also charged with escape from lawful custody. This is out of a total of 71 828 persons arrested. As to women and children, there is special mention in Police General Orders and also I believe, in the orders issued by the Director of Immigration, that special attention should be paid to females or juveniles and handcuffs shall not normally be used to them.

Installations on the external walls of buildings

8. MR. CHUNG asked: *Will Government inform this Council whether prior approval is required for erection of structures on the external walls of buildings to support water tanks for air-conditioning purposes, the number of cases of injuries report in the last two years caused by the falling of such structures or water tanks, and whether departments concerned undertake regular inspections to ensure that these structures do not constitute a potential danger to the public?*

SECRETARY FOR LANDS AND WORKS: Sir, provided that no major building works, such as the construction of reinforced concrete columns or slabs, is required, the installation of supporting structures for the purposes described are not regarded as building works within the meaning of the Buildings Ordinance. Generally, therefore, approval for the erection of these structures is not required.

This means that anyone wishing to install brackets for air-conditioning cooling tanks, pipework, ducts, fans and so on, need not obtain prior approval for these, as they are regarded as 'fixtures' rather than building work.

Sanctions are available to the Building Authority, however, under sections 26 and 31 of the Ordinance, where such fixtures are considered dangerous to the public, or project beyond the building line.

The Buildings Ordinance Office does not undertake regular inspections, but relies instead on reports from the public or the police or other government departments. If a fixture is found to be in a dangerous condition, the Building Authority will give notice to the person responsible to rectify the situation. Failing this, the authority has the power to enter the building and either make the installation safe or remove it, and to recover the costs from the person or persons responsible. This might be either the landlord or the tenant, depending upon the circumstances.

According to the Building Ordinance Office's records, 410 such cases have been reported and investigated in the last two years, and as a result, 74 air-conditioning units or associated fixtures were removed, relocated or modified.

I regret that I am unable to provide statistics on the number of cases of injuries caused by the failure of such structures, as the Building Ordinance Office does not receive reports of such incidents as a matter of routine. I am advised also that the police do not keep statistics specifically of such incidents, although it is understood that the number of cases which come to attention is very small.

MR. CHUNG: *Sir, it is quite obvious to public eyes that many such fixtures are projected out of the outer walls and also beyond the building line. This may constitute a potential danger, because I am informed that some water cooler tanks*

may weigh more than 1 400 kilograms. Could the Secretary inform this Council why no regular inspections are carried out to ensure compliance with sections 26 and 31 of the Buildings Ordinance?

SECRETARY FOR LANDS AND WORKS: Sir, on the question of inspections, it has to be acknowledged that room coolers alone number tens of thousands, not to mention industrial plant. I think it is fairly clear that in order to carry out routine inspections on all such installations, it would require an army of inspectors. I think in view of the relatively few incidents that we do have with failures, the benefits of carrying out routine inspections would be quite disproportionate to the cost. The approach that is taken by the Administration is that this should really be a self-regulating situation where the owner of the plant is responsible for its maintenance and upkeep. It is for this reason that the Summary Offences Ordinance makes it specifically an offence for anything to fall from a building and of course, this would include plant of the type described.

MR. CHENG: *Sir, as I am aware the structural supports to heavy air-conditioning plant could be sizeable and are mostly made of steel, which is one of the major structural materials like reinforced concrete. Will Government inform this Council why structural steel work in this instance is not regarded as building works for the purpose of approval under the Buildings Ordinance?*

SECRETARY FOR LANDS AND WORKS: I have to admit, Sir, that I really do not know the answer to that. There is obviously a distinction here between what is 'building works' and what are 'fixtures', and as I have mentioned in my main reply, this type of plant which is a fixture is not regarded as 'building works' within the Ordinance. I would need to take advice, Sir, from the Building Authority to find out what distinction has been drawn between building works and fixtures, and I should be happy to give Mr. CHENG a written reply to his enquiry. (See Annex VII)

MR. CHUNG: *Sir, the installations I refer to are the industrial water tanks. As the installation of such tanks is so common and they may pose potential danger to the public, may I know whether the Government will consider amending the Building Regulations to require industrial buildings to provide proper space for these water tanks?*

SECRETARY FOR LANDS AND WORKS: Yes Sir, we could certainly look into this and I will approach the Building Authority with this suggestion.

MR. POON CHI-FAI (in Cantonese): *Sir, although the installation of such fixtures do not require prior approval, will the Administration consider requiring the people concerned to take regular inspections to ensure safety?*

SECRETARY FOR LANDS AND WORKS: Sir, as I mentioned earlier, in the past we have always regarded this as being self-regulating, with the onus on the owner. The stipulation of the need for mandatory maintenance on the part of the owners would require policing and it is doubtful whether the cost of this would really be proportionate to the benefits that we might receive. However, it would perhaps be useful if we could get an idea of the quantum of the problem. I will ask the Building Authority for their comments on this point, and I would be happy again to give a written reply to Mr. POON. (See Annex VIII)

Written answers to questions

Property speculation

9. MR. CHEONG-LEEN asked: *In view of the rising price trend in the local property market, will Government inform this Council whether it has plans to advise the public about the risk of property speculation and that excessive speculative activities could adversely affect or damage Hong Kong's steady economic growth and prosperity?*

FINANCIAL SECRETARY: Sir, in a rising market, the number of property transactions is likely to rise and some speculative activity must be expected to occur. However, up to now, speculation seems to be confined largely to a small number of popular residential developments. It does not yet appear excessive or significant enough to produce damaging effects on Hong Kong's economic growth and prosperity.

While the Government will continue to monitor the situation closely, it must be for individual members of the public to decide upon their own purchase decisions. I would not envisage our giving the public specific advice about the risk of speculation but clearly it needs to be recognised that property prices can fall as well as rise.

With an abundant supply of new residential flats coming on stream, future increases in flat prices are likely to be restrained; the recent firming up of interest rates will also be a factor which may render speculation less attractive in future.

Public housing estates built of asbestos-related materials

10. MR. LAM asked: *Will Government inform this Council how many residents are accommodated in public housing built of asbestos-related materials, where are these buildings located, and what measures will Government take to safeguard the health of the residents of these buildings?*

SECRETARY FOR LANDS AND WORKS: Sir, in public housing estates, asbestos is found mainly in asbestos-cement, which contains a small amount of asbestos fibres mixed into the concrete. Building materials made of asbestos-cement have been used in the past for balcony and staircase balustrading as well as for roof insulation. The Director of Environmental Protection has confirmed however that, provided they are not disturbed, the existence of these materials does not pose an undue health risk to residents.

A total of 325 blocks in Marks III, IV and V estates built between 1962 and 1969, housing 667 000 tenants, have been identified as containing some asbestos-cement products. All these blocks are scheduled for redevelopment under the long-term housing strategy and safe methods have been devised by the Housing Department in conjunction with the Environmental Protection Department and Labour Department for the removal of asbestos-cement materials during demolition or repair prior to redevelopment.

In addition, 1 664 temporary housing structures built prior to 1984, housing about 90 000 tenants, have asbestos-cement roofing. The use of this material for roofing ceased in 1984.

Authority for road closures

11. MR. POON CHI-FAI asked: *Given that roads are often closed temporarily for various purposes, such as the investigation of traffic accidents, will Government inform this Council:*

- (a) *which government departments have been authorised to close roads temporarily; and*
- (b) *whether measures are being taken by these departments to ensure that roads are not closed unnecessarily and, if so, whether it is satisfied that such measures are effective?*

SECRETARY FOR TRANSPORT: Sir, under regulation 27 of the Road Traffic (Traffic Control) Regulations, the Commissioner for Transport is empowered to close a road or any part of it to all or any particular kind of traffic for such period as he may think necessary. This requires a notice to be published as soon as reasonably practicable in the Gazette, or in one issue of at least one English and one Chinese newspaper. Regulation 28 also empowers the Commissioner for Transport or the Commissioner of Police, without publication of a notice, to close a road for any period not exceeding 72 hours in emergencies.

Under section 4 of the Roads (Works, Use and Compensation) Ordinance, the Secretary for Transport may, in respect of the execution of minor works:

- (i) close a road which in his opinion does not serve any useful or lawful purpose,
or
- (ii) close a road for a period not exceeding 14 days in any period of three months.

This authority has been delegated to senior officers of the Highways, Civil Engineering Services and the Territory Development Departments.

For road closures which can be planned ahead, the departments concerned have well established procedures, involving consultation with other relevant departments and if necessary, district boards, to ensure that the closure is necessary and that inconvenience to the public is minimised by appropriate traffic diversion schemes. Before implementation, every effort is made to inform the public of new traffic arrangements. After the closure, departments concerned will monitor the situation closely to ensure that the road is not closed longer than necessary.

The police also has detailed instructions to handle emergency closures caused by traffic accidents, natural disasters, fires, or emergency repairs to public utilities. In such cases, the police officers attending the scene will take immediate steps to regulate traffic. Any decision about subsequent temporary diversions or road closures under Regulation 28 of the Road Traffic (Traffic Control) Regulations is made as soon as practicable by an officer at the senior superintendent rank. Following the closure, the information will immediately be passed to the Police Public Relations Bureau for dissemination to the media. The situation is monitored carefully to ensure that the road is re-opened as soon as possible.

The present procedures are considered effective in ensuring that roads are not closed unnecessarily and that inconvenience to the public is reduced to the minimum.

