

1 HONG KONG LEGISLATIVE COUNCIL -- 25 January 1989

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 25 January 1989

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, C.M.G., 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 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, O.B.E., J.P.

THE HONOURABLE CHENG HON-KWAN, J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

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

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

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, J.P.

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING, J.P.

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

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 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. NELLIE FONG WONG KUT-MAN, J.P.

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, J.P.

ABSENT

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

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

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

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.
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Subsidiary Legislation

Air Pollution Control Ordinance Air Pollution Control (Fuel Restriction) Regulations 1989.....	10/89
Immigration Ordinance Immigration (Places of Detention) (Amendment) Order 1989.....	13/89
Merchant Shipping (Safety) Ordinance Merchant Shipping (Safety) Ordinance (Amendment of Schedule) Order 1989.....	14/89
Telecommunication (Hong Kong Telephone Company) (Exemption From Licensing) Order Telecommunication (Hong Kong Telephone Company) (Exemption From Licensing) (Fees) (Amendment) Order 1989.....	15/89
Chinese Permanent Cemeteries Ordinance Chinese Permanent Cemeteries (Amendment) Rules 1988.....	16/89

Shipping and Port Control Ordinance  
Shipping and Port Control Ordinance  
(Exemption) Notice 1989.....  
17/89

Sessional papers 1988-89

No. 46 -- Regional Council Estimates of Revenue and  
Expenditure for the year ending 31 March 1990

No. 47 -- Annual Report of the School Medical Service  
Board for the year ended 31 March 1988

No. 48 -- Urban Council Estimates of Revenue and  
Expenditure for the year ending 31 March 1990

Oral answers to questions

Anti-industrial pollution legislation

1. MR. TIEN asked: Will Government inform this Council, apart from the imposition of fines on offenders of anti-industrial pollution legislation, whether Government is currently providing any direct technical assistance to industrialists to enable them to comply with the standards required by the said legislation?

SECRETARY FOR LANDS AND WORKS: Sir, industrialists, like the rest of the public, must themselves take responsibility for compliance with laws to control pollution, and the Administration and this Council have taken pains to ensure that such laws are subject to proper consultation with industry both regarding their content and their implementation. The Environmental Protection Department (EPD) is responsible for enforcing this legislation; so a direct EPD role in assisting polluters would compromise these functions and imply a weakening of the polluters' own responsibilities. Assistance to industrialists is therefore provided in other forms. These are: first, explanatory booklets on pollution control legislation and how to

comply with it and informal advice on where to go for technical assistance, and secondly the Government grants an annual subsidy to the Hong Kong Productivity Council. Part of that grant goes to the council's Environmental Management Division, which provides a full range of consultancy and equipment design and fabrication services on air pollution control, waste water treatment, noise control and solid waste management. The council provided assistance on 193 projects in 1988.

Sir, it is important to stress, yet again, that pollution control is part and parcel of the task and expertise of running an industrial concern in the same way that financial, staff and other controls are. It is therefore primarily the responsibility of the industrialist to keep his own house in order.

MR. TIEN: Sir, EPD is currently responsible for enforcing pollution control legislation. Will Government inform this Council why a direct EPD role in assisting industrial polluters to resolve technical difficulties would be viewed as a compromise to the department's enforcement functions, bearing in mind that other departments such as Labour Department and Fire Services Department do offer advice and assistance to potential offenders in their respective areas without compromising their enforcement functions?

SECRETARY FOR LANDS AND WORKS: Sir, it is a general principle which is very strongly advocated by the Independent Commission Against Corruption (ICAC) that enforcement authorities should not also get involved in giving technical advice or assistance to potential enforcées. This principle was to a certain extent compromised in the case of pig breeders because there was no equivalent of the Productivity Council available for them and it would have been very difficult for farmers to have got access to appropriate advice. The kind of advice which is sought by industrialists generally involves matters of design and technical matters. And in compliance with the professional advice given, if the industrialist fails to meet the standards, then it would be all too easy for him to blame his advisers and suggest that the law and standards should not be enforced against him. So I think it is most inadvisable that the EPD should be involved.

MR. MCGREGOR: Sir, given the fact that in Hong Kong we have over 50 000 industrial undertakings, the vast majority of which are in fact very small or medium sized

operations and have very little real knowledge of how to tackle pollution, is it not really the central responsibility of the Government to ensure that these industrialists are properly informed and given adequate services? To my way of thinking, Sir, 160-odd instances of assistance from the Productivity Council is not a very substantial performance given the huge number of industrial undertakings that we have.

SECRETARY FOR LANDS AND WORKS: Sir, we indeed have a very large number of industrial undertakings. But only a relatively small proportion of those have a pollution problem in that only a relatively small number of them produce smoke or effluent. In a great many cases, it is not even a question of obeying complicated legislation. It is a question of putting a drain in the right place which is a common duty. Sir, I believe that as the water pollution legislation becomes progressively enforced, industry will need more assistance, but I believe also that this should be provided either through industrial associations or through those parts of the Government which assist industry.

MR. TIEN: Sir, will Government inform this Council how many pollution control consultants are available in Hong Kong other than the Hong Kong Productivity Council, and whether their professional standards are vetted by the EPD?

SECRETARY FOR LANDS AND WORKS: Sir, the list of consultants EPD employ for pollution advice to Government is mainly made up of substantial firms which number about 20. But there are a great many other smaller firms which are capable of doing smaller jobs satisfactorily and, as I mentioned in reply to Mr. McGREGOR's question a moment ago, many of the jobs are relatively simple.

PROF. POON: Sir, will the Secretary inform this Council how much in dollar terms of the Government's annual grant goes to support the Environmental Management Division of the Hong Kong Productivity Council?

SECRETARY FOR LANDS AND WORKS: Sir, I have a figure on the subsidy to the Productivity Council but I have not worked that out as a percentage of Government's Budget. It



would be a very small one indeed, bearing in mind the size of the Budget. I understand that 5.4% of the Productivity Council's own budget of about \$8.8 million went to its Environmental Management Division.

MR. MCGREGOR: Sir, given the fact that the Government itself is obviously seriously concerned with, for example, chemical waste and a very large sum of money indeed is expended on a chemical waste disposal plant, would the Government not agree that it does have a central responsibility for the protection of the environment in the widest sense, including industrial pollution, and that it should therefore be far more involved in the determination of policy and the procedures?

SECRETARY FOR LANDS AND WORKS: Sir, in answer to that question, if I understood it, I would certainly confirm that Government is extremely concerned about every aspect of pollution and that it obviously has a supreme concern about policy. But I think I might have misunderstood the question because the question as I heard it did not really turn out to be a question at all. Perhaps it could be repeated.

HIS EXCELLENCY THE PRESIDENT: Mr. MCGREGOR, would you repeat it? I do not want to prolong this exchange for too long, so could you repeat it very briefly please?

MR. MCGREGOR: Yes, Sir, perhaps I could change it slightly.

HIS EXCELLENCY THE PRESIDENT: Not a new question please. Repeat the same one, would you, but briefly.

MR. MCGREGOR: Would the Government consider that it has a central and direct responsibility for the protection of the environment to the extent that given the fact that the Government is already spending very large sums of money on, among others, a chemical waste disposal plant on Tsing Yi Island, it has a major responsibility towards ensuring it keeps in its own hands the policy and the procedures against polluters? I am sorry, that does sound the same! (laughter)

HIS EXCELLENCY THE PRESIDENT: Thank you for that brief question, Mr. McGREGOR.  
(laughter)

SECRETARY FOR LANDS AND WORKS: I think the easiest thing is to say "yes", Sir.  
(laughter)

MR. CHEONG: Sir, in relation to the oral reply to the supplementary question raised by Mr. TIEN, would the Secretary confirm that, in the light of the ICAC's advice, all the activities the Fire Services Department engages in by way of giving technical assistance and advice in an effort to enforce the regulations are in fact unlawful?

SECRETARY FOR LANDS AND WORKS: Sir, I have no means of confirming or otherwise that question.

MR. ANDREW WONG: Would the Secretary acknowledge that the Productivity Council did play a role in connection with animal waste treatment in that the council did take part in a demonstration project on animal waste treatment?

