

1 HONG KONG LEGISLATIVE COUNCIL -- 23 November 1988

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 23 November 1988

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

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

THE HONOURABLE THE CHIEF SECRETARY

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

THE HONOURABLE THE FINANCIAL SECRETARY

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

THE HONOURABLE THE ATTORNEY GENERAL

MR. JEREMY FELL MATHEWS, J.P.

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

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

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

THE HONOURABLE CHENG HON-KWAN, J.P.

THE HONOURABLE CHUNG PUI-LAM

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

THE HONOURABLE HUI YIN-FAT

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

THE HONOURABLE DAVID LI KWOK-PO, 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 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 GRAHAM BARNES, C.B.E., J.P.  
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE GEOFFREY THOMAS BARNES, J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.  
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE CHAU TAK-HAY, J.P.  
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. PEGGY LAM, M.B.E., J.P.

THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS. SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE MRS. ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN

ABSENT

THE HONOURABLE SZETO WAH

THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, 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 Orders 14(2):

Subject L.N. No.

Subsidiary Legislation:

Massage Establishments Ordinance	
Massage Establishments Regulations 1988.....	301/88
Hong Kong Airport (Control of Obstructions) Ordinance	
Hong Kong Airport (Control of Obstructions)	
(Consolidation) (Amendment)	
(No.2) Order 1988.....	
302/88	
Mental Health Ordinance	
Mental Health Review Tribunal Rules 1988.....	305/88
Public Health and Municipal Services Ordinance	
Places of Amusement (Regional Council)	
(Amendment) (No.2) By-Laws 1988.....	306/88
Antiquities and Monuments Ordinance	
Antiquities and Monuments	
(Declaration of Monument)	
(No.2) Notice 1988.....	
307/88	
Interpretation and General Clauses Ordinance	
Specification of Public Office.....	
308/88	
Television (Amendment) Ordinance 1988	
Television (Amendment) Ordinance 1988	

Sessional Paper 1988-89

No. 26 -- Report of changes to the approved estimates  
of expenditure approved during the first  
quarter of 1988-89 Public Finance  
Ordinance: Section 8

Others

Second Report of the United Kingdom of Great Britain and  
Northern Ireland to the Human Rights Committee under  
article 40 of the International Covenant of Civil and  
Political Rights

Supplementary Report on Dependent Territories  
-- Hong Kong Section and its Update  
May and September 1988

Press release of 4 November 1988 by United Nations  
Information Service in Geneva on the Human Rights  
Committee's examination of second periodic report of  
United Kingdom relating to dependent territories

Address by Member presenting paper

Report of changes to the approved estimates of expenditure approved during the  
first quarter of 1988 - 89 -- Public Finance Ordinance: Section 8

FINANCIAL SECRETARY: Sir, in accordance with section 8(8)(b) of the Public Finance

Ordinance, I now table for Members' information a summary of all changes made to the approved estimates of expenditure for the first quarter of the financial year 1988-89.

Supplementary provision of \$292.2 million was approved. It was fully offset either by savings under the same head of expenditure or by the deletion of funds under the Additional Commitments subheads. This included \$176.7 million for the reception, management, security and maintenance of the Vietnamese "boat people" in the various centres, and \$56 million for a capital contribution to the Chinese Water Authority.

Approved non-recurrent commitments were increased by \$801.4 million during the period, and new non-recurrent commitments of \$63.7 million were also approved.

In the same period, a net increase of 2 692 posts was approved.

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

Oral answers to questions

Rent increases for public housing estates

1. MR. HUI asked (in Cantonese) : Sir, last year the Housing Authority introduced a new rent policy which was based on the criterion that rents should not be set at a level exceeding 15% of the tenants median household income. Will Government inform this Council:

(a) details of rent increases for all categories of Housing Authority estates and the median rent-income ratios for the households concerned over the past five years;

(b) the number of households which, over the past five years, have had to pay rents at a level exceeding 15% of their actual income, the number of such households which have expressed to the Housing Department difficulties in paying rents and the way in which the department has dealt with these cases; and

(c) in the 1987-88 financial year, the number of successful Waiting List

applicants who have declined public housing allocation because they have learnt that rents charged exceed 15% of their actual income, and the arrangements the Housing Department can make to ensure that these applicants will not thus be deprived of the opportunity of acquiring public housing?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, rent reviews for different categories of Housing Authority estates are normally carried out once every two years. Mr. HUI requested details of rent increases and the median rent-income ratios for the households concerned over the past five years. The information is extremely detailed. I have therefore asked for it to be tabled. As Members will see, the majority of the increases in money terms are relatively mild.

As regards the second part of Mr. HUI's question, in each of the past five years, about 60 000 or 12% of households in rental estates paid rents exceeding 15% of their income and these occurred mainly in the newer estates. Very few tenants had expressed difficulty in paying the new rents, the level of which represented about one-third of market rents. The Housing Department's statistics show that less than 1% of the total number of offers made to people affected by clearances, tenants affected by redevelopment and waiting list applicants asked for cheaper accommodation. Where difficulty was expressed, the Housing Department offered them flats at lower rents in other estates. In the case of genuine difficulties, the Housing Department referred them to the Social Welfare Department for public assistance.

In the last financial year, 14 500 flats were allocated to successful waiting list applicants. About 1.5% or 220 families declined the offer of new flats charged at rents which exceeded 15% of their income. All of them were offered, and accepted, cheaper self-contained accommodation in other estates.

Details of Rent Increases for  
Different Categories of Housing Authority Rental Estates (1984-1988)

Category	Details		Year			
	1984	1985	1986	1987	1988	
Group B i) No. of flats (Marks I involved:		263 523	*	211 412	*	194 460



to VI) &

Former ii) Majority of rent

Government increases:

Low Cost a) in dollar \$5-\$50 \$20-\$80 \$21-\$99

Housing terms

b) in percentage 20%-28% 22%-26% 20%-23%

terms

iii) Resultant 4.4% 4.8% 5.3%

median rent-

income ratio:

Former i) No. of flats 12 758 22 140 12 763 22 141 12 780 Housing

involved:

Authority

Estates# ii) Majority of rent

increases:

a) in dollar \$56-\$150 \$60-\$100 \$61-\$145 \$60-\$120 \$56-\$150

terms

b) in percentage 34%-40% 28%-30% 25%-29% 24%-25% 18%-21%

terms

iii) Resultant median + 6.4% 6.6% 6.7%

8.5%

rent-income ratio:

Post-1973 i) No. of flats 104 686 71 097 137 868 98 086 158 069

Estates# involved:

ii) Majority of rent

increases:

a) in dollar terms \$51-\$130 \$61-\$130 \$26-\$110 \$51-\$175 \$14-\$125

b) in percentage 25%-35% 16%-29% 7%-21% 11%-20% 3%-18%

terms

iii) Resultant median	+	9.8%	10.0%	10.6%
10.4%				
rent-income				

\* Rents not reviewed in that year.