Government Business

First Reading of Bills

PENSION BENEFITS (MISCELLANEOUS AMENDMENTS) BILL 1988

TELEVISION (AMENDMENT) BILL 1988

OCCUPATIONAL SAFETY AND HEALTH COUNCIL BILL 1988

QUEEN ELIZABETH FOUNDATION FOR THE MENTALLY HANDICAPPED BILL 1988

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1988

UNDESIRABLE MEDICAL ADVERTISEMENTS (AMENDMENT) BILL 1988

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

Second Reading of Bills

PENSION BENEFITS (MISCELLANEOUS AMENDMENTS) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: 'A Bill to make further provisions regarding pensions and other benefits related to the public service'.

He said: Sir, I move the Second Reading of the Pension Benefits (Miscellaneous Amendments) Bill 1988, which makes amendments to the legislation governing the service pensions of public officers.

This amending Bill aims to improve the pensions legislation by clarifying terms and removing anomalies. The amendments proposed are largely technical, and do not in any way affect or erode civil servants' existing pension benefits.

The amendments are described in the explanatory memorandum accompanying the Bill. I should, however, like to elaborate on two of them. These cover:

first, the early payment of the commuted pension gratuity of a deferred pension; and

secondly, the removal of the limit on deductions from an officer's pension benefits for recovery of debts where he consents.

On the first item, at present, the approval of early payment of a deferred pension applies both to the commuted pension gratuity and to the reduced monthly pension. However, there may be circumstances which warrant early payment of the gratuity only; for example, extreme financial hardship on the part of the pensioner. Clause 5, therefore, amends the Pension Benefits Ordinance to allow this flexibility.

On the second item, section 31(2) of the Pension Benefits Ordinance inadvertently imposes a limitation on the amount of deductions which can be made from an officer's pension benefits for the recovery of debts due to the Government, even though the officer concerned may have consented to larger deductions. The original intention was that there should be a limit on deductions, at 25 per cent of pension benefits, only where the officer does not consent. The legislation in its existing form has caused practical difficulties to the Government in the administration of the civil service Housing Loan and Down Payment Loan Schemes. Clause 7 of the Bill, therefore, seeks to rectify the situation and clause 8 effects a similar amendment to section 12 of the Pensions Ordinance to cover arrangements under the old pension scheme.

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

Question on adjournment proposed, put and agreed to.

TELEVISION (AMENDMENT) BILL 1988

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

He said: Sir, I rise to move that the Television (Amendment) Bill 1988 be read the Second time.

Sir, I would like first of all to apologise to hon. Members for the short time available for consideration of this Bill. It is a complicated piece of legislation and so it has not been possible to rush its preparation.

The new licensing conditions including that on holding companies were announced in March this year. Therefore, the licensees have had plenty of time to make plans to effect the necessary changes. It is desirable that the more important conditions should be backed up by legislation so that the licensees would have a degree of certainty as regards the future regime. It is, therefore, proposed that draft legislation should be introduced into, and indeed I hope disposed of, during this session of the Council in time to process the renewal of the existing licences which will expire on 1 December 1988. The new licences will be valid for 12 years, subject to a mid-term review in 1994, when public hearings will be held.

The Bill before us provides the legal framework designed to ensure that in the coming years the off-air television licensee companies concentrate their efforts, energies and creativity on improving the quality of television broadcasting and are responsive to the needs of the community.

The Bill also gives legal effect to a number of recommendations of the Broadcasting Review Board, and subsequently those of the Broadcasting Authority. They were approved by the Governor in Council and announced to the public on the 15 and 29 March 1988. It is not appropriate, however, to deal with all of the new licensing conditions by means of this Bill. Some of the terms and conditions announced will be dealt with by means of subsidiary legislation, by the codes of practice issued under the Ordinance or by inclusion in the licence itself as licensing conditions. The three principal concerns of the legislative proposals are:

- (i) ownership and control of off-air television licensee companies;
- (ii) the prohibition on the licensee company being held by a holding company and restrictions on ownership of subsidiary companies by the licensee company itself; and
- (iii) the question of royalty,

Ownership and control

Sir, on the subject of ownership and control, the object of the legislative proposals is to ensure that majority interests remain in the hands of Hong Kong people. That control of television licences should be in 'local' hands in an objective shared by many countries overseas. The restrictions on foreign ownership applied elsewhere—Australia and New Zealand spring immediately to mind—are often considerably more stringent than those we are proposing to apply. In addition, in other countries, one or more channels may be reserved exclusively for a public broadcaster or indeed broadcasting may be entirely in the hands of a public broadcaster.

There is nothing new in Hong Kong in the concept of restricting the holding of voting shares of a licensee by persons or companies which do not satisfy certain residential qualifications. Such provisions are enshrined in the existing Ordinance.

Similarly, there is nothing new in requiring the disclosure of certain information about the beneficial owners of voting shares of a licensee. This, too, is already in the Ordinance. What the Bill does is to bring up to date the residential qualifications which distinguish between 'local' and 'non-local' shareholders; to introduce a ceiling on the holding of voting shares by individual 'non-local' shareholders, in addition to a ceiling on the aggregate shareholding by such persons, and to introduce stricter requirements on notification and disclosure of shareholdings by 'non-local' persons and companies. Under the new residential qualifications, a 'local' person is defined as one:

- (a) who is ordinarily resident in Hong Kong; and
- (b) who has, at same time, been ordinarily resident in Hong Kong for a continuous period of at least seven years.

In the case of a company, a 'local' company is one which is 'ordinarily resident in Hong Kong' as defined in the Ordinance.

Whereas the existing definition as regards companies includes a requirement that the majority of directors actively participating in the direction of the company must be Commonwealth citizens ordinarily resident in Hong Kong, the Bill amends this to take account of the new residential requirements for individuals, and also repeals the reference to Commonwealth citizens. This latter reference is no longer appropriate.

Holding companies and subsidiaries

Turning now to the question of holding companies and subsidiaries, certain changes are proposed in the way in which a licence may be held by a company which may be related to other companies. On 25 November 1986, addressing the Council on the subject of the government's proposals in response to the

Broadcasting Review Board's report, the then Attorney General stated that 'the structure, ownership and control of licensees should continue to be governed by existing policies and the spirit of existing legislation.' When introducing the Television (Amendment) Bill 1973, the Bill which give rise to the current Ordinance, the then Attorney General stated:

'The new section 10 expands the conditions which must be fulfilled by an applicant for a licence... These new sections state the principle that the business of a television company is television and nothing else... The intention is to prevent the broadening of the interests of a television company to such an extent that it might become subject to extraneous pressures, reducing its independence to the detriment of the standards of its programmes. The underlying principle is that within a television company there should be no conflict of interest'

It seems fair to say that the element of independence of a licensee company is the 'spirit' and real intention of the Ordinance. The Legislative proposals in the current Bill are necessary because the existing sections of the Television Ordinance have proved ineffective in achieving the spirit or real intention of the legislation. A number of the fundamental provisions in the Ordinance have been circumvented by the setting up of holding companies of which the licensees have become subsidiaries. Eleven important provisions can be, and indeed some already have been, circumvented by this means.

Examples of such provisions are the prohibition on nominee shareholders, in section 10(g) of the Ordinance, the prohibition on disqualified persons exercising control of the company under section 10(f), the provision under section 11(1)(b) restricting foreign ownership to 49 per cent and, under the same section, the prohibition on a licensee acquiring a controlling interest in any company the business of which is not directly connected or associated with television broadcasting. As the holding companies are not subject to the above prohibitions they may and, in fact, do have nominee shareholders, and are not legally prevented from setting up or acquiring businesses unrelated to broadcasting. It is thus evident that the stated intention of the Ordinance, to ensure that the licensee is essentially an independent company, has been severely compromised by events since the amendments were made to the Ordinance in 1973.

Royalty

On the question of royalty, Sir, the Bill incorporates a change in the method of the calculation of royalty payable by licensee companies for their exclusive use of the air-waves. Currently, royalties are calculated on the basis of profits. Since air-waves are a community property, the licensee should be required to pay for their use irrespective of whether a profit is made.

The proposals in the Bill are for royalty to be payable on gross income from television advertising, according to a sliding scale, but subject to an overall ceiling of 12 per cent of the overall income from television advertising. Royalty would be payable on the amount that would be expected to be due to a licensee at published market rates for particular transactions, that is, any special discounts given in particular instances will not be deducted in the calculation of the royalty due. This is designed to prevent avoidance. The new system of calculation is not, however, intended to be a means of increasing revenue, but rather to ensure that the community benefits from the licensees' privileged use of a community property.

This Bill is rather complex in parts, particularly as regards disclosure of information on shareholdings and the mechanisms for tracing the ultimate control of the voting shares of a licensee. The existing Ordinance has broad provisions which were intended to keep the ownership and control of licensees in local hands. However, as I indicated earlier, these provisions may be circumvented because the ceiling on ownership by 'non-local' shareholders stops at ownership of the shares in the licensee company, and does not apply to the ownership of the shares in a company which in turn owns shares in a licensee.