SECRETARY FOR LANDS AND WORKS: I am happy to acknowledge that although I was in fact ignorant of this, Sir.

MR. TIEN: Sir, will Government inform this Council the number of factories prosecuted and fined under various anti-pollution legislation in 1988 and whether advice was given to these factories concerned as to where the necessary technical assistance could be obtained?

SECRETARY FOR LANDS AND WORKS: Under the Water Pollution Control Ordinance, there were no prosecutions. Under the Air Pollution Control Ordinance, Sir, there were 210 prosecutions in all, 172 of those being for factories. I cannot so confirm that every one of those was told where to go to get advice but I understand that the normal

advice given on this is to refer all factories which have a pollution problem to the suitable professional institutes or associations who have lists of suitable consultants to help the offending factory.

#### Location and distribution of petrol filling stations

2. MR. POON CHI-FAI asked (in Cantonese): In view of a recent occurrence of a fire and explosion at a petrol filling station which was caused by a goods vehicle involved in a traffic accident, will Government inform this Council what criteria are being employed by the Administration in making decisions on the location of a petrol filling station; how many petrol filling stations are located on the ground floor of or in the vicinity of commercial, residential or commercial/residential buildings; how they are distributed; and what measures are being taken to ensure the safety of the people living and/or working on the upper floors of these petrol filling stations in the event of an explosion or a fire; how the bunkering stations, apart from the petrol filling stations for vehicles, are distributed and what the criteria in making decisions on the locations of these stations are?

SECRETARY FOR SECURITY: Sir, the incident in question occurred in Wong Chuk Hang in June 1987. I am informed that there was a fire but no explosion.

I shall deal with the six parts of the question in a slightly different order to that in which they were asked. The location of a petrol filling station is determined by the Director of Buildings and Lands or the Town Planning Board having regard to factors such as need, land use compatibility, traffic engineering and safety considerations, environmental and fire safety aspects. Since the circumstances differ from area to area, there are no hard and fast rules; each site is very carefully considered taking into account the factors mentioned.

Similar considerations apply to the location of bunkering stations. Here the Director of Buildings and Lands or the Town Planning Board take into account such factors as site characteristics, marine traffic flow, impact on water quality, and fire safety. Bunkering stations are located on the sea front mainly on Hong Kong Island and in the Sai Kung area.

There are 16 licensed petrol filling stations located on the ground floors of

buildings and one on the first floor of a building. Of these, five are in commercial buildings, three in industrial buildings, five in residential buildings and four in car park buildings. There are 30 free-standing petrol filling stations located next to buildings in these categories.

Petrol filling stations located on the ground floors of buildings must comply with the Director of Fire Services' general requirements which are themselves in accordance with international safety standards. These include burying storage tanks underground, surrounding each tank with a layer of sand and a layer of fine concrete, and siting the filling or dispensing points at a distance of more than 4.5 metres from the perimeter of the station area. In addition, the Director of Fire Services stipulates additional requirements to ensure the safety of the people on the upper floors of the building. These include the complete separation of the petrol filling station from the rest of the building laterally and vertically so that the final construction ensures a fire resistance period of four hours. Also required are additional fire services installations such as sprinkler and drencher systems in both the filling stations and on the upper floors, and the siting of escape exits for the upper floors well away from the petrol filling station.

MR. POON CHI-FAI (in Cantonese): Sir, I would like to ask two questions in connection with the Secretary's reply. Paragraph 2 of his answer mentioned safety consideration as a factor in determining the location of a petrol filling station. It was indeed fortunate that there was no explosion in the Wong Chuk Hang incident. But accidents are by no means predictable. No one can rule out the possibility of another accident or a fire leading to explosion of storage tanks. Would the Government consider prohibiting the siting of petrol stations on ground floors of residential or commercial buildings to ensure public safety? And are there any basic courses or seminars offered to petrol station staff to equip them with knowledge in handling emergencies?

SECRETARY FOR SECURITY: Sir, the answer to the first part of the question is that, as a general rule, the Director of Fire Services considers it inadvisable to set up petrol filling stations on the ground floor, particularly of residential buildings, having regard to the risk, obviously, of residents sleeping in the buildings at night. Any more new licences for such locations would depend very much on the merits of the individual application and its location. With regard to the second part of the

question, Sir, I am not aware of any special courses being conducted.

MR. MICHAEL CHENG (in Cantonese): Would Government inform this Council when the criteria concerning the location of petrol station were stipulated; how many stations had been built before these criteria came into being; and how soon those stations falling short of standard can all be re-sited?

SECRETARY FOR SECURITY: Sir, I am not aware of when these criteria were set. Therefore, I am not able to answer the second part of the question. As to the third part of the question, Sir, I am not aware of any petrol filling stations at the moment which do not meet the current criteria.

HIS EXCELLENCY THE PRESIDENT: Could I remind Members that it is much easier for those who are answering questions to answer them if they are single, simple questions.

MR. CHAN: Sir, with regard to bunkering stations, besides the factors mentioned in paragraph 3 of the Secretary's answer, would the Government in choosing the location for bunkering stations just outside Lei King Wan Estate in Shau Kei Wan also take into consideration the impact on the living environment and property value of the estate and re-site the stations away from such nice residential developments?

SECRETARY FOR SECURITY: Sir, I am not sure I am best qualified to answer this question. But I would say that probably these factors are taken into consideration at the time a bunkering or a filling station is sited, probably taken very carefully into consideration; and secondly, that when notice is given of the siting of such station it would presumably be open to members of the public to make representations if they wished. But I should perhaps like to ask my honourable friend, the Secretary for Lands and Works, if he has anything to add to that, Sir.

HIS EXCELLENCY THE PRESIDENT: Secretary for Lands and Works, can you add to that reply?

SECRETARY FOR LANDS AND WORKS: Sir, I can only confirm what the Secretary for Security said but also I must warn that in Hong Kong we are very tight on land. We are very tight on opportunities for siting things ideally and so although I am happy to look and re-examine the situation in Lei King Wan to see if there is anything that could be done to make it safer, I must warn that it is extremely difficult to solve these problems quickly.

#### Vehicular ferry service

3. MRS. CHOW asked: Will Government inform this Council what is the maximum capacity of cross-harbour vehicular traffic that can be handled by the vehicular ferry service, what percentage of this capacity was used in the last three years, and whether Government intends to ensure that a more efficient service can be offered so as to alleviate the present tunnel congestion?

SECRETARY FOR TRANSPORT: Sir, the Hong Kong and Yaumati Ferry Company operates at present 17 vehicular ferries on three cross-harbour routes. They can carry a total of about 870 vehicles, providing a two-way capacity of over 2 200 vehicles per peak hour.

The average utilization rate of available capacity increased steadily in the last three years: over 60% in 1986, over 70% in 1987 and about 85% last year. The actual rate varies with time of day and direction of travel. In the morning peak hours the ferries are usually full travelling towards Hong Kong, and likewise towards Kowloon in the evening peak. At these times vessels travelling against the main direction of demand have about 30% spare capacity. During the off-peak hours there is only about 15% to 20% spare capacity in either direction as goods vehicle utilization is at its highest at these times. This off-peak spare capacity represents only about 150 vehicles an hour, or a smaller number of larger vehicles. Even if this space could be utilized, the relief to the cross harbour tunnel congestion would be negligible.

Last year, we examined whether vehicular ferries might offer some relief to tunnel congestion, but found no scope for additional capacity as all available vessels were fully used. Additional ferries could not be built in time, and even if additional vessels could somehow be obtained, they would be surplus to requirements later this

year when the new tunnel opens.

Long-term relief to the congestion problem cannot be expected until the second harbour crossing opens in about September this year.

MRS. CHOW: Sir, I am indeed extremely surprised to hear that the vehicular ferries cannot offer some relief to tunnel congestion, particularly as the reasons on which the Secretary based his conclusions are not terribly convincing. With reference to the average utilization rate, can the Secretary please inform this Council what the operating hours of the key routes are and whether these are based on the demand of motorists as reflected by volume of tunnel traffic; whether there are fixed schedules for services; and whether these have been adhered to?