+ Statistics not available.

# Rents also revised once every two years, but the estates were divided into two groups for implementation in alternate years.

MR. HUI: Sir, in view of the fact that old housing estates are being pulled down and higher rents will be charged for new public housing units including the harmony blocks for improved quality, public housing tenants have no choice but to accept steady rent increases. Could the Government inform this Council what plans it has in maintaining a balance between meeting people's basic housing needs and improving the quality of housing which caters only to the minority better-off public housing tenants?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, may I repeat that rent increases by the Housing Authority are always small in money terms and moderate in percentage terms in relation to family incomes. There are still a large number of flats in popular locations with lower rents. For instance, lower rents are charged in certain estates such as Choi Hung and Ping Shek which are about 70% of the rents for flats of similar size in the new estates.

Foreign lawyers

2. MRS. SO asked (in Cantonese): In view of the publicly expressed concern that Government's decision to relax the restrictions on the practice of law by foreign lawyers (particularly American trained lawyers) in Hong Kong was made under diplomatic pressure or the threat of trade sanctions, will the Government inform this Council of the factors leading to its decision, the consultation which it carried out to solicit the views of the legal sector on the issue before making the decision; and its in-depth assessment of the possible implications for Hong Kong if lawyers from other countries are attracted to apply for permission to practise in Hong Kong?

ATTORNEY GENERAL: Let me first clarify one point. Far from relaxing the restrictions on the practice of law by foreign lawyers our proposal is in fact to formalize and tighten control over them. As I pointed out in this Council last week, there are already foreign law firms operating in Hong Kong under a loose, administrative system which has no legislative backing and no clearly laid down criteria. This is obviously unsatisfactory. For the first time a statutory system of admission with clearly defined criteria is being proposed. Moreover, the Law Society will have similar powers of discipline over foreign lawyers as it now has over local solicitors.

Sir, the Government does not need to be pressurized or threatened into doing something which we firmly believe to be in Hong Kong's best interests. What we are proposing has not been the result of diplomatic pressure. It is true that the possibility of trade action being sought was mentioned by certain American law firms in their petition to the Governor. That this was done is regrettable, but it played no part in the Government's decision. Our proposal does not only relate to American law firms; it will affect law firms from other countries as well.

There were several factors leading to the Government's proposal to permit foreign law firms in Hong Kong to take in Hong Kong solicitors as employees or partners to practise Hong Kong law. We believe that enabling foreign law firms to provide from within the firm an integrated legal service to their clients will help strengthen Hong Kong's position as a major international financial and commercial centre. Some of the larger firms of Hong Kong solicitors already provide this integrated service, advising not only on the law of Hong Kong but also, for example, on the laws of the United Kingdom, America and China. There are no valid grounds on which we should prevent foreign law firms from competing on the same basis. Internationally, there is growing interest in the integration of domestic and foreign lawyers to provide multi-jurisdictional advice within a single firm. Finally, the proposal will enhance employment opportunities for Hong Kong solicitors.

The Law Society was consulted before the Government reached its decision. The petition which I have mentioned was referred to the society for comment and the society responded with a full and detailed submission. Both the petition and the Law Society's submission were carefully considered by the Government. On a number of issues we had an identity of views with the society -- for example, that there should be a statutory system of admission and that foreign lawyers should not be admitted on motion, without examination, to practise Hong Kong law.

Sir, I believe that it is the consequences of this proposal that most concern the Law Society. We have made it clear that details of implementation will need to be worked out together with the society. The issues to be addressed include: the criteria to be satisfied before a foreign law firm is given a licence to practise in Hong Kong; what evidence a foreign law firm should be required to produce in support of its application for a licence; the conditions to be imposed upon the granting of a licence; what records should be kept by foreign law firms of advice given or work done by their Hong Kong solicitors on Hong Kong law; to whom these records should be made available; powers to impose sanctions; compulsory insurance; and perhaps, most importantly, the ratios of local partners to foreign partners and of local partners to local solicitors employed in the firm. The Government's aim will be to ensure, first, that only foreign law firms of substantial reputation and integrity are licensed to practise in Hong Kong; and secondly, that any Hong Kong qualified solicitor who practises Hong Kong law as a partner or employee of a foreign law firm is himself, or is closely supervised by, a Hong Kong solicitor of substantial experience and standing.

This exercise will take time, but I am confident that, when it is completed, the worries expressed by the Law Society will have been removed.

MR. MCGREGOR: Sir, assuming that the Government will continue to adhere to its policy of reciprocity in the interest of commercial relations, will the Government seek full reciprocity for Hong Kong lawyers in the countries of origin of foreign lawyers wishing to take advantage of this system? Will the Government make reciprocity a condition of acceptance of such lawyers into Hong Kong practice?

ATTORNEY GENERAL: Sir, we obviously considered the question of reciprocity, but at the end of the day, the decision was taken in the light of what is best for Hong Kong and what is in the public interest of Hong Kong. I think, with respect, reciprocity is irrelevant to that central consideration.

MR. PETER WONG: Sir, will the Attorney General please confirm on behalf of the Administration that this proposal, if implemented, will not set a precedent for any of the other professions in Hong Kong?

ATTORNEY GENERAL: Sir, this proposal has been drawn up having regard to the particular circumstances relating to the practice of law in Hong Kong. It has no wider implications than that.

MRS. LAM: Sir, will the Government consider withdrawing its proposal now that the professional bodies representing accountants, architects, barristers, dentists, doctors, engineers, planners, solicitors and surveyors in Hong Kong have publicly deplored the proposal and called upon the Government to withdraw it?

ATTORNEY GENERAL: Sir, I read with great interest the advertisement appearing in the press today containing the joint statement by the nine professional bodies. That statement contained two propositions; I agree with those propositions. I think those propositions are entirely consistent with Government's proposals.

MR. LAM (in Cantonese): Sir, will the Attorney General inform this Council why the Government has not consulted the Chief Justice or the Bar Association? What further consultation will the Government take regarding this proposal? Will the district boards be consulted?