This is one of the deficiencies in the Ordinance that needs to be remedied. The mechanisms to prevent avoidance are complex, but essential. Examples of similar mechanisms in overseas legislation have been studied. In order to define certain interests in the voting shares of licensees which constitute notifiable interest for the purposes of this Bill, the Securities (Disclosure of Interest) Bill 1988, which is currently under consideration by this Council, has been taken as the model. The Television (Amendment) Bill 1988 is not a piece of legislation aimed at the small shareholder. A licensee is required to notify and seek the approval of the Broadcasting Authority when a 'non-local' shareholder acquires a shareholding of 2 per cent or more of the] voting shares of a licensee. At current share prices that 2 per cent amounts to \$110 million in the case of one of the licensee and \$12 million in the case of the other. I think it would be fair to say that investors dealing with such large amounts of money will have access to expert professional advice.

Sir, we are not trying to discourage foreign investment in television licensee companies. But we are not dealing with a free enterprise. A television broadcasting licence is a franchise in a highly influential field of mass communication. Under the circumstances, some degree of control over licensees is not only justifiable but is, indeed, a responsibility.

In conclusion, may I say that we have not attempted to undertake a complete and comprehensive review of the Television Ordinance. We have limited our efforts to make the amendments which are necessary in order to issue new licences in compliance with the terms and conditions announced in March this year. It is my intention in due course to conduct a major review and restructure

the Ordinance to incorporate policies not only on off-air television, but also on radio broadcasting and cable television in a consolidated and modernised broadcasting Ordinance.

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

Question on adjournment proposed, put and agreed to.

OCCUPATIONAL SAFETY AND HEALTH COUNCIL BILL 1988

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: 'A Bill to establish the Occupational Safety and Health Council as body corporate for the fostering of safer and healthier working conditions in Hong Kong, and to provide for the payment of a levy by employers, and for matters incidental thereto'.

He said: Sir, I move that the Occupational Safety and Health Council Bill 1988 be read a Second time.

The object of the proposed occupational safety and health council is to foster safe and healthy working conditions in industry and other areas of employment. The council will be an independent body consisting of a chairman and up to 20 members to be appointed by the Governor. Tripartite co-operation by employers, employees and the Government, which is important for the success of the council, is reflected in its membership. Professional and academic interests will also be represented so as to widen the expertise on the council.

I should like to give a brief background to this subject. The idea of setting up such a council originates from the recommendation of Mr. J.A. LINEHAN of the United Kingdom Health and Safety Executive, who in 1976 recommended the establishment of a safety and health committee which should eventually develop into a safety council. In 1978, the Committee on Industrial Safety and Accident Prevention was set up under the Labour Advisory Board, with representatives of employers, employees and the Government. The membership was expanded in 1982 to include representatives from professional and academic institutions. Encouraged by its initial success and in response to further calls from employers and employees, the committee formed a working party in 1984 to examine the possible formation of an independent council. The present proposals are based on the conclusions of that working party.

Sir, the proposed council will focus the attention of employers, employees and the community on the promotion of safety and health at work through four major functions. First, it will design and conduct training courses, produce teaching aids and reference materials, promote the application of modern technology, conduct proficiency examinations and validate occupational safety and health qualifications. Secondly, it will undertake publicity programmes,

collect and compile statistics and information, and prepare safety and health literature for public use. Thirdly, it will develop consultancy services in areas such as occupational safety and health surveys, feasibility studies, procedures on monitoring and control, and advice on protective equipment. Fourthly, it will advise the Government on any legislative measures necessary to improve the standards of health and safety at work, and will either carry out or commission research.

The proposed council will draw up an annual programme of activities for approval by the Governor. An executive arm comprising professional and administrative staff under an executive director will be set up to implement the programme.

As regards the source of finance, the proposed council will mainly rely on a levy based on employees' compensation insurance premia, to be paid by employers. The rate will be decided by the Governor in Council. It is our present intention to propose a 1 per cent levy which will yield about \$7 million a year. The level of levy will be reviewed regularly in the light of operational experience. The levy will be collected on behalf of the council by insurance companies whose representatives have been consulted. They will be entitled to a handling charge at a rate to be prescribed by the Financial Secretary.

In cases where an employer has been exempted from taking out employees' compensation insurance, the council will be empowered to assess an appropriate contribution.

Sir, the Government is not required to take out employees' compensation insurance and is, strictly speaking, not subject to the levy. Clause 18, therefore, provides for the Government to make an annual contribution to the council in its capacity as an employer. The amount will be calculated according to the size of the Civil Service. For example, the government contribution should be around \$500,000 if the levy on private sector employers was 1 per cent in the first year.

The Bill also provides for objections and appeals against any contribution which may have been assessed, and against any surcharge which may have been imposed due to late payment.

We intend to bring the provisions of the Bill, if passed, into operation in two stages. We intend to bring those provisions relating to the establishment of the council, its powers, membership, procedures, staffing and financial resources into effect in August this year. The levy provisions and those dealing with objections and appeals, that is to say, parts IV and V of the Bill, will be brought into effect on 1 January 1989. This will allow the insurance industry to make the necessary arrangements for levy collection.

In order to enable the council to begin work before the first levy income which becomes due on 1 January 1989 but is not actually received until May 1989, we propose to seek the Finance Committee's approval of a setting-up grant of about \$5.5 million.

Sir, I should point out that after the council has been set up, the Commissioner for Labour will have to review his department's industrial safety publicity programmes and safety training courses to ensure that there is no duplication of efforts. The department will also be able to redeploy some manpower resources to strengthen the enforcement of industrial safety and health standards.

We believe that the proposed occupational safety and health council will encourage greater involvement and participation by industry and the community in raising the standards of safety and health at work, not only in industry but in all areas of employment. The proposal has the unanimous support of the Labour Advisory Board and is a major step forward for Hong Kong. I have much pleasure in commending the Bill to this Council for approval.

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

Question on adjournment proposed, put and agreed to.

QUEEN ELIZABETH FOUNDATION FOR THE MENTALLY HANDICAPPED BILL 1988

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: 'A Bill to establish the Queen Elizabeth Foundation for the Mentally Handicapped and to provide for the administration thereof and for matters connected therewith'.

He said: Sir, I move that the Queen Elizabeth Foundation for the Mentally Handicapped Bill 1988 be read a Second time.

The object of the Bill is to establish the Queen Elizabeth foundation for the mentally handicapped with the purpose of furthering the welfare, education and training of the mentally handicapped in Hong Kong, and promoting their employment prospects. The Government has decided that the net profit of \$30 million on the sale of gold coins to commemorate the visit of Her Majesty Queen Elizabeth II to Hong Kong in 1986, together with a donation of \$30 million from the Royal Hong Kong Jockey Club and a further matching contribution of \$30 million from General Revenue, should be made available to the foundation.

There are about 110 000 mentally handicapped people in Hong Kong, making it the largest group among all disabilities. As mental handicap is often acquired genetically or is developed soon after birth, nearly all the mentally handicapped encounter difficulties in adjusting to a normal life and need special care and attention. The situation is often further complicated by a combination of disabilities or illnesses. Often the mentally handicapped require a wider range of services than other disability groups. Although a comprehensive range of

services is being provided by the Government and the voluntary sector, there are still significant shortfalls in the services provided. Moreover, public attitude towards the mentally handicapped is still generally poor, and voluntary agencies find it difficult to raise funds. Thus the foundation, when established, will complement the Government's programme and will provide additional resources to improve the well being of the mentally handicapped.

Clauses 5 and 6 of the Bill provide that the management of the foundation will be vested in a council appointed by the Governor. There will be a chairman, a representative of the Royal Hong Kong Jockey Club, the Secretary for District Administration, the Commissioner for Rehabilitation and five to nine other members. The council will have the discretion to spend up to 10 per cent of the original capital of the foundation in addition to its income. This will give the foundation the flexibility to undertake meaningful projects right from the beginning.

Clauses 7 to 9 empower the council to appoint advisory bodies, assistants and managers of the assets and to pay for various necessary expenses.

Clauses 12 and 13 provide for the proper keeping of accounts, their auditing by the Director of Audit, and their tabling in this Council every year.

Clause 14 enables the costs incurred by the Government in providing administrative services for the foundation to be charged to General Revenue. The Financial Secretary may direct that an annual fee not exceeding 2.5 per cent of the foundation's income in that year be charged in return.

Apart from the initial payment of \$60 million from the Special Coin Suspense Account and General Revenue, the Bill has only minor implications for public service staffing and finance.

Sir, it is intended that the foundation will liaise closely with the Rehabilitation Development Co-ordinating Committee to ensure that there will be no overlap between what is funded from General Revenue in implementing the Rehabilitation Programme Plan and the activities of the foundation.

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

Question on adjournment proposed, put and agreed to.

UNDESIRABLE MEDICAL ADVERTISEMENTS (AMENDMENT) BILL 1988

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: 'A Bill to amend the Undesirable Medical Advertisements Ordinance'.

He said: Sir, I move that the Undesirable Medical Advertisements (Amendment) Bill 1988 be read the Second time.

Under the existing Undesirable Medical Advertisements Ordinance, publication of any advertisement is prohibited if it represents any medicine, surgical appliance or treatment, whether directly or indirectly or by implication, as being effective for the treatment of diseases listed in the schedule to the Ordinance. Problems of enforcement arise where advertisements avoid the use of the precise terms appearing in the schedule in referring to the treatment available and use instead colloquial terms or veiled language such as signs and symptoms of the disease. In such cases it is difficult to prove that the medicine or treatment advertised has contravened the law. Problems can also arise, particularly in the case of street advertisement signs, in identifying and prosecuting the person placing the advertisement.