SECRETARY FOR TRANSPORT: Sir, the ferry operation has been optimized to the extent of meeting the demand throughout the day and the night. They start before the peak hours begin, that is, at 7.30 am and end late in the evening. As far as we are concerned, the vessels have been fully used and the rate of average use of 85% seems to be the optimum level which we can achieve. But it must also be borne in mind that in the peak hours the ferries are used 100%, so it is not perhaps fair to say that they are not optimized to the extent of meeting peak hour demand.

MR. EDWARD HO: Sir, I refer to paragraph 3 of the Secretary's reply when he said that all available vessels were fully used. Can he confirm whether this is true as I notice some such vessels are used as tourist boats, and whether he can advise that the problem may lie in the deficiency of ferry pier facilities instead?

SECRETARY FOR TRANSPORT: Sir, I confirm that all the available ferries have been used to meet the demand. There is, of course, one ferry which has to be on stand-by to meet the requirement for inspection of the ferries under normal requirements of transport safety. There are two boats used in the evening for the restaurant and night club business. This is outside the peak hour demand, and of course, not affecting the main schedule of services.

MR. PAUL CHENG: Sir, statistics from the Cross Harbour Tunnel Company show that during

the past seven years the number or volume of goods vehicles using the Cross Harbour Tunnel steadily increased from 11% in 1982 to slightly over 20% of all vehicles using the tunnel. Will the Government advise this Council whether consideration has been given to either banning goods vehicles from using the Cross Harbour Tunnel during peak hours or using some form of pricing mechanism to encourage goods vehicles to use the ferry service more or to use the tunnel during off-peak hours?

SECRETARY FOR TRANSPORT: Sir, in April last year the Transport Advisory Committee (TAC) looked at extensively and intensively all these various possible solutions to the problem. The conclusion of the committee was that it would not be advisable to single out any one particular type of transport mode for special treatment, bearing in mind the need to arrange an even flow of traffic throughout the day and the fact that the second tunnel is due to open very soon. But of course the longer-term solutions will be addressed in the Comprehensive Transport Study No. 2 (CTS 2) and in the Green Paper which I mentioned many times in this Council.

MRS. CHOW: Sir, is Government aware that there has been general dissatisfaction over the service, or lack of it, being provided by the vehicular ferry company and what has Government done to improve it?

SECRETARY FOR TRANSPORT: Sir, this seems to me perhaps a slightly separate question. But as far as the services of the ferries are concerned, the company, the Transport Department, and the TAC do take a very close look at all times at the operations, and of course the Transport Complaints Unit does receive complaints about ferries from time to time. I think I can confirm that the ferry company has taken great pains to improve their services over the years and the TAC is also satisfied that the services are improving in recent years. But if there are particular complaints I would be happy to refer them to the company for investigation.

MR. EDWARD HO: Sir, I wonder how long the second tunnel can relieve tunnel traffic congestion before both tunnels are congested again. Given that Hong Kong has the natural advantage of the harbour for water transport, can the Secretary please inform this Council whether there is a long-term plan to better utilize water transportation?



SECRETARY FOR TRANSPORT: Yes, Sir, the CTS 2 of course will forecast a longer-term need beyond the end of the century. It has estimated that by the end of the century, perhaps 1996-97, we will need a third harbour crossing.

MR. CHEONG: Sir, the Secretary in his answer said that the ferry company would start service at 7.30 am and end late in the evening. Given that there are three routes, do the three routes start at the same time and end at the same time in the evening? And, if so, what time in the evening?

SECRETARY FOR TRANSPORT: Sir, I can provide the details in writing to Mr. CHEONG because I do not have these at hand now. (Annex I)

MR. TAI: Sir, may I ask the Secretary whether he anticipates the second harbour crossing will come into service on schedule?

SECRETARY FOR TRANSPORT: Sir, the present estimate is that the second tunnel will be ready in September this year or it might be earlier depending on progress of work.

MRS. CHOW: With the opening of the second Eastern Tunnel scheduled for September, are plans under way to augment crossing by deploying ferries for western side of the harbour?

SECRETARY FOR TRANSPORT: Sir, the plan in fact is to reduce rather than to increase the ferry services because the Eastern Harbour Crossing will affect the eastern part of the cross-harbour vehicular ferry services. As far as the western part is concerned, there are no plans at present to increase it.

Provision of urban rehousing for street sleepers

4. MRS. TU asked: Will the Government inform this Council whether suitable disused

buildings could be identified to provide more urban rehousing for street sleepers, especially elderly persons who are able to work but cannot travel long distances and are unable to find alternative work in the New Territories because of their age?

SECRETARY FOR HEALTH AND WELFARE: Sir, the Social Welfare Department has for some time been trying to locate disused buildings in the urban area which could be converted into hostels to provide rehousing for homeless persons, including street sleepers. Some success has been achieved and a hostel managed by the Salvation Army was opened in November 1988 in the Six Streets redevelopment area of Yau Ma Tei. The department has also assisted the Street Sleepers Shelter Society to locate premises for shelters in Mallory Street in Wan Chai and in Shanghai Street in Yau Ma Tei.

The Royal Hong Kong Jockey Club has recently allocated \$2.3 million to the Social Welfare Department to purchase flats for conversion into hostels. The Land Development Corporation has been invited to assist in identifying premises for the same purpose.

As to accommodation for elderly street sleepers who are able to work but cannot travel long distances, the Social Welfare Department will consider whether the person concerned would be eligible for immediate permanent rehousing under the Housing Authority's compassionate rehousing quota. In addition, people aged over 55 are given priority in admission into most urban hostels and shelters for the homeless. These hostels and shelters, which are run by voluntary agencies such as the Missionaries of Charity, Caritas, and Helping Hand, and a few of which are in vacant premises provided by the Government, currently provide over 1 000 places to homeless persons.

Sir, if the Salvation Army's hostel operates successfully, we shall consider initiating a more comprehensive hostel programme. The major constraint to such a programme will be to identify premises which are suitable for this purpose. The Government's Accommodation Division and the Buildings and Lands Department are therefore currently examining, at my request, whether they have any disused or vacant premises which may be suitable for conversion into hostels.

MRS. TU: Sir, is the Secretary aware that the stringent conditions for compassionate allocation of housing would exclude almost all elderly workers and that in any case

it takes six months to a year for compassionate allocation? Would the Secretary raise these problems with the Housing Authority and the Social Welfare Department to see if they can change their criteria and speed up the process?

SECRETARY FOR HEALTH AND WELFARE: Sir, I will certainly convey these requests to the appropriate authorities.

MR. ARCULLI: Sir, will the Secretary inform this Council whether the Government is aware of the extent of the need for this type of housing and whether there is, and if so, what is the long-term plan for these unfortunate people?

SECRETARY FOR HEALTH AND WELFARE: Sir, there are at present about 1 250 street sleepers and it is extremely difficult to assess the demand for rehousing of these people. For example, Sir, over the past year some 256 street sleepers were assisted by social workers to obtain alternative housing in various forms. But the total number of street sleepers has remained at about the same level. This suggests that for various reasons a very small section of the community is continuing to turn to this type of lifestyle. So it would be very difficult to predict a total demand and to try to provide for rehousing for these people. Apart from these, Sir, some of these people have, for example, rejected services offered to them by the Social Welfare Department including offers of rehousing. So it is not possible to work out a long-term plan to rehouse all these people. But as circumstances permit, we would continue to support the voluntary agencies in setting up more urban hostels and shelters to try to accommodate as many of these people as possible.

MR. MCGREGOR: Sir, is the Government aware that a number of street sleepers have in fact established permanent squatter's rights on the pedestrian walkway on the north side of the Post Office Building which is in the centre of a major tourist area? Can the Secretary say what might be done about this particular problem?

SECRETARY FOR HEALTH AND WELFARE: Sir, I provided a full reply to that question in this Council on 14 December 1988 and I have nothing to add.