ATTORNEY GENERAL: Sir, we are in dialogue with the Law Society. That dialogue is continuing. We have had a full and frank exchange of views which has helped clarify our respective positions. The Bar Association was not consulted on these proposals but the Bar, of course, is now fully aware of them and has, indeed, subscribed to the joint statement referred to in the earlier question.

The present Chief Justice was not consulted. The first of the Government's proposals concerns the admission of foreign lawyers to practise in Hong Kong. Our proposal is that that system of admission will be under the control of the Chief Justice. It fully implements the recommendation of the working party of the former Chief Justice. To that extent, it was unnecessary to consult the Chief Justice further.

Sir, it is not our intention to consult district boards. We do not believe that the subject is a district subject, if I can put it like that. Of course, district

boards are entirely free to debate any issue that they think relevant.

MR. CHEUNG YAN-LEUNG (in Cantonese): Sir, under the present legal system Hong Kong has developed into an important commercial and financial centre, and the Government admits that the standard of legal service in Hong Kong is very high. Is there any evidence the Government could adduce which would show that unless the proposal is implemented the multi-national companies will withdraw from Hong Kong, or which would show that the multi-national companies have all along been reluctant to consult local law firms regarding Hong Kong law?

ATTORNEY GENERAL: Sir, the numerous comments in the press, letters and articles, comments made by businessmen and comments made by some lawyers, all point to the wide acceptance of these proposals within the community.

MR. EDWARD HO: Sir, I seek clarification from the Attorney General regarding the first paragraph in his reply. Will he please inform this Council whether the foreign law firms presently operating in Hong Kong are permitted to practise Hong Kong law? If they are not, how can the Attorney General say that with the proposed new measures, he is tightening the control rather than relaxing it?

ATTORNEY GENERAL: Sir, the position is that foreign lawyers practising in Hong Kong do so in accordance with the terms of an undertaking that they provide to the Law Society. That undertaking precludes foreign lawyers from advising on Hong Kong law. That element will remain unchanged in our proposals -- foreign lawyers will continue not to be permitted to advise on or practise Hong Kong law. The tightening up that I referred to relates to the laying down of statutory admission criteria and the bringing of foreign law firms within the clear disciplinary control of the Law Society.

MR. MARTIN LEE: Sir, why has the Government decided to accede to the petition of the American law firms by opening, in effect, a back door to foreign law firms to be set up in Hong Kong without first coming to a decision on its overall policy in relation to the almost completely unrestricted admission of English lawyers to practise law

in Hong Kong through the front-door -- a practice which must soon be changed in view of 1997?

ATTORNEY GENERAL: I would not disagree with the sentiment underlying Mr. LEE's question that we should -- and it is also a matter for the professions -- be looking again at the broader picture of admission generally to practise law in Hong Kong on the part of lawyers coming from the United Kingdom. That is something that ought to be clearly addressed.

As regards the back-door approach, the fact is that foreign law firms are already permitted to practise here; some are already here. What we are proposing is to formalize the arrangements under which they come to practise here, to lay down, as I have said, strict criteria to regulate their admission and to impose a regime of disciplinary control over them.

MRS. CHOW: Sir, will the Government further elaborate how Hong Kong's position as a major international financial and commercial centre can be strengthened with this new policy?

ATTORNEY GENERAL: As I have said before on another occasion, these proposals are aimed at enhancing Hong Kong's position. That is, it takes what is already good and makes it better. The proposals will enable foreign law firms to provide an integrated legal service, a full legal service to their clients. That clearly is something that is not just in the interest of lawyers -- that, to some extent, is irrelevant. It is in the interests of lawyers and their clients.

MR. CHEONG: Sir, in the Attorney General's reply he said that the Law Society was consulted before a decision was reached. If they were consulted, how were they consulted? Why was there so much dissatisfaction after the consultation process?

ATTORNEY GENERAL: The petition was sent to the Law Society, Sir. They were invited to comment on it. They did so in a very full, detailed and closely argued submission. I am not sure that it is appropriate for me to say why they are dissatisfied. I am

sure the Law Society can speak for themselves.

MR. MARTIN LEE: Will the Attorney General please answer my earlier question and explain to this Council why both doors are being left open at the same time by not considering the request of the American lawyer firms together with the English lawyers' question, because if both doors are open the local lawyers are bound to feel a little cold?

ATTORNEY GENERAL: Exposing myself to the full and icy blast of Mr. LEE's question, I think, Sir, as I have said earlier, I do not dissent at all from the proposition that we must address the broader question. In the meantime, we have also to address the situation that we are now facing. The considerations that led the Government to formulate this policy arise not just after the petition but after the present unsatisfactory state under which foreign law firms operate in terms of admission and discipline. It was right that that state of affairs should be addressed and should be addressed now.

MR. ARCULLI: Sir, at the risk of introducing a bit of levity into the proceedings, I think I only partly agree with what Mr. LEE said about both the front and back doors being open. What the Law Society fears is the revolving door. But having said that, bearing in mind the proposal that was rejected as recently as 29 January this year by a committee so high-powered as to comprise of the then Chief Justice, the then chairman of the Bar, the president of the Law Society and a member of the Attorney General's Chambers and a Legislative Councillor, will the Government please inform this Council:

- a) whether the working party was in favour of the proposal; was it as knowledgeable about our legal system as the committee which was against the proposal;
- b) where it is felt the committee went wrong;
- c) whether the working party reported in writing; and
- d) if so, whether such report will be made public?



ATTORNEY GENERAL: Sir, it was of course a very eminent working party. The Government gave its recommendations material and detailed consideration, but at the end of the day, the Government has to make an informed judgement of what it believes to be right in the public interest, taking into account, of course, recommendations from such an eminent working party. I should hasten to add that there was only one small area that the Government took a different view. On the question, Sir, of the committee going wrong, it is an area in which, I believe, reasonable men can quite reasonably take different points of view. As I said, in the end, the Government had to take a decision on what it believed to be in the public interest. Sir, the report was, indeed, in writing. It was a report to you, Sir; it was, to that extent, an internal report. There were no plans to make it public.

Air quality inside tunnels

3. MR. EDWARD HO asked: Sir, in view of the heavy traffic congestion within the various tunnels, will Government inform this Council whether there is a health hazard involved as a result of passengers inhaling harmful motor car re-exhausts when cars are stagnated in the tunnels?