The Bill, therefore, seeks to remedy these defects by making the prohibition against advertising depend not on what the advertisement represents, but on whether it is likely to lead persons reading the advertisement to use the medicine, surgical appliance or treatment advertised for the cure of any of the prescribed diseases.

It also provides that unless the contrary is proved, a person who is held out in an advertisement as being a manufacturer or supplier of medicine or surgical appliances, or as being able to provide treatment, is presumed to have caused the advertisement to be published. Where an advertisement indicates some means of contacting a person who provides treatment, for example, an address or a telephone number, that person is presumed to have caused the advertisement to be published. The legal profession has been consulted on these arrangements and sees no objection to them.

The Bill adds two new schedules to the Ordinance to replace the existing one. These will update the list of prescribed diseases and list them in a more comprehensive and rational manner.

After the passage of the Bill and the obstacles to prosecutions removed, the Administration intends to adopt a more positive approach in enforcing the provisions of the amended Ordinance. Consideration will be given to working out arrangements amongst the relevant departments to initiate prosecution actions against those which may contravene the provisions. Penalty for offences under the Ordinance will be increased to \$10,000 on first conviction and \$25,000 on subsequent convictions. The intention is to protect the public from being induced by such advertisements to seek improper treatment from unqualified persons or to resort to wrongful application by self-medication, with the result that there is delay in seeking proper treatment, making the disease much more difficult to cure. In serious cases, this could cause permanent disability or even endanger the life of the patient.

During the consultation exercise on the Bill, merchants of Chinese medicines have asked whether certain Chinese terms which their members have been using in their advertisement will contravene the law. The Administration has given its opinions for the general guidance of Chinese medicine dealers, pointing out that

most of their commonly used terms are acceptable. While no vetting machinery will be set up to screen each and every advertisements on Chinese medicine prior to their publication, the Administration welcomes enquiries from the dealers concerned regarding terminologies of diseases generally and would be happy to provide the necessary guidance.

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

Question on adjournment proposed, put and agreed to.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO.2) BILL 1988

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

He said: Sir, I move that the Public Health and Municipal Services (Amendment) (No.2) Bill 1988 be read the Second time.

To protect public health and safety, operators of unlicensed food businesses are currently prosecuted under the Food Business (Urban Council)/(Regional Council) By-laws of the Public Health and Municipal Services Ordinance. If the licence has not been issued upon the second conviction, the Urban Council and Regional Council would apply to the court for a prohibition order or a closure order under section 128 of the principal Ordinance to stop the illegal food operators from continuing with their unlicensed food businesses.

Section 128 of the Ordinance empowers a magistrate, upon application by the Urban Council or Regional Council, to make an order either to prohibit the use of the premises or vessel for all or any purposes (that is, a prohibition order), or to close the unlicensed premises or vessel either wholly or in part (that is, a closure order). As there are no further provisions in this Ordinance enabling the executive departments to carry out the closure orders by physically closing premises or vessels, this amendment Bill is necessary to enable the objective of stopping unlicensed food businesses to be achieved.

The Bill therefore:

- (a) amends section 128 of the principal Ordinance to provide for the effective implementation of a closure order by empowering relevant public officers to physically close the premises or vessel in question;
- (b) amends the first schedule to the Ordinance to include the power of arrest to facilitate staff of the departments to carry out closure orders;
- (c) amends the fifth schedule to prescribe new forms of prohibition order and closure order in English and Chinese;
- (d) amends the sixth schedule to specify the Urban Council and Regional Council so that proceedings for offences under the amended section 128 may be brought by them;

- (e) amends the ninth schedule by prescribing penalties for the following new offences:
- (i) entering or remaining on any premises or vessel under a closure order would attract a fine of \$60,000 and 12 months imprisonment, with a daily fine of \$1,000; and
 - (ii) unlawfully interfering with or removing any device used for closing the premises or vessel, or removing any closure notice, and so on would attract a fine of \$10,000 and six months imprisonment; and
- (f) amends the definition of premises in section 56 of the principal Ordinance to include a vessel or a stall so as to put beyond doubt that the Food Business (Urban Council)/(Regional Council) By-laws, which are made under this section to regulate activities on food premises, also apply to a vessel or stall.

Under the new procedures, a closure order will be made consequential on the breach of a prohibition order, rather than as an alternative sanction. The Bill includes a provision requiring the court to make a prohibition or closure order only when it is satisfied that at least 14 days' notice of intention to apply for the order has been given. Moreover, the court would provide any interested party with an opportunity to be heard upon the making of a prohibition or closure order, and the occupier of the premises or vessel would have seven days to comply with the order.

Sir, it is proposed that the Bill will come into operation on 1 October 1988. This will ensure that the trade is fully aware of the new provisions. It will also enable the departments to take the necessary pre-enforcement action.

The municipal councils support the above proposals.

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

Question on adjournment proposed, put and agreed to.

PUBLIC FINANCE (AMENDMENT) BILL 1988

Resumption of debate on Second Reading (15 June 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).

ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 1988

Resumption of debate on Second Reading (18 May 1988)

Question proposed.

DR. IP: Sir, I rise to support the Administration of Justice (Miscellaneous Amendments) Bill 1988 to increase the jurisdiction of the Small Claims Tribunal to \$15,000 and that of the district court in civil matters to \$120,000. These two amendments serve to reduce the costs the public have to bear when seeking justice.

During the deliberation of the Legislative Council ad hoc group formed to study the Small Claims Tribunal (Amendment) Bill 1986 which I convened, I pointed out that the limits of jurisdiction of the Small Claims Tribunal should be adjusted upwards when the need arose. It was obvious then that the Small Claims Tribunal has a great deal to offer the public because it provides a much cheaper legal procedure for disputes to be dealt with. The reason is twofold. Firstly, legal representation is not required and so more members of the public can resort to a judicial process and without having to pay expensive legal fees. Secondly, the provision of services by the tribunal is cost-effective from the taxpayers' point of view since the average cost per case heard in the tribunal is small which is in the region of a few hundred dollars.

Without the proposed amendments in the Bill before Council, claims between \$8,000 to \$15,000 have either to be artificially adjusted downwards in order to be within the jurisdiction of the Small Claims Tribunal or to be pursued in the district courts. However, we all know too well that in the latter case the legal fees will simply wipe out right away the amount claimed. In any case, both of these actions deter claimants from taking legal action to exercise their legitimate rights and, in the long run, will only encourage more debtors to dishonour their obligations. Therefore, I do welcome the Bill as yet another positive step towards improving the practical administration of justice.

With these remarks, Sir, I support the Bill.

ATTORNEY GENERAL: Sir, I am most grateful to Dr. Henrietta IP for her support for this Bill which, as she rightly points out, takes a positive step towards improving the administration of justice. This is part of a continuing process, for as I informed this Council when I moved the Second Reading of the Bill on 18 May 1988, it is hoped that the civil jurisdiction of the district court could be further extended at a later stage.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

TATE'S CAIRN TUNNEL BILL 1988**Resumption of debate on Second Reading (8 June 1988)***Question proposed.*

MISS TAM: Sir, in your policy speech delivered on the 8 October 1986 you clearly indicated your intention to bring relief to the pressure on the road system linking the urban area to the eastern New Territories and, in particular, the Lion Rock Tunnel, by the construction of a tunnel under Tate's Cairn. It is with great pleasure that the Legislative Council ad hoc group today can give our support to the Second Reading of this Bill, which takes another long stride towards making the tunnel a reality.

The feasibility study on the Tate's Cairn Tunnel, linking Diamond Hill in Kowloon to Sha Tin in the New Territories, was completed in late 1986. In May 1987, the Administration invited the private sector to tender for the construction and the franchise to operate this tunnel. In February 1988, the contracts and franchise were awarded to the Gammon Nishimatsu Consortium. In a matter of four months, this immensely complicated package was put together by the Secretary for Transport and his team of officers at the Transport Branch, the Legal Department and the Highways Department. Even with the experience gained in the construction of the Eastern Harbour Crossing, the effort put in to launch the Tate's Cairn Tunnel project is enormous and must be appreciated. On the other hand, the hardship caused to those who have to move their homes to make way for this tunnel must also be noted and I hope they will be given sympathetic treatment.

There are few points that the ad hoc group wishes to bring out on this Second Reading:

Restructuring of the consortium

The ad hoc group wishes to clarify one point on the award of contracts to the Tate's Cairn Tunnel Company Ltd. This company was formed by a consortium of British, Chinese, Japanese and local interests. The consortium has undergone a restructuring since it was provisionally granted the franchise in February this year which allows for Chinese and more local business interests to participate. The restructuring would not affect the consortium's ability to fulfil its obligations under the franchise. Together with the original British and Japanese consortium members, the consortium represents international confidence in the future of Hong Kong by investing in a 30-year tunnel franchise which will ride through many business cycles.

Tunnel design

Unlike the Eastern Harbour Crossing, the Tate's Cairn Tunnel will not carry a rail link in it. The ad hoc group had enquired into the reason for this and we

were informed that in engineering terms it is not advisable to construct a tunnel through the rock with a diameter so wide as to render construction uneconomical. Also the existing alignment of the tunnel is designed to avoid the faults in the rocks of Tate's Cairn. Hence if the need should arise in future a separate rail tunnel will have to be constructed and in fact this would be a better option than to have both road and rail link in the same tunnel.