MRS. LAM (in Cantonese): Sir, the Secretary for Health and Welfare has just mentioned in his reply that there are 1 000-odd hostel places, whereas there are 1 200 street sleepers. This indicates that the shortage of places is not severe. But actually, many street sleepers do not want to move into this kind of hostel. Could the Government inform this Council what ingenious strategies it can employ to attract those who are reluctant to go to these shelters or hostels to move in?

SECRETARY FOR HEALTH AND WELFARE: I think beyond persuasion there is nothing much that we can do, Sir.

MRS. TU: Sir, since the housing offered to these street sleepers is usually in an inconvenient place and the shelters referred to by the Secretary are apparently filled to capacity and not permanent housing, would the Government consider re-entering premises for which the leases have expired and allocating them to voluntary agencies as tenement type hostels in the urban areas which can also provide social services as required?

SECRETARY FOR HEALTH AND WELFARE: Sir, first of all the existing shelters and hostels are not all filled to capacity. My understanding is that the latest survey which was carried out at the beginning of 1988 showed that they were only about 65% full; and in respect of the latest hostel which was opened in November 1988 and operated by the Salvation Army, the number of places provided is 18 but up till now only nine places have been filled. So it is not true to say that they are filled to capacity. As regards the suggestion made by Mrs. TU, Sir, I am afraid that I am not the authority on the resumption of premises and I would have to refer this question to the Secretary for Lands and Works.

MR. TAI: Sir, are disused buildings mentioned by the Secretary in his answer very old buildings or very dilapidated buildings?

SECRETARY FOR HEALTH AND WELFARE: Sir, I am afraid I have no idea how dilapidated or how old they are, but one example that I have in mind is one of the huts, which

used to be an old army hut, allocated to the Missionaries of Charity in which they are running a shelter called Home of Love.

MISS LEUNG: Sir, will the Secretary inform this Council whether the Government is aware that a comprehensive programme of rehousing street sleepers in the urban area will encourage more people to become street sleepers?

SECRETARY FOR HEALTH AND WELFARE: Sir, I can confirm that I am aware of that danger.

MR. TIEN: Sir, of the 1 250 street sleepers mentioned, could the Secretary inform this Council what the number considered as elderly, say, over 55 years old is, and whether the majority of them are still on the waiting list into these hostels?

SECRETARY FOR HEALTH AND WELFARE: Sir, of the 1 200 street sleepers known to us, we know the age of about 89%, and of those 89% about 26% are over 60 and about 30% are between 50 and 60. So it would depend on one's definition of elderly in order to answer that question. There is no central waiting list for shelters or hostels for street sleepers and so I cannot answer the last part of the question.

MRS. TU: Sir, could the Secretary tell this Council how long it will take to implement the proposal to buy flats with the \$2.3 million Jockey Club donation mentioned in paragraph 2 of his reply, and whether this hostel accommodation would be used to house the kind of persons mentioned in the original question?

SECRETARY FOR HEALTH AND WELFARE: Sir, I certainly hope that the \$2.3 million can be used in a matter of months and I also hope that priority will be given to people who are in the elderly bracket.

MISS LEUNG: Sir, would the Secretary inform this Council whether the Land Development Corporation is an appropriate organization to turn to for assistance in solving the problem of street sleeping?

SECRETARY FOR HEALTH AND WELFARE: Sir, in trying to solve the problem, we explore all avenues. Whether the Land Development Corporation is an appropriate organization for providing us with assistance for this sort of rehousing is a matter for the corporation to decide, Sir. But certainly the corporation has been helpful and is now considering whether there is any scope for providing hostels in co-operation with the Social Welfare Department.

HIS EXCELLENCY THE PRESIDENT: Secretary for Lands and Works, do you wish to add to that?

SECRETARY FOR LANDS AND WORKS: Yes, Sir, I could add that the Land Development Corporation is working in areas where quite a number of street sleepers actually sleep and which will be redeveloped soon. The corporation has been looking at the possibility of providing facilities in the new developments.

Unrestricted land leases

5. MRS. LAM asked (in Cantonese): Will the Government inform this Council of the number of unrestricted land leases in Hong Kong; what control the Government has over the land use of such land lots when they are proposed for redevelopment; and whether the Government can modify the leases concerned if the proposed land use upon redevelopment conflicts with the town plan?

SECRETARY FOR LANDS AND WORKS: Sir, all land leases in Hong Kong contain some restrictions to a greater or lesser extent, and there are thus no totally "unrestricted" leases. However, many of the older leases in both the urban areas and the New Territories contain very few restrictions on development and use. With 30 000 lots in the New Territories and 23 400 lots in the urban area with different degrees of restriction, the only answer I can give to Mrs. LAM's first question is that the number of very loosely restricted lots is still very large.

Most of the less restricted older lots are very small. So it is usually necessary to amalgamate them with other adjacent lots to make redevelopment worthwhile. The old lots making up the site are surrendered to Government and in their place a new lot is granted with up-to-date restrictions and conditions conforming to the statutory town plan or to permissions given under the Ordinance by the Town Planning

Board.

The direct answer to Mrs. LAM's third question is yes. In theory Government could modify a lease to allow a use which would conflict with the use specified in the statutory plan, or which was permitted by the board in accordance with the notes of the statutory plan. But Government would not do so, firstly because such a change would make nonsense of the planning procedure and secondly because however the lease was phrased the Building Authority would be guided by the statutory plan or permissions given by the board in approving the building plans, and it would not approve building plans which were in conflict with the statutory plan or permission given by the Town Planning Board.

MRS. LAM (in Cantonese): The Secretary for Lands and Works gave the assurance of not introducing lease modification in paragraph 3 of his answer. But will the Government make concession to a developer if he decides not to conform to the statutory town plan? In other words, will Government abandon its original plan if, for instance, a developer refuses to provide land for community facilities in his development as proposed by the town planning authorities?

SECRETARY FOR LANDS AND WORKS: Sir, I think probably all that is already covered by my original answer. But I can say that Government will be guided by the plan, or by permissions given by the Town Planning Board under the plan in any lease modification, and the Buildings Ordinance Office in approving building plans will also be guided by the statutory plan or by permissions given under it. So, I think that probably covers Mrs. LAM's point.

Child negligence

6. MRS. LAU asked: In the light of the replies respectively given by the then Secretary for Health and Welfare in this Council to questions on child negligence on 28 May and 3 December 1986, and 14 October 1987 and in view of the number of recent incidents in which young children, left alone at home, were killed as a result of falling out of buildings, will the Administration inform this Council the number of similar incidents which have occurred during the past three years; whether it considers the present level of family life education programmes and services are adequate for families who have difficulties in taking care of their children; and

whether it will consider the feasibility of introducing legislative controls against parents leaving young children alone at home?

SECRETARY FOR HEALTH AND WELFARE: Sir, I regret that the statistics sought in the question are not readily available. The police have been trying to extract the required information from records kept by individual police divisions. Once this exercise has been completed, I will provide the statistics in writing. (Annex II) The results so far show that, over the past three years, there were 10 children under the age of 10 who died as a result of falling out of windows. But it has not so far been established how many of these children were left unattended at the time.

As far as family life education programmes are concerned, the Social Welfare Department and voluntary agencies provide a wide variety of programmes connected with child care. Efforts have been made, both at the district level and territory-wide through television and posters, to step up educational programmes and campaigns on home safety and child care, particularly targetted at parents and housewives, and with emphasis on the danger of leaving young children unattended at home. These concerted efforts have, I believe, helped enhance public awareness in this regard. However, to supplement these programmes, we shall be mounting a major campaign in 1989-90 which will focus in part on the importance of the well-being of the child in the family and on what responsible parenthood means. One of the messages we wish to put across is to remind the public of the serious consequences of child neglect.

For families which experience difficulties in taking care of their children, there are a variety of support services. Families can make use of child care centres in the form of nurseries and creches, and there is a Fee Assistance Scheme which provides financial assistance to needy families towards payment of nursery fees. At present, there are over 30 000 places in child care centres, including both nurseries and creches, and there are plans to provide 1 600 additional nursery places annually over the next few years. A small number of day nurseries are also experimenting with special arrangements such as longer and more flexible hours to cater for children from families which have problems in taking care of them in the evenings because, for example, of parents' long working hours. In addition, a home help service is available to families in special circumstances. Furthermore, local voluntary programmes have been and are being developed to encourage greater mutual help among neighbours to look after children on a temporary basis.