SECRETARY FOR LANDS AND WORKS: Sir, we have no reason to believe that there are health hazards in any of our tunnels, because we have ventilation and alarm systems in place to provide adequate protection. The air quality inside the tunnels is maintained within acceptable levels at all times, including peak traffic conditions.

MR EDWARD HO: Sir, I do not know whether I should congratulate the Secretary on the brevity of his reply, but, anyway, I have two questions to put to him:

- 1) What system is there, if installed, to monitor the quality of air inside the tunnels so that an acceptable level is known?
- 2) Were air samples ever taken, especially at times when cars were at a standstill in the tunnel and what were the results?

SECRETARY FOR LANDS AND WORKS: Proper ventilation and monitoring systems are critical factors in tunnel design. Both monitoring and alarm systems in all tunnels are aimed at controlling ventilation and air quality inside the tunnels. When the monitoring results in reaching pre-determined levels, the alarm system is triggered. At the first stage of the alarm, the tunnel controller has to switch on additional exhausts and air supply fans to improve tunnel ventilation. At the second stage of alert, the fan capacity for ventilation is further increased. At the final stage, then all the traffic is stopped.

We do not know of any occasion when we have actually reached the third stage and have to close a tunnel. So, with continuous monitoring going on and traffic occasionally actually held at a standstill for certain periods, we can assure Members that air quality in the tunnels is maintained even at that stage.

MR. POON CHI-FAI (in Cantonese): Sir, there are often many vehicles which give out a lot of exhaust fumes on the road, and they do so also in tunnels. Does the Government know how long it will be for these vehicles to be inside a tunnel before they pose a health hazard? And how is "acceptable level of air quality" assessed?

SECRETARY FOR LANDS AND WORKS: Sir, the Government's attention is not particularly focused on individual vehicles. It is focused on the continuous quality of the air within the tunnel. I think it is probably easiest to give levels at which the alert levels for carbon monoxide, probably the most important of the gases which could be released inside the tunnel, are triggered. The first alert level is at 80 parts per million. At that stage, the ventilation automatically increases. The second alert is at 200 parts per million at which stage further ventilation measure is taken; and the third is at 250 parts per million. That is within the two government tunnels. The Cross Harbour Tunnel is lower; so they, in fact, bring into action the alert system at an early stage.

MR. MARTIN LEE: Sir, will the Secretary for Lands and Works kindly inform this Council whether he always travels through our tunnels in an air-conditioned car with all the windows closed?

SECRETARY FOR LANDS AND WORKS: Sir, I normally travel through the tunnel with an

air-conditioned car with windows closed, but sometimes I travel with them open.  
(laughter)

MR. MCGREGOR: Sir, if the system of air movement in the tunnel actually does fail and we reach the third stage, what happens to the people inside the tunnel? Are they brought out running, walking or dead? (laughter)

SECRETARY FOR LANDS AND WORKS: At the stage when the third alert is reached, Sir, then systematic movement from the back starts. At that stage, there is still no real danger to human health. The alert system comes in long before people are going to start going out horizontally. (laughter)

MR. EDWARD HO: Sir, with respect, the Secretary has not answered my second question which was whether air samples were ever taken in the tunnel.

SECRETARY FOR LANDS AND WORKS: Sir, the monitoring system is a system of taking air samples continuously. So, I can answer "yes".

Removal of asbestos

4. MR. TAM asked (in Cantonese): Will Government inform this Council of the number of companies in Hong Kong which are qualified for the removal of asbestos materials, whether these companies are bound by specific requirements in carrying out their operations, and what steps are being taken to ensure that such requirements are duly observed?

SECRETARY FOR LANDS AND WORKS: Sir, at present there are 11 companies listed with the Architectural Services Department with adequate resources, technical capabilities at both supervisory and operative levels as well as the necessary equipment to undertake the removal of asbestos-related materials in buildings in the public sector, including Housing Authority buildings.

In the public sector buildings, all works involving the use or removal of asbestos are entrusted to one of those listed companies. Their operations are governed by particular specifications and conditions of contract clearly spelt out at the time when a contract is awarded. For public buildings, the works are supervised by either the staff of the Architectural Services Department or the Housing Department, while for buildings of subvented agencies the supervision is provided by an appointed Authorized Person.

In the private sector, companies do not need to be prequalified to undertake work involving asbestos. Nevertheless, they are required to comply with the Factories and Industrial Undertakings (Asbestos) Special Regulations and Codes of Practice issued by the Labour Department. Where necessary, special precautionary notices are also issued to the companies under the Factories and Industrial Undertakings Ordinance.

Under these regulations all demolition operations in both private and public sector works involving asbestos must be reported to the Labour Department. All known works are subject to close surveillance by the staff of the department's Factory Inspectorate Division and the Occupational Health Division of the Labour Department to ensure that statutory requirements are observed. Meetings are usually held with the companies prior to commencement on the methods to be used and precautionary measures to be taken. While the work is in progress, frequent site visits are made to monitor the level of asbestos in the air. The department gives a high priority to this work.

MR. TAM (in Cantonese): Sir, will Government inform this Council of the size of these 11 companies and whether they are capable of handling the works related to asbestos clearance throughout the territory? If not, what measures will be taken by Government?

SECRETARY FOR LANDS AND WORKS: Sir, the listed companies mentioned in my reply are employed for public sector work though, of course, they are in a position to take on private contracts. At present, asbestos removal works in the public sector are proceeding on time. As I said also in my reply, private sector asbestos works may be undertaken by other contractors.

MR. DAVID CHEUNG: Sir, in view of the importance of the school hall to normal school life and the possible disturbances to public examinations which are usually held in school halls and in view of the small number of companies which could take care of these asbestos hazards, will Government kindly inform this Council whether all school halls with asbestos hazards have been taken care of?

SECRETARY FOR LANDS AND WORKS: Sir, I understand that all with any serious hazards have been taken care of. I understand however that there may remain some others without a serious hazard, but having some asbestos materials in them.

MR. HO SAI-CHU: In his reply, the Secretary said that all these works will be supervised by either the Public Works Department staff or the Housing Authority staff. Are those staff being properly trained to take care of these hazards?

SECRETARY FOR LAND AND WORKS: Sir, the training or instruction to the Government staff involved has been given through the Labour Department, and some members of the factory inspectorates have been to Britain to do special courses in this matter. What is more, the codes of practice, which must be used by the contractors and which are also followed by the supervising officers, have been looked at by British authorities.