The Legco ad hoc group had, in view of the experience of the traffic congestion at the Lion Rock Tunnel, requested the Administration to look into the designs of the approach roads to both ends of the Tate's Cairn Tunnel and advised the consortium that the tunnel approaches should cater for the possible adoption of tidal flow traffic arrangements. There should be maximum flexibility so that if the need should arise, all the four lanes can be used, for example, for southbound traffic, while at the same time, the Lion Rock Tunnel could allow all lanes to go northbound. The Administration has agreed to put our proposals to the consortium.

The construction works agreement

In this Bill, the Administration have not included the construction works agreement as they did in the Eastern Harbour Crossing Ordinance. The ad hoc group accepted that this is a better arrangement as a substantial part of the construction works agreement will no longer be relevant to the tunnel operation once the construction works are completed.

The guarantee contracts

Consumers will be protected from unanticipated toll increase through a series of guarantees given by the consortium members which will ensure a low initial toll and a stable toll structure. The initial toll for the first year is already published in the schedule to this Bill. These guarantees are contained in the 'guarantee agreement' and 'further guarantee agreement' referred to in the Bill. The 'guarantee agreement' is essentially a performance guarantee by members of the consortium assuring timely completion of the tunnel and approach roads within 37 months. This guarantee is given on a joint and several basis. On the other hand, the 'further guarantee agreement' contains various undertakings which will prevent cost increase due to fluctuation in interest rates, escalation in construction costs, lower than projected operation income for the first five years, and delay in completion, from being translated directly into toll increases.

The guarantee agreements will not be enforced under this particular legislation. Nevertheless, they are an important part of the franchise which will be granted to the tunnel company by the enactment of this Ordinance. They have been executed as contract documents between Government and the consortium and if the consortium members fail to perform these obligations the agreements will be enforced as breach of contract.

Sir, the Tate's Cairn Tunnel will be completed within 37 months from the commencement date of construction. Its completion, expected to be in 1991,

will bring long awaited relief to the residents and commuters of north and eastern New Territories who travel regularly into the urban area. I can envisage the boost this will bring to the economic activities and property value in those parts of the territory which the tunnel has made more accessible. But most of all, this project is another international vote of confidence in the future of Hong Kong and we welcome this vote of confidence and also the Bill.

DR. LAM (in Cantonese): Sir, the public at large will, I am sure, welcome the swift passage of this Bill, because it is only by completing the Tate's Cairn Tunnel that the nightmare and the nuisance caused by the congestion of the Lion Rock Tunnel can be resolved. We should really pay tribute to those who have contributed to the construction of the Tate's Cairn Tunnel and that of course includes the villagers of the Un Ling Village who had been there for 300 years. Their village and their ancestral hall of two centuries history will henceforth disappear from the map.

Clause 5 of the Bill concerns the liability to be borne by companies during the process of the construction. Residents are concerned that during the process of construction, there will be excessive environmental pollution and they are worried that there will be an accumulation of soil and stone in water ditches and drains which might give rise to flooding in the event of heavy rainfall. There is no clear provision in the Bill concerning liability to cover loss so incurred by the residents.

The Bill states that the construction work must be completed within 30 months of the day of commencement. It is hoped that there will not be any delay.

Clause 8 mentions the problem of toll. It has been said that the public hopes that the Government will not increase the toll by using the excuse of alleviating tunnel congestion.

On the other hand, public opinion indicates that private commercial organisations such as the Mass Transit Railway Corporation, Kowloon-Canton Railway Corporation and the Light Railway Transit Corporation in Tuen Mun have not been subject to proper supervision in respect of tolls. It is hoped that the Government will learn from experience and see to that there will be effective supervision of the toll of the Tate's Cairn Tunnel. In fact, the responsibility for congestion is not only to be borne by motorists but also by government departments with regard to management, development and planning of roads.

It is indicated in clause 10 of the Bill that the Government will be spending a total of \$818 million. This will be used not only for constructing the tunnel approaches but also for the site formation. Although this is not a small sum, it is definitely worth the money spent given the great convenience provided to the public and the alleviation of congestion. Moreover, this sum also includes the

cost for site formation. But I wish to point out that it is hoped that the ex gratia allowance will be set at a just and reasonable level so that those affected will not incur unnecessary loss.

Sir, with these remarks, I support the motion.

SECRETARY FOR TRANSPORT: Sir, I am most grateful to the ad hoc group chaired by Mr. F. K. HU for its careful and thorough study and examination of the Tate's Cairn Tunnel Bill and for their full support. I would like to thank in particular Miss TAM and Dr. LAM for their helpful comments and suggestions.

Miss TAM has pointed out a very important part of the franchise regarding the guarantee agreements between Government and the consortium members. These contractual arrangements are one of the means through which the Government seeks to maximise the benefits to the community and to protect the interest of the travelling public. It is important to stress that the purpose of such guarantees is to limit the size and frequency of any future toll increases and to ensure that the toll structure can be as stable as possible in the longer term. In addition, as I said when introducing this Bill three weeks ago, any toll increase will not be granted by the Governor in Council as long as the tunnel company remains reasonably remunerative. I hope this also answers Dr. LAM's worries on excessive tolls being charged later on.

Miss TAM also mentioned the restructuring of the consortium. I can assure Members that the restructuring had been approved by the Government after very careful consideration. The decision was based on the fact that the financial strength of the consortium and its ability to perform the obligations under the franchise remains unchanged after the restructuring.

Tate's Cairn Tunnel will be equipped with a modern traffic control system allowing for flexibility of traffic control. Details regarding the engineering aspects of the tunnel are being studied by the consortium. I welcome Miss TAM's suggestion for a tidal flow traffic arrangement which, based on the example of Lion Rock Tunnel, will help ease congestion during peak hours under certain traffic conditions. This idea will be pursued with the consortium during the detailed design stage to ensure that there will be the flexibility for a tidal flow arrangement within the design.

As I mentioned before, Tate's Cairn Tunnel will be a 3.9 km road tunnel with two lanes in each direction which, in engineering terms, is the best option, taking into account geological and technical constraints. Nevertheless, the ad hoc group's interest in a rail link connecting Sha Tin and east Kowloon is fully noted. Such a project is at present being separately studied, together with other rail and road options, under the Second Comprehensive Transport Study.

Sir, I share Dr. LAM's concern for the impact of the construction works on the environment. As with all Government projects, adequate measures will be taken to ensure that any adverse effects on the environment are reduced to the

minimum. The consortium has undertaken in an agreement with Government that appropriate measures will be taken, to be approved by the Director of Highways, to ameliorate any visual, air and noise impact associated with the construction and operation of the tunnel. Sufficient measures will also be implemented to prevent soil from being carried into the drainage system in the adjacent areas. Details regarding these obligations are contained in the project agreement outside the Bill.

I also share Miss TAM and Dr. LAM's concern for the massive clearance required for the construction of the tunnel and its approach roads. The needs of all those affected are fully and sympathetically taken into account in the ex gratia allowances and compensation packages to be offered. I can assure Members that all government departments and branches involved have tried their best to minimise disruption and inconvenience to all those affected by this project.

Sir, I think we all agree that Tate's Cairn Tunnel is an important project for Hong Kong, not just in transport terms but also in social and economic terms. Every effort will, therefore, be made to help bring this second road link between east Kowloon and north and east New Territories into operation as soon as possible. Subject to the enactment of this Bill, the construction works can start in mid-July this year, so that the tunnel can be open for public use in August 1991.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

REGISTRATION OF LOCAL NEWSPAPERS (AMENDMENT) BILL 1988

Resumption of debate on Second Reading (15 June 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).

4.30 pm

HIS EXCELLENCY THE PRESIDENT: Before we continue the Second Reading debate, Members might appreciate a short break.

4.52 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

EMPLOYMENT (AMENDMENT) (NO.2) BILL 1988

Resumption of debate on Second Reading (15 June 1988)

Question proposed.

MR. HUI (in Cantonese): Sir, I remember that last October when you, Sir, delivered the first policy address to the Legislative Council, you mentioned in particular that the Government would amend the long service payment scheme and you had also outlined the scope of amendment. Today, the Legislative Council will deal with the final legislative procedures concerning the Employment (Amendment) (No.2) Bill 1988. I am indeed very happy about this because although this amendment already lags more than one year behind the promised date of amendment, we are now at least able to give an answer to the public.

According to the suggested amendments incorporated into the Bill, I believe that the amended Ordinance will be able to extend the scope of benefits of the long service payment scheme which has been implemented for two and a half years. According to the amended Bill, any worker qualified for the long service payment can be compensated on resignation on the grounds of ill-health or unfitness for work or being aged over 65. On the other hand, the Bill can also plug the loophole. It has prevented some unscrupulous employers from raising salary to such an extent that those qualified workers are excluded from the legal protection. These workers might have been able to get compensation but after the increase of wage, the salaries have already exceeded the upper limit for non-manual workers and they are rendered unprotected. So the amendment would be welcomed.

Nevertheless, I share the worries of my colleague, the hon. Mr. HO Sai-chu concerning clauses 4 and 6 of the Bill. Although the Bill suggests that workers can apply for compensation from the employers after resignation on the grounds of ill-health or inability to work, these workers must get medical evidence from medical practitioners in government or subvented hospitals. This will bring inconvenience to workers who have all along been consulting private doctors. By so doing, the workers concerned will be forced to change their habits. They will have to go to government or subvented hospitals for treatment or check-ups in order to get the required medical evidence.