On the question of legislative controls against parents leaving children alone at home, I would endorse the views of my predecessor, as expressed in this Council on 28 May 1986, that existing statutory provisions are generally adequate to deal with cases of serious abuse and wilful neglect of children. Section 27 of the Offences Against the Person Ordinance makes it an offence to wilfully assault, ill-treat, neglect, abandon or expose any child under the age of 16. The Protection of Women and Juveniles Ordinance empowers the Director of Social Welfare to take action in the interest of a child who is likely to be exposed to physical or moral danger. As for parents leaving young children alone at home due to temporary absence or negligence but through no wilful neglect or with no ill intent, I remain doubtful whether direct statutory control in this area is either the right answer or is practical; the latter because of difficulties over definition and enforcement.

MRS. LAU: Sir, bearing in mind that we have over 1.2 million children under the age of 14 in Hong Kong, can the Secretary inform this Council whether the existing 30 000 places in child care centres are sufficient to meet the demand for child care services; if not, what is the shortfall; and whether the Administration will consider increasing the number of nursery places beyond the current growth rate of 1 600 per year?

SECRETARY FOR HEALTH AND WELFARE: Sir, the child care centres to which I referred are of two types -- creches which cater to children from birth to under two years old, and nurseries for children from two to five years old. The adequacy of nursery places is very difficult to assess, but in most areas day nurseries are fully utilized, and therefore we may regard that as an indication that there is still demand which is currently unmet. The planning ratio used by the Social Welfare Department to provide for day nurseries is 100 places per 20 000 general population, but this is only used as a general guideline to reserve welfare premises for day nurseries in new areas. If we use that guideline and apply it to the total population as a whole, there ought to be around 27 000 to 28 000 places in day nurseries. The current number in subvented nurseries is around 18 000 and the number in private nurseries is about 10 000. As for the provision of further places, because it is so difficult to assess the real demand, the Social Welfare Department after undertaking a review in early 1988 came to the conclusion that the provision of about 1 600 per year over the next few years would be appropriate. It is difficult to assess the finite demand because children of that age group do not all go to child care centres; some of them

go to kindergartens, and some of them are taken care of at home. As to Mrs. LAU's suggestion to increase the annual provision in future years, I am told that the number is subject to various constraints such as the identification of voluntary organizations which are prepared to run these centres and the availability of financial resources.

MRS. LAM: Can the Secretary inform this Council what the strength of the Home Help Service referred to in his answer is; whether the current service being provided is sufficient to meet the demand for home help in special circumstances and whether it is sufficiently known to the public that such a service is available?

SECRETARY FOR HEALTH AND WELFARE: The present number of teams is 50, and again as in other kinds of social services it is very difficult to assess the actual demand and therefore to say whether the present service is adequate or not. But I can inform Mrs. LAM that the service is under continuous review and there is a study currently going on to see whether more home help teams should be provided in future years. As regards whether there is sufficient publicity, I certainly hope that there is, but if not, then we will examine ways of increasing this publicity so that more families know about these home help teams.

MR. POON CHI-FAI (in Cantonese): Sir, would Government inform this Council the waiting time required for children to be admitted to child care centres, particularly in densely populated areas like Kwun Tong? It is also mentioned in the Secretary's reply that there will be a growth of 1 600 nursery places over the next few years, how then will these places be distributed?

SECRETARY FOR HEALTH AND WELFARE: Sir, I have no information on the length of time required before children on waiting lists can be admitted to some of these child care centres. The centres are run on an individual basis, and there is no central waiting list, and it would require a rather extensive exercise to try to come up with that kind of information. As regards the actual provision of future places in particular districts, I believe that the plans are reviewed annually, and that decisions are then made to provide particular numbers of places in particular districts. But if Mr. POON wants to know the plan for the next 12 months, then I would certainly try

and provide it in writing. (Annex III)

MRS. TAM (in Cantonese): Sir, the demand for places in child care centres has increased sharply in recent years. So, apart from increasing child care centre places, would Government consider encouraging factory owners to provide needy employees with child care services in factories?

SECRETARY FOR HEALTH AND WELFARE: I will certainly look into that suggestion, Sir.

MRS. CHOW: Sir, of the 10 cases mentioned in paragraph 1 of the Secretary's answer, how many occurred in public housing estates and are there plans to introduce fences for windows for these buildings as a preventive measure?

SECRETARY FOR HEALTH AND WELFARE: Sir, the information at present available to me does not indicate how many of those cases occurred in public housing estates. But I hope that the information will be available in the complete reply which the police will be providing in the near future. As to whether there are plans to provide fence in public housing estates, I am afraid that I will have to refer that question to the Housing Department.

MR. MICHAEL CHENG (in Cantonese): Sir, in some single parent families, children have to stay at home unattended as their parents need to go out to work and make a living. No one takes care of them and they are left on their own to prepare meals or travel to and from schools. Are there any measures to be taken by the Government to help these families?

SECRETARY FOR HEALTH AND WELFARE: Sir, one of the ways in which we can help them is of course through the home help teams. Apart from that, the particular needs of single parent families are currently being examined by the Social Welfare Department and once this review has been completed, the advice of the Social Welfare Advisory Committee will be sought later this year.

MR. TAI: Sir, in view of the fact that we have growing numbers of working wives in Hong Kong, does the Government have a long-term child care strategy in respect of the provision of kindergarten places, day nurseries and child care centres?

HIS EXCELLENCY THE PRESIDENT: Are you asking that in relation to the original question? Otherwise it would be a separate question.

MR. TAI: Yes, Sir, it is related to the Government's long-term plan for child care.

HIS EXCELLENCY THE PRESIDENT: In relation to the original question.

SECRETARY FOR HEALTH AND WELFARE: Sir, the various schemes or services to which I referred in my main reply are under one form of review or another. I can quote for example the fee assistance scheme, financing of day nurseries, the policy on day creches, the home help service, and the needs of single parent families. They are all being reviewed or are about to be reviewed. When the reviews have been completed we will be seeking the advice of the Social Welfare Advisory Committee.

MRS. LAU: Sir, since the existing legislation only deals with serious abuse and wilful neglect of children which may be difficult to define or prove in cases where children are left temporarily unattended, will the Secretary not agree that so much more we should have legislation which will directly prohibit parents or persons having parental authority from leaving children alone at home, since the question of whether a child is left alone at home is a question of fact and there can be no difficulties in definition or proof?

SECRETARY FOR HEALTH AND WELFARE: Sir, first of all, I think such a sweeping definition as that envisaged by Mrs. LAU might cause difficulties of enforcement. For example, how could one reasonably ensure that no child would be left unattended, and how could this be policed? And when we are talking about unattended children, why should we talk only about unattended children left alone at home? What about children left alone

in a room, in a house, or perhaps alone in a playground or other places where adults might not be able to keep them under their supervision? And when we talk about being left alone, what period would we stipulate as denoting "unattended"? A minute, an hour, or what? Apart from the practical difficulties, I am not convinced that legislation is the answer. One would need to ask what the purpose of such legislation would be: if it is to act as a deterrent, then it would need to provide a sufficiently severe penalty for it to have any deterrent effect. I would submit that for the parents involved, the death of a child through their own carelessness is itself a most severe punishment, and a lifelong one at that. If it is felt that additional punishment is required, then which parent would be punished, the mother or the father, or both? And if we put them in prison, would we not be creating more social problems if they have other young children?

MRS. TU: Sir, as many of these children left alone at home are the children of widows or widowers, would the Secretary take steps to facilitate requests by single parents to remove their housing estate homes nearer to the homes of relatives in other estates so that the children can be cared for by relatives while the single parent goes to work? At the present moment such requests are usually discouraged by the Social Welfare Department.

SECRETARY FOR HEALTH AND WELFARE: Sir, I will ask both the Social Welfare Department and the Housing Department to look sympathetically at that suggestion.