MR. TAM (in Cantonese): Sir, has the Government publicized the health hazards asbestos poses so that members of the public will have a correct understanding of how to deal with asbestos?

SECRETARY FOR LANDS AND WORKS: Sir, as far as I am aware, no systematic publicity campaign, but I have myself seen warnings and reports of speeches given by government officers on the dangers of asbestos.

Safe handling of containers

5. MR. HO SAI-CHU asked (in Cantonese): In view of a recent incident in which a pile of containers toppled at Tsing Yi resulting in the death of a container truck driver,

will Government inform this Council whether there are any existing controls, such as height restrictions, on the stacking up of containers and, if so, whether the effectiveness of these controls will be reviewed and tightened in order to prevent similar incidents in the future?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the handling of containers is subject to the Factories and Industrial Undertakings Ordinance and two sets of regulations made under it. These are the Cargo Handling Regulations and Lifting Appliances and Lifting Gear Regulations, which provide for such matters as maintenance of equipment, safe methods of operation, safe working loads, the provision of first aid facilities and other safety precautions. They do not at present include height restrictions for the stacking of containers. I will ask the Commissioner for Labour to review the regulations to see whether they can be improved in any way, including the possibility of introducing statutory height restrictions.

In addition to the normal enforcement by the factory inspectorate, safety is also monitored by the Central Container Handling Safety Committee. This Committee includes representatives from major container depots, container repair firms, the Marine Department and the Labour Department. The Committee organizes annual safety promotional programmes financed by the industry and has compiled a booklet entitled "Safe Practices for Container Handling" which sets out guidelines for the safe handling, maintenance and repair of containers.

MR. HO SAI-CHU (in Cantonese): Sir, we do not have height restrictions for the stacking up of containers and I am rather disappointed at this; but it is a consolation that there will be a review. Could I ask when the review will be completed and whether the review will take into account the speed of wind and inclement weather?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I will certainly ask that the review should cover the question of strong winds and the effect of weather. It is always difficult to foresee how long such a review would take. I would hope we will only take a few months, at most six months.

MR. TAM (in Cantonese): Sir, I have received representations from relevant trade

unions and associations about the stacking up of containers and workers standing right on top of the containers like acrobats doing a balancing act. Has the Government paid attention to this and what sort of safety measures are being taken?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think this is related to the question raised by Mr. HO that problems may be caused by containers being stacked too high. I will certainly ask the Labour Department to look into this question and I think they would welcome any help they can get from Mr. TAM's contacts if they can give evidence of people following dangerous practices. This would be very useful to the department in devising improved regulations.

MR. MCGREGOR: Sir, in the case referred to by honourable Members where a man was crushed to death, would the Secretary for Education and Manpower state whether in his view the absence of regulations regarding the height of stacking these containers may lead to the fact that there will be no compensation available to the family of the man killed?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am not quite sure whether it is in order for me to comment on that as there is likely to be an inquest. I do not know if the Attorney General can advise on that point.

ATTORNEY GENERAL: I think the question may be seeking an opinion on legal matters. I am not sure if that is appropriate within Standing Orders.

HIS EXCELLENCY THE PRESIDENT: Mr. MCGREGOR, would you like to re-phrase your question?

MR. MCGREGOR: Yes, Sir. Will the Government concede that by this time, with the stacking of containers all over Hong Kong, there should have been before now regulations affecting the stacking of container and the safety of operators in the various sites?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I find it a very difficult question to answer. Obviously, if a safety regulation is a good one, we should have introduced it earlier. But it inevitably takes time to become aware of dangers.

MR. POON CHI-FAI (in Cantonese): Sir, could the Administration inform this Council whether the Tsing Yi incident was due to lack of space for placing of containers which made it necessary for the containers in question to be stacked up so high?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think the incident is likely to lead to an inquest, and my understanding is that it would be improper for me to comment on this point at this stage.

MR. TAM (in Cantonese): Sir, is the Government aware of the fact that in some of the container depots, the ground is not really level and, therefore, if it is not even, there may be great danger. If that is the case, what plans does Government have to deal with this?

SECRETARY FOR EDUCATION AND MANPOWER: Yes, the Government is aware that the nature of the ground does affect the safety factors, and this has been taken into account in the various regulations made so far and will be taken into account in any further regulations which may be made.

MR. MCGREGOR: Sir, with regard to the fact that Hong Kong is the largest container port in the world at the present time, does the Government not accept that there should have been regulations and other regulations in effect in the main container areas of Hong Kong?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the regulations I have spoken of apply to cargo handling generally. The Labour Department has previously considered whether there should be specific regulations applying to container areas other than the normal cargo handling regulations. They have so far taken the view that this was not necessary, but, as I have said, I am asking them to review this question.



Pre-primary services

6. MR. PAUL CHENG asked: In view of the increasing number of kindergartens and nursery schools being set up primarily for profit-making purposes, will Government inform this Council whether the Education Department's 1984 'Manual of Kindergarten Practice' accurately reflects the criteria which have to be met for setting up such schools, how these criteria were drawn up and whether there is any mechanism to review the effectiveness of such criteria to ensure that the pre-primary services provided by such institutions are up to the required standard?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, all kindergartens, whether profit-making or not, are required to comply with the Education Ordinance and the Education Regulations.

The Department's 1984 Manual of Kindergarten Practice serves two purposes: to draw attention to the main statutory requirements and to advise operators on good educational practice. No changes have been made in the legislation since 1984, so the Manual still accurately reflects the criteria which must be met before a kindergarten can be registered.

The criteria in the Manual relating to good practice were drawn up by the Education Department with the advice of the Medical and Health Department, the Fire Services Department and the Social Welfare Department.

The Education Department's inspectors visit each kindergarten twice a year to ensure that statutory requirements are being met, and to advise on good educational practice.

The statutory requirements are now under review.

MR. PAUL CHENG: Sir, I understand kindergartens are under the supervision of the Education Department, whereas nursery schools are under the jurisdiction of the Social Welfare Department. I also understand that many kindergartens and nursery schools are placed in the same premises. Will the Government inform this Council

whether there are plans to put these two categories of institutions under the supervision of one department to effect better co-ordination and control?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, this difference has arisen for historical reasons. The fundamental purpose of child care centres is to look after children whose parents are not able to look after them and is basically a welfare directed end. The original purpose of kindergartens is to teach. I am aware that in practice the two functions tend to overlap; the border between them becomes blurred. I know that many of those involved in running these institutions would prefer them to be run under the same department. The Education Commission, in its second report, did in fact recommend that this should be the long-term aim. But because at present the purpose of the two institutions is different and the rules governing them very different, it is not a straight-forward question. We are, in fact, holding consultations now. We have a little working party with the two departments concerned, and we are trying to work out a system by which the two systems could be brought together.