Owing to this, the hon. HO Sai-chu and I myself hope that the Government will amend the legislation to delegate authority to doctors in government or subvented hospitals to contact the private doctors of these workers directly for their medical records so that they can issue valid medical documents. Since in the early stage of implementation, we will not know how long it will take to deal with these transfer cases and how long the whole process can be completed. I hope, after one year of implementation, the Government will conduct analysis and review in order to understand how many people would be delayed because of these procedures and consider further amendment if necessary.

Sir, my other comment concerns the meaning of the long service payment scheme. I remember that when the long service payment scheme was first drawn by the Government, the Government stated that the objective is to protect workers, who have been working for the same employer for a number of years, from being dismissed by their employers before the close down of the companies in an attempt to avoid paying compensation to these workers. So we believe workers who have worked for a certain number of years should be qualified for the long service payment irrespective of their ages and the cause of leaving their service.

Unfortunately, the present calculation method of long service payment is obviously unfair to young workers. Why is it that workers over 41 can get the full amount and those under 40 cannot? In fact, these young workers have devoted the best years of their lives to the employers. If the objective of the long service payment scheme is really to protect workers who have worked for a number of years, then there should not be any age restriction.

Another inconsistency of the scheme is that the Government has intended to treat the long service payment scheme as a retirement pension scheme for workers. I believe that the long service payment scheme cannot be treated as another retirement scheme because of the following reasons: First of all, the number of people who are qualified for long service payment is relatively small. Second, the long service payment is calculated according to the final month salary of the employees, but it cannot exceed 12 months of the workers' salaries. So it would not be very helpful for workers who are receiving low salary. Thirdly, there is no transfer arrangement for the long service payment scheme and those young workers or middle-aged workers who change jobs after getting the long service payment will never take this payment as their retirement fund.

Sir, I still believe that if we want to solve the problem of livelihood for the aging population in Hong Kong after the 90s, the only way is to introduce legislation making it compulsory for employers and employees to join a contributory provident scheme. I understand the Government is already encouraging and monitoring a monetary private provident scheme, but if we are to move at this pace of recognising 500 cases every year, it would only be a fantasy to talk about a retirement scheme for every employee by the end of this

century. If the Government still believes that the long service payment scheme can gradually be developed into a retirement scheme, I hope the Government will consider seriously all the main points that I mentioned in the speech in the coming revision.

Sir, with these remarks, I support the motion.

MR. PANG (in Cantonese): Sir, in December 1985, this Council passed the Employment (Amendment) Bill 1985 which is, in fact, a Bill on the long service payment scheme. At that time, I highlighted the imperfection of the Bill, and I abstained from voting. The Government promised to review as well as to improve the bill one year after its implementation. Although the Administration has deferred slightly in amending the long service payment scheme, I am still pleased with the attitude of the Administration in improving the scheme.

The present amendment Bill on the long service payment scheme mainly proposes: First, on resignation, employees who are 65 or above and who have no less than 10 years of service are eligible for long service payment (according to clause 6 of the amendment Bill). Secondly, employees who are unfit for work and resign because of health reasons providing that they have completed the qualifying years of service for the scheme would receive the payment (clauses 4 and 6 of the amendment Bill). Thirdly, for those employees who die in service, their family members are also eligible for the long service payment scheme.

The spirit of the Bill in comparison with that passed in 1985 has reflected great progress and a more positive approach. This shows that the Authority has realised the loopholes of the long services payment scheme. Although the present amendment Bill has changed the previous style of total reliance on employers' initiative, there is still one shortcoming, that is, on resignation, only those who are 65 or above will be eligible for the payment. This is quite unfair to many employees who have attained the qualifying years of service but have not yet reached 65. I am concerned about this situation.

This amendment Bill provides that those who are no longer fit for employment for health reasons and those who will permanently be unfit for employment can receive long service payment. This is very timely for employees who are in ill-health. However, the Government restricts this benefit to those who can provide medical certificates signed by doctors in government or subvented hospitals. I am very concerned about whether government hospitals have detailed medical records of patients and whether or not doctors can base on such records to decide and certify that an employee is no longer fit for employment. Besides, a doctor may not be able to take care of a particular patient for a long period for thorough understanding of his illness. Moreover, the patient may turn to private practitioner for medical attention for fear of having to wait unduly long for medical consultation at out-patient clinics. Therefore I hope that the Administration will consider relaxing restriction an medical evidence.

Generally speaking, this Employment (Amendment) (No.2) Bill 1988 will improve the long service payment scheme and should be welcomed by the public. This shows that the Administration really understands the cores of the problem and makes gradual improvement. If the Administration can lift the unfair restriction on young employees, the spirit of the long service payment scheme will be further enhanced and greater protection of employees will be achieved. At the same time, this will contribute to the community well-being and economic development. I hope the Authority will keep on reviewing the related legislation and propose more appropriate recommendations.

Sir, with these remarks, I support the motion.

MR. SZETO (in Cantonese): Sir, in December 1985, when this Council was debating the Bill on long service payment, my stand was that the Bill should be passed and implemented as quickly as possible, but the Bill should be reviewed as quickly as possible following its enactment. Today, on the Employment (Amendment) (No.2) Bill 1988, my stand remains the same.

If the amendment Bill is passed, the scope of benefits of the long service payment scheme will be expanded slightly, thereby enabling qualified employees who resign on grounds of ill-health or old age to be also eligible for the payments. At the same time, dependants of the qualified employees who die in service will be entitled to the payments too.

This is an improvement to the existing Ordinance. Should the passage of the amendment Bill be deferred, those who are qualified but resign on grounds of ill-health or old age or die during the interim, will not be able to enjoy the benefits conferred by this amendment Bill. On the other hand, some unscrupulous employers may deliberately make life difficult for employees, who, under the existing Ordinance are not entitled to the long service payment but are entitled to such under the amendment Bill, thereby forcing them to resign and lose their entitlements. Even though there are serious flaws in this amendment Bill, it will have to be passed and implemented as soon as possible.

What are the serious flaws in the amendment Bill?

First, the generally accepted retirement age in our society is 60. The labour sector has always requested that as soon as an employee reaches the age of 60 or above and has no less than 10 years of service he should be entitled to receive the long service payment even if he resigns. That is, the definition of old age is 60. The Administration, however, does not accept this request.

Second, under the existing Ordinance, employees under 40 can only receive a certain percentage of the long service payment. The labour sector has always considered this as discrimination against the rights of young workers and it is unfair to them. They requested that the age restriction be lifted. The Administration once again does not accept this.

Since the amendment Bill still has such serious flaws and has not taken into consideration the view of the labour sector, it is necessary to review it as soon as possible after its enactment.

In December 1985 when the long service payment Bill was passed, the Administration had made a promise that it would be reviewed and amended in a year's time. Now, two and a half years have passed, and only today do we have in front of us the amendment Bill. I hope that the next amendment will really come as quickly as possible and not in another two and a half year's time.

Sir, with these remarks, I support the motion.

MRS. TAM (in Cantonese): Sir, given a lack of natural resources and the inability to be self-sufficient, Hong Kong has to rely on manpower resources for economic development. The labour force required by the community must not only be large in quantity but excellent in quality. One of the more important measures to protect labour is to make the labour market more attractive to the labour force. Another is that the quality of labour force may be maintained.

The long service payment scheme which took effect on 1 January 1986 represents a very significant step in labour protection. However, the scheme does have a number of loopholes which have always been the concern of our community. According to the original plan, the Government would undertake a review of the scheme one year after its introduction. The proposal to extend the protection to cover employees who have resigned on account of ill-health and old age is a welcomed measure that deserves support. However, the scheme, as amended, has not improved the protection of Hong Kong young employees. This is quite regrettable.

In late 1985, when the scheme was approved by this Council, I said that since the long service payment scheme used the period of service as the basis for calculation, there should not be inequitable arrangements for young workers aged 40 or under by stipulating that even if they have 10 years of service, they can only be eligible to receive 50 to 75 per cent of the compensation. It is difficult for older workers to find new jobs after leaving their original employment and it is perfectly justified that they should be protected. However, it must not be forgotten that those young workers who have devoted the dynamic golden time of their lives to the organisations employing them are equally entitled to enjoy the same protection as their older colleagues under the long service payment scheme.

I sincerely hope that the Administration will continue to consider allowing younger workers aged 40 or under to receive 100 per cent of long service payment after a certain period of service in order to make Hong Kong's labour protection measures more comprehensive.

Sir, with these remarks, I support the motion.

MR. TAM (in Cantonese): Sir, the words 'long awaited and long overdue' came to my mind when I describe the Employment (Amendment) (No.2) Bill 1988. When the legislation on the long service payment scheme was first passed, the Government promised to review and amend the Bill one year after its implementation. But it was only after much twist and turns and two and a half years does the Government propose amendments to the unreasonable provisions in the Ordinance. We had indeed been made to wait for it with pining eyes.

I support the amendment Bill proposed by the Government. This is because if we do not now hasten to plug the loopholes in the original Ordinance, a lot of workers would suffer loss. But I must point out that the amendment this time will not be able to plug all the loopholes in the provisions concerning the long service payment scheme and it has still fallen short of the expectation from the labour sector.