MISS LEUNG (in Cantonese): Sir, I would like to ask two follow-up questions. First, regarding provision of child care services in factories, will the Secretary for Health and Welfare inform this Council whether factory environment will be considered undesirable for small children? And would it be very inconvenient if parents were to bring along their children to and from work? The second question is about the local voluntary programme. The Secretary has mentioned in his main reply that mutual help among neighbours to look after children on a temporary basis is being encouraged. Will the Government further promote this programme and also set up more child care centres in residential areas?

HIS EXCELLENCY THE PRESIDENT: That was rather broad. It should really be the subject of a separate question. I will ask the Secretary for Health and Welfare to answer the second of the two.

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, I will ask the Social Welfare Department to consider the expansion of such programmes.

Licensing of real estate agencies

7. MRS. SO asked (in Cantonese): In view of increasing reports on the fraudulent and speculative practices by real estate agencies dealing in property transactions, will Government inform this Council whether it will consider introducing legislative control over this kind of business through a licensing system so as to protect the interest of the consumers?

FINANCIAL SECRETARY: Sir, for most people the purchase of their home is probably the largest single financial investment that they make. A prudent purchaser would no doubt approach such a transaction with a proper degree of caution. Many would engage the assistance of a lawyer.

The Consumer Council has been particularly active in relation to the subject of home purchase. The council has published informative articles in the Choice Magazine and has also disseminated through the media information on the essential points to which purchasers of property should pay particular attention.

Many people are engaged in the sale of property, and thus a licensing system would be cumbersome and difficult to manage. In any event, licensing on its own would provide no solution because the effectiveness of the system would depend upon the degree of monitoring. So in the light of what I have said about the need to display caution when purchasing property, we take the view that it is preferable that purchasers should continue to protect their own interests.

Nevertheless, Sir, the Administration is always anxious to hear of possible abuses so that we can, wherever possible, provide additional protection either through amending the law or through administrative arrangements. But in order to do this, we, of course, need factual information. The best way forward is for Government to continue to work closely with the Consumer Council and with the police, and this we shall do.

MRS. SO (in Cantonese): Sir, according to the statistics of the Consumer Council, there were altogether 88 complaints against malpractices of real estate agents between April and December 1988. Would Government consider it a worrying sign?

HIS EXCELLENCY THE PRESIDENT: I am not sure if that is meant to be a question to solicit an opinion, in which case it would be out of order.

FINANCIAL SECRETARY: Sir, the statistics I have are rather different from those that Mrs. SO has. In fact on the number of complaints lodged in relation to the sale of flats, that is, complaints lodged with the Consumer Council, I do have some statistics. In 1986-87 we saw 262 complaints, in 1987-88 there were 244, and in 1988-89 there were 284 complaints. But I think in fact the numbers of these complaints have to be compared with the total number of complaints received by the Consumer Council, and in 1987-88 for example, when we received these 244 complaints in relation to the sale of flats, the total number of complaints received by the Consumer Council amounted to 9 065. In fact, Sir, I do not think the scale of the problem is such that we should be over-worried, but obviously no one likes to see any complaints of this sort at all.

MR. MCGREGOR: Can the Financial Secretary advise whether a statutory standard can be established which will protect prospective buyers of property and which will require developers to define in precise terms the usable area of flats and other property being offered for sale, room by room, area by area, as appropriate and make it an offence for falsely describing the usable floor area offered for sale?

FINANCIAL SECRETARY: Sir, half way through Mr. MCGREGOR's question the Attorney General was kind enough to tell me that this is a subject to be looked at by the Law Reform Commission. (laughter)

MR. MICHAEL CHENG (in Cantonese): Sir, will Government consider giving licences only to qualified estate agents who are professionally trained so as to safeguard the

interest of the flat purchasers?

FINANCIAL SECRETARY: As far as I am aware, Sir, we have not considered the possibility of examinations. The problem is that if we were to do that we would also have to consider very carefully what we meant by an "estate agent".

MR. ARCULLI: Sir, will the Financial Secretary explain to this Council why a licensing system would be cumbersome and difficult to manage, particularly in view of the dollar value of each transaction, when other industries such as travel agents and stockbrokers are either encouraged or required to register themselves?

FINANCIAL SECRETARY: Sir, I think quite simply far more people are involved in the business of the sale of property. A lot of people have small agencies or conduct business in a very small way. I do not in fact have statistics, but I think the situation in relation to the property industry in Hong Kong is different from the industries which Mr. ARCULLI has referred to.

MR. CHUNG: Sir, as it is a general practice here that the vendors and purchasers rely heavily upon the estate agents and that the vendors and purchasers would sign provisional agreements before they have the assistance of a lawyer, would the Financial Secretary inform this Council whether the Government would consider taking the initiative as an administrative arrangement to encourage the trade to form themselves into associations so that the trade could upgrade through self-regulation and self-discipline?

FINANCIAL SECRETARY: Sir, as I have said in another context, we always welcome self-regulation. I will certainly give consideration to what has been suggested but it is difficult to know exactly how we can encourage a large enough number of people to form associations. The interests may not be common.

MR. MARTIN LEE: As chairman of the Consumer Council, Sir, may I ask whether the Government attaches great weight to consumer education in relation to the purchase



of flats as well as goods, and if the answer to this leading question is in the affirmative, may I respectfully ask why the Government has, through the Secretary for Trade and Industry, declined to approve any provision for our Consumer Education Publicity Campaign this year, in spite of the great successes we have achieved in previous campaigns held yearly since 1985, and always supported by the Government? Could it be, Sir, that the Government was more ready to support the council while it was under the chairladyship of the Honourable Mrs. Selina CHOW, and less ready to support it now that I am in the chair? (laughter)

HIS EXCELLENCY THE PRESIDENT: I have encouraged single questions, that was a multiple question with a twist at the end of it. (laughter)

FINANCIAL SECRETARY: It was indeed, Sir. I must say I lost my way through the multiplicity of those questions. But quite simply, Sir, this is a question about resource allocation. There were other matters which were given a higher priority when we were allocating resources. The short answer to the first part of Mr. Martin LEE's question is: yes, we do encourage consumer education.

MR. PETER WONG: Sir, would it not be an effective protection for potential buyers if a lawyer can only act for the buyer and not for the other side as well?

FINANCIAL SECRETARY: Sir, in fact I understand that the Law Society tends to discourage solicitors acting for both parties. In fact, under rule 5(c) of the Solicitors Practice Rules a solicitor is prohibited from acting for both the vendor and the purchaser of a flat in an uncompleted building unless certain Law Society requirements have been complied with. Those requirements do include a requirement that there should be a standardized definition for saleable areas. So to some extent the Law Society is taking steps itself to discourage this practice of the solicitor acting for both parties.

MR. ARCULLI: Sir, will the Financial Secretary advise whether he is aware that on occasions a middleman is introduced into a property transaction so that the price paid for by the buyer is more than that received by the seller, with the middleman taking the difference, and whether the Government considers that such practices are highly undesirable?

FINANCIAL SECRETARY: I think, Sir, Mr. ARCULLI is asking for an opinion. I am aware of this practice, or I have heard of this practice. It may be that in certain circumstances the practice would be totally illegal, but I would rather not express an opinion on it in general terms. I would rather look at a particular case and then refer it to the Attorney General.

MR. MICHAEL CHENG (in Cantonese): Sir, could the Financial Secretary advise this Council why it is so difficult to define "real estate agent"? Could we make reference to countries like Canada, the United States and Australia where the system of estate agents is sound and healthy?

FINANCIAL SECRETARY: Sir, those are very different societies from Hong Kong. I agree that in simple terms it would be possible to produce a definition of "real estate agent". That definition would probably get rid of a whole lot of those middlemen that Mr. ARCULLI referred to. But whether this would be a good idea as far as the conduct of the business in Hong Kong is concerned, I really do not know. We would indeed be altering the whole structure of the business in Hong Kong, which is not something I would attempt to do lightly.