DR. IP: May I ask about the observation made in the "sports in education" report earlier this year on the lack of open space for children in kindergartens and the recommendation to improve the same. Does Government accept the proposal and, if so, what action has Government taken?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the Education Commission made a fairly careful study of kindergartens, and its recommendations included improvements in standards both on staffing and space. But the main recommendation was that priority should be given to improving staffing. So our first aim is to improve staffing quality.

MR. MICHAEL CHENG (in Cantonese): Sir, are there sufficient trained kindergarten teachers to meet the demand in the pre-primary sector? If we have a shortfall could we be told the extent of the shortfall? What plans does Government have to improve the situation to enable better and further development of pre-primary education?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the main point of the commission's recommendation was, in fact, to try to raise the proportion of trained teachers. At present, the proportion of trained teachers is about 29% and we are trying to devise methods to provide incentives for the kindergartens to raise the proportion of trained teachers.

The new Securities and Futures Commission

7. MR. ARCULLI asked: Sir, in view of the wide publicity given to the formation of the new Securities and Futures Commission will the Government inform this Council :

(a) the proposed role of the Commission with particular regard to its relationship with the Stock Exchange the Futures Exchange, and other relevant persons and institutions; and

(b) the intended budgetary and manpower requirements and funding arrangements for the Commission.

FINANCIAL SECRETARY: Sir, Members of this Council will recollect that I spoke about the powers of the new Securities and Futures Commission in the debate on the Motion of Thanks last Wednesday.

We are in the process of preparing legislation for the establishment of the Securities and Futures Commission and have been consulting various market organizations, professional bodies and advisory committees on the major legislative proposals. Funding arrangements and budgetary and manpower requirements for the new commission are also being considered in some detail.

We shall ensure that all views, including views on the role of the commission and its relationship with the exchanges and other relevant parties, are properly taken into account in the process of preparing the draft legislation. We aim to submit a Bill to the Executive Council for advice in the near future. Thereafter, the Bill will be introduced into this Council. Full details of the funding package will be given, and where necessary the approval of the Finance Committee will be sought.

Sir, as I stressed in my speech on 16 November, it remains the Government's intention to strike the right balance between the need for adequate powers to curb

market abuses and the need to preserve civil liberties; between the desire to encourage the growth of markets and the need to ensure that they do not get out of control. And lastly, in relation to the funding of the new commission, it is our intention to strike the right balance between the interests of the market users on the one hand and the public purse on the other.

MR. ARCULLI: Sir, will the Financial Secretary assure this Council:

- 1) that the information sought in my question will be supplied to this Council as soon as it is available; and
- 2) that neither this Council nor the Finance Committee would be faced with what might be a *fait accompli*, particularly in view of the fact that recruitment, whether provisional or conditional, for the new commission seems to be progressing full steam ahead?

FINANCIAL SECRETARY: Sir, certainly the information sought by Mr. ARCULLI will be provided to this Council when we introduce the Bill for debate in this Council. As far as "being presented with a *fait accompli*" is concerned, Mr. ARCULLI and Members will remember that I said on the 16th of this month that it remains our aim to attract a broad consensus of support for the proposals which I shall be putting before the Council. I do emphasize, Sir, that in view of the tight timetable against which we have been working, we in the Administration have been putting together our proposals at the very same time as we have been engaging in consultation. So, those proposals perhaps have not "jelled" within the Administration to the extent that they might otherwise have done, but certainly I do emphasize that we are seeking consensus within this community.

MR. PETER WONG: Sir, in view of the cost figures of the proposed Securities and Futures Commission that have been floating around in the market place, I would like the Financial Secretary to reassure this Council that the Administration will not over-react in its efforts to try to regulate the market.

FINANCIAL SECRETARY: Sir, I can assure Mr. WONG that we will not over-react to events.

As far as the information floating around in the market place is concerned, sometimes that information is a little exaggerated.

HIS EXCELLENCY THE PRESIDENT: Mr. WONG, I should point out that your question should have ended as a question. I took it as a question because it was obviously so intended.

#### Proposed review of the Electoral Provisions Ordinance

8. MR. CHEUNG YAN-LUNG asked (in Cantonese): In view of a recent High Court ruling in relation to the holding of temporary public office by a district board member, will Government consider reviewing relevant provisions in the Electoral Provisions Ordinance in the light of this ruling?

CHIEF SECRETARY: Sir, the ruling referred to by Mr. CHEUNG is to the effect that the holder of a judicial office is the holder of a public office, and is therefore disqualified under the law from standing for election or being elected as a member of a District Board. This ruling is consistent with the Government policy that members of the judicial service and of the Civil Service should not seek political office through election. This policy is aimed at avoiding conflicts of interest and ensuring the separation of roles of the legislature, the judiciary and the executive.

As Members are no doubt aware, several election petitions have been filed which have a bearing on the question as to whether persons holding certain other positions are or are not holding a public office. Whilst these petitions are before the court, it would not be appropriate for me to comment on the issues involved.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, if the Government decides to make suitable amendment to the term "public office" in the Electoral Provisions Ordinance, will the amendment be introduced before January 1989 when registration of candidacy for the two municipal councils starts?

CHIEF SECRETARY: As I have said in my main answer, the ruling made in this case was consistent with the government policy that members of the judicial service and of

the Civil Service should not seek political office through election. In the light of that ruling, Sir, I see no reason to consider amending the regulations.

MR. POON CHI-FAI (in Cantonese): Sir, will the Government inform this Council whether the Government has an obligation to remind and, in the past, did the Government in fact remind those who took up or were about to take up temporary public office that assumption of public office might affect their eligibility to be a councillor or board member? If not, why not?

CHIEF SECRETARY: Sir, I think this certainly has brought to light that situation and clearly, in future, that sort of warning should be issued.

MR. PETER WONG: Would the Chief Secretary please inform this Council if the challenges against one or more of the Councillors here are successful, then whether the deliberations of this Council now would still be valid?

CHIEF SECRETARY: Sir, I think Mr. WONG's question refers to a matter which is before the court. It would be inappropriate for me to comment.