The labour sector is still dissatisfied with the amendment Bill in the following areas. First of all, the provisions that discriminate against young workers in the long service payment scheme is still not removed. According to the old provision, young workers can only get a certain percentage of the payment and the younger these workers are, the longer they will have to work in order to be qualified. The labour sector unanimously believes that we should abolish the above discriminatory provision and the duration of service qualified for long service payment should be fixed at five years. Unfortunately, the amendment this time will not make improvement in the respect. Secondly, the retirement age for workers in Hong Kong including civil servants is generally 60. The labour sector always believes that workers who have worked for over 10 years and have reached the age of 60 should be qualified for the long service payment on resignation. But the amendment this time can only provide long service payment to workers who have worked for 10 years and have reached the age of 65.

I strongly urge the Government to remove these two defects in the next revision.

In addition, I would also like to point out some of our worries. We are worried about the extent of the benefit of the long service payment scheme. First of all, we know that there are more and more employers who avoid building up employment relationship with employees. They are trying to avoid the liabilities under the Employment Ordinance (including the long service payment scheme); that is why they are adopting different kinds of contracting system now. In addition, the long service payment provision does not require employers to maintain reserves for long service payment to the employees. Under such circumstances, when the financial situation of the employers turns unfavourably, then the employees may not get their long service payment. So I think the Government must pay more attention to these two points and propose solutions.

Finally, I urge the Government to start immediately the second review and propose amendment to the long service payment scheme or else we will not know when we will be able to abolish the discriminatory provision against young workers and when we can provide all workers who have worked for 10 years and reached the age of 60 with the long service payment.

Sir, with these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I would like to thank Members for their support and their useful comments.

Some Members have expressed concern at the time taken to introduce these amendments. As my colleague, Mr. Ron BRIDGE, pointed out in this Council on 25 May in reply to a question from Mr. TAM Yiu-chung, we need to be careful in making sure that the wording of the Bill is clear, particularly in respect of the provisions for payment upon the death of an employee and for that payment to go to the right person. The fact that Members now consider the legal language satisfactory is sufficient evidence that the time taken is worth it.

Mr. HUI suggests that for the purpose of certifying permanent unfitness for jobs, a government or subvented hospital doctor should contact the employee's own private doctor for medical records. I should like to point out that this matter has been carefully considered during the drafting stage of the Bill, and the proposed arrangement is considered to offer satisfactory safeguard. Under the arrangement, however, there is nothing to stop an employee from obtaining previous medical records from his own private doctor if he so wishes, and to present such information to the government or subvented hospital doctor for reference and in support of his case.

Sir, members have commented on the existing provisions governing the amount of payment for young employees and the qualifying period of service. They have also asked for the lowering of the age limit from 65 to 60 for entitlement to long service payment upon resignation on age grounds. All these are useful points. We will take them into consideration in formulating the next package of improvements, and in so doing we will, of course, seek the advice of the Labour Advisory Board. Sir, it remains our intention to continue making improvements gradually to the long service payment scheme for the welfare of employees.

I commend this Bill to the Council for approval.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1988**Resumption of debate on Second Reading (15 June 1988)**

Question proposed.

MRS. TAM (in Cantonese): Sir, billiard has in recent years become a very popular game. It provides a decent form of entertainment and there is nothing undesirable about the game itself. But due to the loopholes in the existing legislation, billiard saloons lack adequate and proper management and easily become the breeding grounds for crime.

At present, many private billiard clubs in Hong Kong do not have to apply for a licence. They enjoy a high degree of freedom in operation and do not come under the control of licensing conditions. But many of these private clubs which are supposed to provide entertainment for their members only, are in fact open to all. In that regard, they are not different from other licensed billiard saloons.

The introduction of this Bill is a major step to introduce more efficient management of these saloons and also to protect the interest of the public. I think the four-table criterion of licensing, is appropriate and reasonable. However, one flaw of the Bill is the slowness of the drafting process has failed to catch up with the need of the present circumstances. As we all know, popular games do not last long, swift action has to be taken when problems arise, or else the action would become meaningless when the game declines in popularity. Recent press reports indicate the decline in popularity of the game after enjoying several years of prosperity. If the Bill could be introduced earlier, the effect would have been much better.

I understand that the two municipal councils are reviewing the licensing conditions for billiard saloons. I think a number of points ought to be borne in mind. First, concerning clients' age and identity, we can follow the arrangements for amusement game centres, that is, to ban people under the age of 16 or in uniform from going into such saloons. Also, adequate space between tables can help reduce conflicts among clients while they are playing.

Apart from reviewing the licensing conditions, it is also hoped that the government can build public billiard centres or billiard facilities so that there will be a good environment for this sport.

Sir, with these remarks, I support the motion.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Sir, I am grateful to my friend Mrs. Rosanna TAM for supporting the Public Health and Municipal Services (Amendment) Bill 1988. I would like to assure her that her suggestions concerning licensing conditions for billiard establishments will be referred to the municipal councils for consideration.

I shall also refer her proposals concerning billiard establishments run by Government or voluntary agencies to the relevant departments.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

PUBLIC FINANCE (AMENDMENT) BILL 1988

Clauses 1 and 2 were agreed to.

ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 1988

Clauses 1 to 3 were agreed to.

Clause 4

ATTORNEY GENERAL: Sir, I move that clause 4 be amended as proposed in the paper circulated to Members. Members may recall that I indicated, when moving the Second Reading of this Bill, that I might be moving an amendment to this clause in Committee.

As it stands at present, clause 4(a) of the Bill would simply repeal section 46 of the District Court Ordinance. That section, which can trace its ancestry back to a provision relating to small debts which was first enacted in Hong Kong in 1845, provides that minority—that is, being under 21 years of age—is no defence to civil claims which are within the district court's jurisdiction. As Members will be aware, the position at common law is that contracts with minors cannot, with certain exceptions, be enforced against them. The repeal of section 46 would restore that common law position in the district court and would be in accordance with one of the recommendations in the Report of The Law Reform Commission in its report on 'Young Persons—Effects of Age in Civil Law'.

However, the commission also made certain other recommendations regarding the position of minors in the law of contract; notably that the age of majority for contractual purposes should be reduced from 21 to 18. This recommendation has been accepted in principle by the Government and work is in hand to implement it.

In view of this, the Government considers that it would be better not to proceed with the repeal of section 46 at present but instead to implement both recommendations together in due course. As regards the 18 to 21 year-old age group, which is for these purposes the most important because they are the most economically active of those affected, the effect of proceeding with the repeal of section 46 now would be to confer exemption from liability but then take it away again within the next 12 months or so when the report's recommendation about age of majority is implemented. To change the law on such an important point twice in such a short time would create uncertainty and confusion.

But, if section 46 is neither repealed nor amended its scope will increase with the increase which the Bill effects in the district court's jurisdiction, so that in future it would apply in cases up to \$120,000 instead of \$60,000. This would be a move in a direction contrary to that already decided upon for the under-18 age group. The Government, therefore, propose that the scope of section 46 should be held at its present level, that is where the amount claimed is \$60,000 or less. This will be the effect of the amendment standing in my name. This is intended as an interim measure until legislation is brought forward, I hope within the next 12 months, to implement the Law Reform Commission's Report on a broader basis, including the repeal of section 46.

Sir, I beg to move.

Proposed amendment

Clause 4

That clause 4 be amended, by deleting paragraph (a) and substituting the following—

- ‘(a) in section 46 by deleting everything that occurs after ‘or demand’ and substituting the following—
- “(a) which does not exceed the sum of \$60,000; or
 - (b) which has been reduced to a sum not exceeding \$60,000 by reason of the plaintiff having abandoned the amount in excess of \$60,000 in his cause of action.”; and’.

Question on the amendments proposed, put and agreed to.

Question on clause 4, as amended, proposed, put and agreed to.

Schedule was agreed to.

TATE'S CAIRN TUNNEL BILL 1988

Clauses 1 to 57 were agreed to.

REGISTRATION OF LOCAL NEWSPAPERS (AMENDMENT) BILL 1988

Clauses 1 to 3 were agreed.

EMPLOYMENT (AMENDMENT) (NO.2) BILL 1988

Clauses 1 to 17 were agreed.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1988

Clauses 1 to 6 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

PUBLIC FINANCE (AMENDMENT) BILL 1988

TATE'S CAIRN TUNNEL BILL 1988

REGISTRATION OF LOCAL NEWSPAPERS (AMENDMENT) BILL 1988

EMPLOYMENT (AMENDMENT) (NO.2) BILL 1988 and

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1988

had passed through Committee without amendment, and the

ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) 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.

Private Bill

First Reading of Bill

UNIVERSITY OF HONG KONG (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 Bill

UNIVERSITY OF HONG KONG (AMENDMENT) BILL 1988

MR. PETER C. WONG moved the Second Reading of: 'A Bill to amend the University of Hong Kong Ordinance'.

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

The Bill is non-controversial and the purposes of its two clauses are:

1. To clarify that it is the role of the Council to enquire into the facts of any case where termination of the appointment of a teacher might be in question, that it is the role of the Senate to give advice on these facts, and that it is the responsibility of the Council to decide if there exists good cause for termination.
2. To provide the chancellor with the power to appoint a person to act as pro-chancellor during the absence of the pro-chancellor.