#### Protection under the Factories and Industrial Undertakings Ordinance

8. MR. TAM asked (in Cantonese): Will Government inform this Council of the number of workers who are entitled to protection under the Factories and Industrial Undertakings Ordinance and its subsidiary legislation; the proportion these workers represent in relation to the total labour force in Hong Kong; and whether consideration would be given to expanding the scope of the Ordinance to provide coverage for more workers, such as those engaged in the food business?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as at September 1988 the number of people covered by the Factories and Industrial Undertakings Ordinance was about 1 007 000, which is about 36.6% of the total work force.

Because the catering trade gives rise to more accidents than any other in the non-industrial sector, the Labour Department is now reviewing whether it should be brought within the scope of the Ordinance. It hopes to be ready to consult the Labour Advisory Board on this issue within the next two or three months.

MR. TAM (in Cantonese): Sir, the United States and the United Kingdom enacted comprehensive legislation on occupational safety and health in 1970 and 1974 respectively. Will the Administration consider following suit in order to protect all our workers no matter whether they work in industrial undertakings or not?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think there were a number of questions implied in Mr. TAM's question. As regards the 1974 United Kingdom Act, the gist of that legislation is in fact in the Bill I am just about to introduce. As regards extending coverage to the whole non-industrial sector, I personally do not think there is a case for it. Apart from the catering industry, on which I have just spoken, the number of accidents in other parts of the non-industrial sector are very low, and to extend our coverage and our legislation to those sectors would in fact mean diverting enforcement from high danger areas to low danger areas. In my view, that would be a backward step.

MR. ARCULLI: Sir, I think the Secretary has answered the question, but I will ask it just in case he has not. Are any other categories of workers included in the review that is being undertaken vis-a-vis the catering trade?

SECRETARY FOR EDUCATION AND MANPOWER: No, Sir, for the reason I have just given, the catering trade, unlike other parts of the non-industrial sector, does give rise to a high number of accidents. But other parts of the non-industrial sector do not.

MR. TAM (in Cantonese): According to the Secretary's reply, 63.4% of the work force in Hong Kong are not protected by the Ordinance. However, over the past 10 years, accidents involving these workers have increased by 95%, which is much higher than the 55% increase in industrial accidents. Moreover, the actual figures of fatalities caused by non-industrial accidents are higher than those caused by industrial

accidents. Will the Secretary inform this Council of the adverse effects if Government extends the coverage of the Ordinance?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, from the figures available to me, the proportion of accidents in trades in the non-industrial sector is very low. I am not familiar with the 10-year figures Mr. TAM was quoting. If he provides them to me afterwards, I will try and analyse them and derive their significance. As to the main point of his question -- what disadvantage would there be -- I think I have already answered that point. If you extend industrial safety legislation to areas which are comparatively safe, you would have to enforce them, and this would mean diverting enforcement efforts from high danger areas to low danger areas. In my view, this would be a misuse of our enforcement manpower.

MR. MCGREGOR: Since the Factories and Industrial Undertakings Ordinance is a very specific Ordinance for particular types of occupation, I wonder if the Secretary would consider establishing new legislation which could then be added to for the non-industrial sector as and when the case was made for individual trades and industries?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I agree this is a good point. If we do decide to extend protection to the catering industry, we might well decide that it needs a separate piece of legislation. But we have not yet reached a conclusion on that point.

MR. TAM (in Cantonese): The figures that I have just quoted are actually taken from the annual report of the Labour Department. Section 6 of the existing Factories and Industrial Undertakings Ordinance ensures that employees will not be dismissed if they furnish the Administration with information of industrial accidents. Does that mean that non-industrial workers will not be protected from unfair dismissal if they furnish the Administration with such information? If this is the case, is it fair to the non-industrial workers?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I would certainly hope that that would not happen. But I do not know what the answer to Mr. TAM's question is, whether a

worker in a non-industrial firm who gave this information would be at risk. I will certainly ask the Commissioner for Labour to look into this question.

Written answers to questions

Alternatives to the taxi voucher scheme

9. MR. CHAN asked: As the pilot taxi voucher scheme for the physically disabled has been found to be impracticable, will the Administration inform this Council whether other assistance schemes are being considered and when such schemes will be implemented?

SECRETARY FOR HEALTH AND WELFARE: A survey carried out at end of the trial period for the pilot taxi voucher scheme, which ran from 1 April 1987 to 31 March 1988, showed that the scheme had not been well received by either the participants or the taxi-drivers. This was attributed to the relatively cumbersome application procedures involved and the unwillingness on the part of many taxi drivers to accept the vouchers because of the inconvenience involved in encashing them.

In this light, the Rehabilitation Development Co-ordinating Committee agreed in December 1988 that the scheme was not workable and suggested that, instead, a working group should be formed to review the overall provision of transport services for the disabled and to recommend improvements.

The Government has accepted this suggestion and will shortly set up a working group:

- (a) to identify deficiencies in the present transport system for disabled persons;
- (b) to recommend improvements to the existing transport provisions for disabled persons;
- (c) to see how transport for disabled persons could be incorporated into the public transport services, in particular during their planning stage; and
- (d) to examine the feasibility of providing other forms of assistance to enhance the

mobility of the disabled, having regard to the impracticability of the taxi voucher scheme.

It is expected that the working group will finish its work later this year and submit its recommendations to the Rehabilitation Development Co-ordinating Committee. It is not possible at present to say whether or when other forms of assistance might be implemented.

#### Collection of arrears of revenue

10. MR. BARROW asked: As at 31 March 1988, the arrears of revenue due to Government totalled \$1,964 million. Will Government inform this Council of the steps being taken to collect this sum and the amount which it expects can be collected?

FINANCIAL SECRETARY: Sir, as noted in paragraph 3.2 of the Director of Audit's 1987-88 Report, the reported arrears of revenue of \$1,964 million as at 31 March 1988 had been reduced to \$1,161 million by 30 June 1988. The two major components of the arrears as at 30 June 1988 comprise:

(a) Internal revenue	\$1,060 million
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(b) Fixed penalty system (Traffic contraventions and criminal proceedings)	\$45 million
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As at 31 December 1988, arrears attributable to internal revenue had been further reduced to \$718 million.

In terms of recovery action for arrears attributable to internal revenue, the Commissioner of Inland Revenue seeks to ensure that every effort is made to collect overdue taxes. Methods employed include the institution of civil actions through the district courts, the use of powers granted under the Inland Revenue Ordinance to issue Recovery Notices to persons, such as employers and bankers, who owe money to, or hold money for, defaulters, and the prevention of defaulters departing from Hong Kong.

As to the recovery of arrears attributable to the fixed penalty system, we seek to ensure that the number of outstanding payments is reduced to a minimum. Ex parte orders of the court are sought for non-payment after the deadline for payment. We have also applied to the court for orders imposing an additional penalty together with costs against defendants who do not respond to duly served summons. Furthermore, the Commissioner for Transport has on occasions refused to issue or renew a vehicle or driving licence unless and until all debts in relation to penalties are paid.

Because of the many factors involved, it is not possible to make a fully accurate assessment of the amount of revenue that can be collected.

Government monitoring of complaints in the media

11. MRS. CHOW asked: Will Government inform this Council how views of the public aired in the many programmes in the electronic media and the press, be they complaints and criticisms, or proposals and suggestions relating to Government and public policies and measures, are being monitored by the Administration, and what, if any, procedure is in place to ensure such views are brought to the attention of the relevant officials and departments?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the Government attaches great importance to public views as expressed through a variety of channels and forums, including the print and electronic media.

The collection of views expressed during radio and television programmes and in the newspapers, be they suggestions or complaints, is one of the main tasks of the Information Services Department. The department is also responsible for collating those views and directing them to the appropriate government officers.

The Information Services Department currently peruses some 60 Chinese and English language newspapers and magazines, and about 180 hours every week of radio and television news and public affairs programmes. It produces summaries, translations, clippings and reports for distribution to all relevant Secretariat Branches and departments for information and necessary action. Where necessary, full translations are produced of commentaries and/or articles in the Chinese press, and transcripts of extracts from radio and television public affairs programmes. At present the

department produces "The GIST", a daily publication which summarizes news and editorial comment in the Chinese press as well as electronic media; "OPINION", a weekly review of Chinese editorials and commentaries; "What the Magazines Say", a monthly review of articles and comment in local and regional magazines; and special reports on topical issues as and when required.