HIS EXCELLENCY THE PRESIDENT: I think it is also right to add, Mr. WONG, that it is a hypothetical question which one cannot ask under Standing Orders.

Written answers to questions

Visa applications of Taiwan visitors

9. MR. TAM asked : Will Government inform this Council whether the average time taken by the Immigration Department to process visa applications of Taiwanese visitors is longer than that for those from other areas and, if so, what the reasons are and what measures will be taken to improve the situation?

SECRETARY FOR SECURITY: Sir, the average time taken by the Immigration Department to process the visa applications of Taiwanese visitors is about two to three weeks. It is not longer than that for visitors from other areas.

School private light buses

10. MRS. TAM asked : In view of the recent traffic accidents involving school private light buses, will Government inform this Council:

(a) of the number of cases during the past three years in which enforcement action was taken against drivers of such vehicles for carrying excess student passengers;

(b) whether more frequent examinations of school private light buses would be conducted for the protection of student passengers; and

(c) whether additional control measures are being contemplated to further ensure the safety of student passengers?

SECRETARY FOR TRANSPORT: Sir, police records on the offence of carrying excess passengers do not show a separate breakdown for school private light buses. The number of prosecutions by summons against drivers of the broader category of private light buses was very small -- four in 1985 and none since 1986. In terms of fixed penalties, police records only show such offence for all vehicles. The number of such offence committed by drivers of school private light buses is not readily available but is believed to be relatively small.

Government is conscious of the need for frequent and regular inspections of school private light buses. All new school private light buses are inspected before registration. Since January 1986, these vehicles are inspected annually before re-licensing.

Various measures have been introduced to ensure their safety. Drivers must possess a private car driving licence for at least three years before they can be licensed to drive. Under Regulations 44 and 53 of the Road Traffic (Traffic Control) Regulations, drivers are required to ensure that passengers enter and leave the

vehicle in safety and that the vehicle does not carry excess passengers.

Two additional safety requirements have been introduced following a review in 1986. First, these vehicles are required to bear on all sides a yellow-stripe marking. On the sides of the vehicle the words "School Private Light Bus" must appear in English and Chinese and on the rear the sign "Children" must be placed in the centre of the yellow-stripe. The purpose is to identify school private light buses more clearly and thus warn other road users of the likely presence of young children in the vicinity of these vehicles. Second, all vehicles, including school private light buses, are required to be fitted with blinking hazard lights to warn other road users.

Apart from the legal requirements, the Education Department issues regularly circulars to all schools on the proper supervision of children carried in school transport.

The average costs of district board meeting

11. MR. TAI asked: Will Government inform this Council of the approximate average staff and administrative costs of a meeting of a district board and a meeting of a district board's committee?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, on average, a meeting of a district board takes about four and a half hours and a district board committee meeting takes about three hours. On this basis and in the light of the average staffing and administrative support provided for these meetings, it is estimated that a meeting of a district board and of its committee cost about \$27,000 and \$13,000 respectively. A breakdown of the costs involved is shown in the annex.

Annex

	Staff* cost \$	Administrative# cost \$	Total \$
District Board meeting	24,000	3,000	27,000
Committee meeting	10,000	3,000	13,000



\* Staff cost includes the provision of simultaneous interpreters, officers in regular attendance at the meetings and support provided by the district board secretariat. Officers attending a district board meeting normally are of a higher rank than those attending a district board committee's meeting, hence the difference in the staff cost.

# Administrative cost includes the hiring of services of the Cable & Wireless (HK) Ltd. for the operation of the simultaneous interpretation equipment, electricity, refreshments, stationery, and so on.

Applications for licences to build small houses

12. MR. TAI asked: Will Government inform this Council, since the passage of the Buildings Ordinance (Application to the New Territories) Bill 1986 in October 1987, how many applications for licences to build small houses have been received; when these applications were received; what were the localities of the small house sites applied for; and how many applications have been approved?

SECRETARY FOR LANDS AND WORKS: Sir, during the 12 months from 1 October 1987 to 30 September 1988 a total of 299 applications for building licences to build small houses were received as follows:

	Tuen Mun	Yuen Long	Sai Kung	Total
1.10.87 - 31.12.87	7	83	26	116
1. 1. 88 - 31. 3.88	9	48	4	6
1. 4. 88 - 30. 6.88	3	54	7	64
1. 7. 88 - 30. 9.88	15	36	7	58
	34	221	44	299

Of these a total of 81 have been approved. As it takes at least six to nine months

to process an application, many of those submitted in the latter part of this 12-month period are still being processed. During the same period, a total of 236 approvals were issued which include applications submitted before 1 October 1987.

Government Business

First Reading of Bills

DISTRICT BOARDS (AMENDMENT) (NO.2) BILL 1988

REGIONAL COUNCIL (AMENDMENT) BILL 1988

URBAN COUNCIL (AMENDMENT) BILL 1988

PENSION BENEFITS (JUDICIAL OFFICERS) BILL 1988

PENSION BENEFITS (REFUSAL TO GRANT, SUSPENSION, REDUCTION AND CANCELLATION) 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

DISTRICT BOARDS (AMENDMENT) (NO.2) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the District Boards Ordinance".

He said: Sir, I moved that the District Boards (Amendment) (No.2) Bill 1988 be read the Second time.

Together with the Regional Council (Amendment) Bill 1988 and the Urban Council (Amendment) Bill 1988 which are on the Order Paper, this Bill seeks to implement proposals in the 1988 White Paper "The Development of Representative Government : the Way Forward". The enactment of these three Bills will bring about changes in

three main areas.

First, from 1 April 1989, the membership of the Urban Council will be expanded to include one representative from each of the 10 district boards in the Urban Council Area. Secondly, Urban Council members will cease to be ex-officio members of urban district boards. Thirdly, adjustments will be made to the terms of office of the Urban Council and the Regional Council, so as to prepare for the introduction of a new sequence of elections. The intention is that, after 1991, elections to the district boards, the two municipal councils, and the Legislative Council will be held in that order within a period of 12 months. This sequence will facilitate elections of representatives to the successive tiers of government, that is, the election of representatives from the district boards to the municipal councils and from the municipal councils to the Legislative Council.

This Bill seeks to remove from elected members of the Urban Council the ex-officio membership of district boards in the urban area, and to remove the right of the Urban Council to nominate appointed members of the Urban Council to be members of urban district boards. I shall be seeking an amendment at Committee Stage to make it clear that the new arrangements will not come into effect until 1 April 1989.