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

Question on adjournment proposed, put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 6 July 1988.

Adjourned accordingly at thirty-two minutes past Five o'clock.

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

WRITTEN ANSWERS

Annex I

Written answer by the Secretary for Lands and Works to Dr. CHIU's supplementary question to Question 2

It has taken some time to arrive at the answer, but the Secretary for the Civil Service has now completed a survey of establishment and strength in the new towns/New Territories as at 1 September 1988 and the result is attached hereto at Appendix I.

You will note that, out of a total establishment of 193 396, 49 763 posts (25.7 per cent) are in the new towns/New Territories. It is expected that a further 4 389 posts will be created in the new towns/New Territories in 1988-89 and 1989-90—see Appendix II.

*Appendix I**Establishment and Strength*(A) *As at 1 September 1988*

	<i>Establishment</i>	<i>Strength</i>
Urban Area	143 633	136 500
New Towns/New Territories		
<i>Tsuen Wan</i>		
Tsuen Wan	5 368	5 137
Other than Tsuen Wan	9 020	9 025
<i>North East New Territories</i>		
Sha Tin	9 372	9 486
Tai Po	3 425	3 241
Fanling/Sheung Shui	2 355	2 273
Other areas	2 310	2 131
<i>North West New Territories</i>		
Tuen Mun	6 812	5 604
Yuen Long	3 848	3 709
Other areas	1 409	1 344
<i>South East New Territories</i>		
Junk Bay	651	637
Other areas	1 265	1 168
<i>South West New Territories</i>		
Islands	3 928	3 742
Sub-total:	49 763	47 497
Total:	193 396	183 997

WRITTEN ANSWERS—*Continued**Appendix II*

(B) *Planned increase of establishment in offices at New Town/New Territories in 1988-89 to 1989-90*

	<i>No. of posts to be created</i>
<i>Tsuen Wan</i>	
Tsuen Wan	459
Other than Tsuen Wan	292
<i>North East New Territories</i>	
Sha Tin	468
Tai Po	326
Fanling/Sheung Shui	193
Other areas	673
<i>North West New Territories</i>	
Tuen Mun	1 007
Yuen Long	220
Other areas	195
<i>South East New Territories</i>	
Junk Bay	184
Other areas	75
<i>South West New Territories</i>	
Islands	297
Total:	4 389

Annex II

Written answer by the Secretary for Health and Welfare to Mr. YEUNG's supplementary question to Question 4

I am informed by the Secretary for Municipal Services that of the 12 prosecutions for wrapping open food with unclean paper, none was a repeated offender.

WRITTEN ANSWERS—Continued**Annex III****Written answer by the Secretary for Health and Welfare to Mr. Desmond LEE's supplementary question to Question 4**

I am informed by the Secretary for Municipal Services that they included roast meat, cakes, fried pig intestines and cooked bovine offal.

Annex IV**Written answer by the Secretary for Health and Welfare to Dr. IP's supplementary question to Question 4**

I am advised by the Secretary for Municipal Services that acute and chronic exposure to polychlorinated biphenyls (PCBs) may cause liver damage. Although no tests have so far been carried out on packaging materials for PCBs, food items are regularly checked to detect contamination by PCBs to ensure public health and food safety.

Annex V**Written answer by the Secretary for Security to Mr. CHEONG-LEEN's supplementary question to Question 5**

Statistics compiled by the Census and Statistics Department show that of the 27 174 one-way permit holders who arrived from China in 1987, over 43 per cent had been economically active in China. 15 per cent were formerly farmers, hunters and fishermen, 12 per cent were technicians and production workers, 5 per cent were professional, administrative and executive workers, and 12 per cent were of unspecified occupation. Some of these immigrants can clearly be regarded as potential workers in the labour market.

As regards age, 29 per cent of the immigrants were below 15, 18 per cent between 15 and 24, 45 per cent between 25 and 54 and the rest over 55. The figures seem to show that many of them are within the working age.

These figures for 1987 on the working background and the age groups of legal immigrants from China are, incidentally, very similar to those for other such annual arrivals in recent years.

WRITTEN ANSWERS—Continued

You also asked whether it would be 'possible for something of this nature to be taken up at the Joint Liaison Group'. I assume you were referring to encouraging one-way permittees to join the construction field. I have reflected upon this but it would not seem an appropriate matter for the JLG. Once one-way permit holders have entered Hong Kong, they are free to take up whatever employment their abilities and preferences allow, and the Government would not wish to influence the individual's choice of employment.

The Government continues to monitor the labour supply situation and the effects of any labour shortage on the economy very closely, and will consider measures to ease the situation if these are found to be necessary.

Annex VI**Written answer by the Financial Secretary to Dr. CHIU's supplementary question to Question 6**

The position is that, at present, most ocean-going vessels are covered under standard marine hull policies through Protection and Indemnity Clubs. These clubs are operated by shipowners for their mutual protection. The policies also cover third party risks.

As regards local craft, only pleasure vessels are required by law to have third party insurance coverage. However, most ferry operators and owners of many other commercial craft, do take out third party insurance as a matter of prudence. Local ferry craft—kaitos—which operate socially essential services in more remote areas, are, however, generally not insured. Their safety record, has nonetheless, been good over the years.

The present situation with regard to ocean going vessels is satisfactory. The Government is, however, examining the provision of mandatory third party insurance for local craft used for public transport purposes.

Annex VII**Written answer by the Secretary for Lands and Works to Mr. CHENG's supplementary question to Question 8**

You are of course already aware of the definition of 'building works' in the Ordinance (Chapter 123) and it is evident from this that there are difficulties in interpretation insofar as this definition, and the provisions of the exemption

WRITTEN ANSWERS—*Continued*

clause in section 41(3) of the ordinance, relate to steelwork which supports external fixtures. If the Building Authority were to decide that all such steelwork is 'building works' which should not be exempted, then metal brackets or other forms of steelwork supporting such fixtures as clothes-drying racks, flower-pot racks, external decorative features, small canopies, advertisement signs, gas and water mains and other pipes and flues would all become illegal under the Buildings Ordinance. Clearly, this is contrary to the spirit of the Ordinance. It has been the Building Authority's practice therefore that each case should be judged on its merits. In the context of your question, the Director of Buildings and Lands agrees that you are right in suggesting that sizable structural supports to heavy air-conditioning plant should be regarded as building works. In fact, this point has already been made the subject of an internal instruction for BOO staff, a copy of which is at the appendix. It should be noted however that this instruction has in part been overtaken by events following the announcement by the Director of Buildings and Lands on 1 March 1988 of a new system of priorities for the control of unauthorized building works but references to supporting framework are still pertinent.

Appendix

C & E Branch Manual Part I Control Division Section 4

No.3 Air-conditioning Package Units or Installations

1.1 The above fixtures are not covered by Section 4 No.1 and it follows that where they form a projection over a street, they should be subjected to removal action on the grounds that exemption from Section 31(1) has not been given. When read in conjunction C & E policy, this means that:

- (a) air-conditioning package units or installations (as opposed to window-type a/c units) installed in post-July 1975 buildings should be removed if no exemption from Section 31(1) has been given;
- (b) similar units in pre-August 1975 buildings can be allowed to stay temporarily in accordance with the policy on pre-August 1975 buildings, where they do not constitute a danger, and
- (c) irrespective of position or age, all such units or installations should be removed if they, constitute a danger, either by relying on Section 31(1) or Section 26 which applies to the supporting framework.

1.2 Except in cases of danger when a Section 26 Order may be used, all removal action against air-conditioning package units or installations should be taken by way of issuing a Section 24 Order which applies to the supporting framework of the units or installations. Staff should ensure that this point is reflected in the wording of the Order.

Issued 12 June 1984

WRITTEN ANSWERS—*Continued***Annex VIII****Written answer by the Secretary for Lands and Works to Mr. POON Chi-fai's supplementary question to Question 8**

The Director of Buildings and Lands has now commented on your suggestion, and he agrees that there would be considerable merits in legislating for mandatory inspection and certification of air-conditioning installations of the type and size under discussion. However, he considers that such legislation would be unlikely to receive widespread support and that, unless and until the risk from this source reaches unacceptable dimensions, the introduction of mandatory inspections is not economically justifiable. In support of this view, the Director refers to a similar proposal in 1985-86 for the better control of unauthorised building works. The proposal, based on the idea of annual certification by 'competent persons' was given wide public attention, and there was strong opposition to it.

Notwithstanding the above, there can of course be no room for complacency as far as public safety is concerned. Having looked further into the matter, I am informed that no statistics are available in the Buildings and Lands Department on the number of external water tanks in industrial buildings. The Director of Buildings and Lands has, however, advised that the problem is more serious in older industrial areas such as Kwun Tong, To Kwa Wan, San Po Kong, Kwai Chung, Chai Wan, Western and Eastern Districts. Judging from the fact that there has been only a very small number of cases of falling water tanks and so on, I wish to reiterate that the benefits resulting from regular inspections would be quite disproportionate to the cost of the staff needed to perform this function. In this connection, the Director of Buildings and Lands has advised that he has submitted a request for additional staff in this year's 'Five-Year Forecast' for the purpose of planned surveys of private buildings in the entire territory. When these surveys are conducted to detect danger from defective and substandard concrete in buildings, his staff will of course examine all possibilities of danger that may arise from air-conditioners, water tanks and other external fixtures.