A similar mechanism for the daily perusing and feedback of views expressed in the media exists in more than 20 government departments served by their own information and public relations units manned by staff seconded from the Information Services Department, which ensure that senior departmental officials are kept abreast of public sentiments on matters directly related to or affecting their department.

#### Sites for re-erecting historical buildings

12. MR. MCGREGOR: Bearing in mind that a suitable location for re-erecting Murray House would be a tourist attraction and would improve the environment, will the Government inform this Council of the criteria for selecting sites for re-erecting historical buildings, the reasons for choosing Ma Hang Village for re-erecting Murray House, and whether or not consideration has been given to choosing Harcourt Garden which is located within the urban area, close to the original site and, as in the case of Murray House, has previously been occupied by the British Army?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, there are no specific criteria used in selecting sites for the re-erection of historical buildings since these occur only very rarely. Each case must be judged on its own merits.

Murray House was completed in 1846. It was originally built as an Officers' Mess and was used continuously for this purpose by the British Army up to 1963, except for an interruption during World War II. The historic link of Murray House to the British Army is an important factor which the Antiquities Advisory Board has taken into account in the selection of a suitable site for the re-erection of Murray House.

Ma Hang is situated in Stanley which is still closely associated with the British Army. The new Ma Hang Village Housing Development scheme, which will be undertaken by the Housing Authority, will incorporate a village square with the re-erected Murray House as its focal point. The Authority's plans also include the rehabilitation of



the waterfront area at Stanley and the provision of a new promenade there to enhance its attractiveness to tourists. The Housing Authority has indicated that it is prepared to meet the costs of re-erection of Murray House and the subsequent maintenance costs.

As regards Harcourt Garden as a possible site for the re-erection of Murray House, the Antiquities Advisory Board has indeed considered the relevant merits. However, the proposal has not been pursued any further because the Urban Council which will manage the Garden has indicated that it would not be prepared to have Murray House re-erected there.

Government business

First Reading of Bills

MONEY CHANGERS (DISCLOSURE OF RATES, CHARGES AND COMMISSIONS) (AMENDMENT) BILL 1989

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1989

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

Second Reading of Bills

MONEY CHANGERS (DISCLOSURE OF RATES, CHARGES AND COMMISSIONS) (AMENDMENT) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "a Bill to amend the Money Changers (Disclosure of Rates, Charges and Commissions) Ordinance".

He said: Sir, I move that the Money Changers (Disclosure of Rates, Charges and Commissions) (Amendment) Bill 1989 be read the Second time.

The enactment of the principal Ordinance in 1985 brought about a welcome reduction

in the number of formal complaints against money changers. But we are still not satisfied with the present level of malpractice, which leads to a disproportionate amount of adverse publicity for Hong Kong. It is therefore necessary to introduce additional measures in order to ensure that unscrupulous practices are eradicated as far as possible.

The main purpose of this Bill is to specify clearly the information which must be provided by a money changer on his display board and in the transaction note. Our intention is to ensure that prior to entering into a transaction the customer has access to accurate information regarding the terms the money changer is prepared to offer.

Clause 5 of the Bill requires a money changer to complete a transaction note using the net rates of exchange before the exchange transaction is finalized. The note is to be bilingual and easily understood. Clause 7 requires the money changer to maintain a board displaying clearly the net rates of exchange. Clause 8 prohibits a money changer from displaying false or misleading notices or making false or misleading statements. Criminal liability is extended to directors, managers and secretaries of corporate money changers if they do not take appropriate steps to avoid malpractice by employees.

These controls should not impose an onerous burden on money changers, and indeed, depart little from the existing practices of the more reputable. However, the need for conformity of practice among money changers will require many to adjust their mode of operation in some way. To facilitate this, it is intended that at least three months will be allowed after enactment of the Bill before it is brought into effect.

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

Question on adjournment proposed, put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1989

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "a Bill to amend the Factories and Industrial Undertakings Ordinance".

He said: Sir, I move that the Factories and Industrial Undertakings (Amendment) Bill 1989 be read the Second time.

I believe very strongly that we must do all we can to improve industrial safety and prevent industrial accidents. We do this partly by education and publicity, but legislation and enforcement also play a vital part. The Factories and Industrial Undertakings Ordinance and its subsidiary regulations provide the necessary statutory framework.

To ensure that this Ordinance is effective and up-to-date, we keep it under regular review and I now wish to recommend two major improvements.

Firstly, I have long been convinced that we should lay on employers a general duty to provide a safe working environment, and on employees, a duty to co-operate with their employers in so doing. At present, we depend solely on specific regulations governing industrial safety and health in particular industries. This can be unsatisfactory, because, in these days of rapid technological change, some regulations quickly become out of date and need frequent amendment to provide for new dangers. On the other hand, the regulations cannot cover every aspect of industrial safety and health and tend to be too specific. If a factory owner introduces a new process, he sometimes finds that the regulations, being designed for a different technology, are inappropriate, forcing him to guard against old dangers which no longer apply, but not providing for new dangers which do. This is not conducive to effective accident prevention and, from the factory owner's viewpoint, can be wasteful and uneconomic. We therefore propose in clause 4 of the Bill to introduce into the Ordinance a requirement for every proprietor to take measures so far as is reasonably practicable to ensure the safety and health at work of every one employed by him. Every employee while at work will be required to co-operate with the proprietor so far as is necessary in implementing such measures, and to take reasonable care for his own safety and that of other people who may be affected by what he does.

Secondly, we propose to introduce custodial penalties. Many Members of this Council and indeed many members of the public have criticized the existing penalties as inadequate and have suggested that the deterrent effect of the law be strengthened by custodial penalties. We therefore propose in clauses 4, 5, 6, 7, 10 and the Schedule that custodial penalties be imposed for offences which are liable to cause fatal or serious accidents or risk to health, are committed wilfully and are within

the offender's ability to prevent. A maximum of six months' imprisonment would apply to those offences which now carry a maximum fine of \$30,000, and a maximum of 12 months' imprisonment to those offences which now carry a maximum fine of \$50,000.

Sir, in order to give ample time for factory owners and employees to get to know these new provisions and comply with them, we propose to bring them into effect 12 months after their approval by this Council. During this period, the Labour Department will conduct a publicity campaign to explain the new provisions.

The opportunity is also taken to introduce other amendments to the Ordinance. Clause 8 provides that a public officer is not personally liable for any action or omission done in good faith in the exercise of his powers or in the discharge of his duties under the Ordinance. This will not affect any liability of the Government in tort for that action or omission.

In proceedings instituted under the Ordinance in respect of a breach of an obligation to do something so far as is reasonably practicable or to take reasonable steps, and so on, the existing provisions do not provide who should bear the onus of proof. Clause 9 clarifies the legal position by providing that this onus lies on the accused.

Clauses 2 and 3 provide for amendments to reflect up to date changes in the title of public officers who discharge duties under the Ordinance.

Sir, the provisions in the Bill have the endorsement of the Labour Advisory Board. As I have said, I believe them to be a major improvement in our safety legislation and as such I warmly commend them to members.

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

Question on adjournment proposed, put and agreed to.

REVISED EDITION OF THE LAWS (AMENDMENT) BILL 1988

Resumption of debate on Second Reading which was moved on 11 January 1989

Question proposed, put and agreed to.

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee.

REVISED EDITION OF THE LAWS (AMENDMENT) BILL 1988

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

REVISED EDITION OF THE LAWS (AMENDMENT) BILL 1988

had passed through Committee without amendment and moved that the Bill be read the Third time and passed.

Question on the Bill proposed, put and agreed to.

Bill read the Third time and passed.

Ajournment and next sitting

HIS EXCELLENCY THE PRESIDENT: This is the last session of the Council before the Chinese New Year. I should like to take the opportunity to wish all Members of the Council a very happy and a very prosperous New Year. I trust that the Year of the

Snake will be a good one for the Council and its Members. In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 15 February 1989.

Adjourned accordingly at eight minutes past Four o'clock.

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