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

Question on adjournment proposed, put and agreed to.

#### REGIONAL COUNCIL (AMENDMENT) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the Regional Council Ordinance".

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

As I have just explained, this Bill, together with the Urban Council (Amendment) Bill 1988 and the District Boards (Amendment) (No. 2) Bill 1988, seeks to implement the proposals in the White Paper and bring about changes in three main areas. I shall not repeat the details.

This Bill provides for the adjustment of the tenure of members of the Regional Council to be elected in March 1989 to two years and two weeks, and some other electoral arrangements similar to those provided in the Urban Council (Amendment) Bill.

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

Question on adjournment proposed, put and agreed to.

#### URBAN COUNCIL (AMENDMENT) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the Urban Council Ordinance".

He said: Sir, I moved that the Urban Council (Amendment) Bill 1988 be read the Second time.

I refer to what I said on moving the Second Reading of the District Boards (Amendment) (No. 2) Bill 1988.

This Bill provides for the elections of representative members of urban district boards onto the Urban Council. It also adjusts the term of the Urban Council members elected in March 1989 to two years and two weeks.

The Bill also provides for a number of technical and consequential amendments. It amends the Corrupt and Illegal Practices Ordinance so that the Ordinance will be applied to the election of representative members to the two municipal councils. It also amends the Legislative Council (Electoral Provisions) Ordinance to include representative members of the urban district boards on the Urban Council in the Urban Council special constituency for the Legislative Council elections.

Sir, I shall be seeking a further amendment at the Committee Stage to cover two technical points which were inadvertently omitted from the Bill. These are that the terms of the chairmen and vice-chairmen of the two municipal councils elected in the next elections need to be extended by two weeks in line with the tenure of members, and that the quorum for a meeting of the Urban Council or of its Standing Committee needs to be increased in proportion to the expanded membership.

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

Question on adjournment proposed, put and agreed to.

PENSION BENEFITS (JUDICIAL OFFICERS) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to provide for the granting of pension benefits to judicial officers".

He said: Sir, I move that the Pension Benefits (Judicial Officers) Bill 1988 be read the Second time.

This Bill provides for the introduction of a new pension scheme for judicial officers and for consequential amendments to existing ordinances containing references to pension matters.

The Judiciary has been predominantly expatriate but the lack of local recruits certainly does not reflect any shortage of talent amongst practising members of the legal profession. The Government has devised a package of new arrangements to encourage more local lawyers to seek judicial office and to retain staff of high quality. These arrangements include a new pension scheme, which is the subject of the Bill now before Members, as well as the establishment of a separate pay scale for judicial officers.

There are two main elements in the new pension scheme. The first concerns the retirement age of judicial officers. As specified in the Letters Patent, this remains at 65 for Supreme Court Judges, while in the case of District Court Judges, it has been raised from 60 to 65 for those appointed on or after 1 January 1987, but remains at 60 for those appointed before that date. The present Bill provides that the retirement age will be raised to 65 for the Registrar and Deputy Registrar of the Supreme Court, and 60 for Assistant Registrars, Members of Lands Tribunals, judicial officers presiding over specialized Tribunals and Magistrates. The second main element is that the pension arrangements for judicial officers will mirror the new pension scheme for the Civil Service. However, two special features will be introduced: first, pension service will increase at the rate of one month for each month of service after the age of 50; and secondly, a minimum pension equivalent to one-quarter of salary will be granted to officers retired on medical grounds.

These proposals recognize that judicial officers are normally appointed later

in life and that, under existing arrangements, they are unable either to pursue a long career or earn a satisfactory pension. Because it is desirable that only lawyers with adequate experience are appointed to judicial office, those who join the Judiciary are 10 to 15 years older than their public service counterparts. This is perceived as one of the factors deterring suitable local candidates from coming forward.

It is important that the more senior practitioners are encouraged to seek judicial office and that they are not deterred by their inability to earn a worthwhile pension. The new arrangements are therefore essential to achieve this.

The special provision under clause 25 will double the standard pension earnings rate over the age of 50. However, service below the age of 50 will continue to earn pension at the standard rate.

The other special feature in clause 16 guarantees that officers retired with short service on grounds of ill health will receive a minimum pension equivalent to one-quarter of salary. This broadly follows United Kingdom practice to ensure that such officers will receive a reasonable sum in pension benefits.

Judicial officers appointed after the introduction of the scheme will be engaged on these new terms. Serving officers may apply to transfer to the new scheme or remain on the existing scheme as they prefer.

The Bill is largely modelled on the Pension Benefits Ordinance which governs the new Civil Service pension scheme. But in order to reflect the independence of the Judiciary, separate legislation is proposed and clauses 1 to 38 of the Bill give effect to the new scheme.

The remaining clauses 39 to 57 make consequential amendments to a number of Ordinances to extend the application of these Ordinances to judicial officers who come under the new pension scheme; and to ensure that double benefits are not payable under the existing and new pension schemes in respect of the same period of service.

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

Question on adjournment proposed, put and agreed to.

PENSION BENEFITS (REFUSAL TO GRANT, SUSPENSION, REDUCTION AND CANCELLATION) BILL 1988

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to enable, in specified circumstances, pensions and other benefits related to the public service not to be granted or, when granted, to be suspended, reduced or cancelled and to enable persons aggrieved by decisions under the foregoing to petition the Governor".

He said: Sir, I move that the Pension Benefits (Refusal to Grant, Suspension, Reduction and Cancellation) Bill 1988 be read the Second time.

This Bill aims to introduce improved procedures in respect of appeals that may be lodged by public officers relating to decisions to suspend, reduce, cancel or not to grant pension benefits. The proposals arose from a request from staff and are in keeping with the principle that they are entitled to their pensions as a matter of right.

Sir, I would like to highlight the significant features in the proposed procedures.

Under the new arrangements, the officer concerned will be notified of the intention to refuse to grant, cancel, suspend or reduce his pension benefits, and will be given an opportunity to submit representations. These representations will be taken into account before a decision is made. Any officer aggrieved by such a decision may petition the Governor. On receiving the petition, the Governor may require an Appeal Panel to consider the petition. He will then take a final decision on the petition having regard to the Appeal Panel's report.

The Appeal Panel will consist of three members appointed by the Governor, one to be a member of the Judiciary or the legal profession, another a Justice of the Peace who is not a public officer and the third a layman.

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 30 November 1988.

Adjourned accordingly at twenty minutes to Four 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.