

1 HONG KONG LEGISLATIVE COUNCIL -- 8 March 1989

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 8 March 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 CHIEF SECRETARY  
THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY  
THE HONOURABLE PIERS JACOBS, O.B.E., J.P.

THE ATTORNEY GENERAL  
THE HONOURABLE JAMES KERR FINDLAY, Q.C., 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, 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 LAU WONG-FAT, M.B.E., J.P.

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 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 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 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.

THE HONOURABLE CHARLES ROBERT SAUNDERS, J.P.  
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.  
SECRETARY FOR SECURITY

ABSENT

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE LEUNG WAI-TUNG, J.P.

IN ATTENDANCE

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

Papers

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

Subject	L.N. No.
Public Revenue Protection Ordinance Public Revenue Protection (Dutiable Commodities) Order 1989..... 58/89	
Public Revenue Protection Ordinance Revenue Protection (Road Traffic) Order 1989..... 59/89	Public
Public Revenue Protection Ordinance Public Revenue Protection (Banking) Order 1989..... 60/89	
Public Revenue Protection Ordinance Public Revenue Protection (Business Registration) Order 1989..... 61/89	
Hong Kong Airport (Regulations) Ordinance Hong Kong Airport (Traffic) (Amendment) (No.2) Regulations 1989..... 62/89	
Training Centres Ordinance	

Training Centres (Amendment) Regulations 1989.....  
63/89

Registration of Persons Ordinance

Registration of Persons  
(Application for New Identity Cards)  
(No.2) Order

1989..... 64/89

Public Health and Municipal Services Ordinance

Public Swimming Pools (Regional Council)  
(Amendment) By-Laws 1989.....

65/89

Banking Ordinance

Banking Ordinance  
(Amendment of Fifth Schedule)  
(No.2) Notice

1989..... 66/89

Interpretation and General Clauses Ordinance

Fees for Official Signatures and  
Miscellaneous Services (Amendment)  
Notice

1989.....  
67/89

Inland Revenue Ordinance

Inland Revenue (Interest Tax)  
(Exemption) (Amendment) (No. 2)  
Notice

1989.....  
68/89

Tax Reserve Certificates (Fourth Series) Rules

Tax Reserve Certificates  
(Rate of Interest) (No. 2) Notice

1989..... 69/89

Sessional Paper 1988-89

No. 61--The Hong Kong Academy for Performing Arts  
Annual Report for the Academic Year 1987-88 and Statement  
of Accounts

Oral answers to questions

International covenants on civil, political, economic, social and cultural rights

1. MR. SZETO asked (in Cantonese): Will Government inform this Council what actions the Administration has taken in the past to inform the public of the "International Covenant on Civil and Political Rights" and the "International Covenant on Economic, Social and Cultural Rights" and what efforts will be made in this regard in future?

CHIEF SECRETARY: Sir, since the meeting of the United Nations Human Rights Committee in November last year, the part of the United Kingdom's reports to that committee relating to Hong Kong have been tabled in this council and placed in public libraries for the information of members of the public. These documents report on the measures adopted in Hong Kong which give effect to the rights recognized under the International Covenant on Civil and Political Rights.

The Administration is currently making further efforts to promote the public's awareness of the two covenants. We plan to distribute copies of the two covenants as well as information leaflets, especially to schools and public libraries. We are consulting the Civic Education Committee on what other measures we may take to promote public awareness of civil, political, economic, social and cultural rights. A Committee on Promoting Legal Awareness has been formed by the Law Society, together with representatives of the Bar Association and other lawyers. This committee will be devising ways to improve the level of legal awareness in the community. In the context of this work, the Administration will be making suggestions to the committee on ways to arouse the public's awareness of their civil rights and awareness of the two covenants.

MR. SZETO (in Cantonese): It is mentioned in the Secretary's reply that copies of the two covenants as well as information leaflets will be distributed to schools. Will Government inform this Council whether these two international covenants have been included in the syllabuses of our primary and secondary schools? If not, would the inclusion of these two covenants in a school's civic education programme constitute an act in violation of Education Regulation 92 which stipulates that no instruction may be given by any school except in accordance with an approved syllabus? Would it then be necessary to amend this regulation?

CHIEF SECRETARY: Sir, I will look into the particular point made by Mr. SZETO Wah. But as I made clear in my original answer, we are consulting the Civic Education Committee on what measures we may take to promote awareness of civil rights, and that will also include these covenants. I will take Mr. SZETO Wah's point into consideration when we make that consultation.

MR. ANDREW WONG: Sir, I think the key words in Mr. SZETO Wah's question are "has taken in the past". The question ought, perhaps, to be re-formulated to read "had taken in the past". Could the Administration advise whether or not, since the signing of the two international covenants in 1968 and the ratification in 1976, steps had been taken in the past to inform members of the public of the existence of such covenants and the human rights involved?

CHIEF SECRETARY: Sir, rather than giving publicity to the two covenants over the period of years, our efforts have been concentrating on adopting measures to give effect to the rights recognized in the covenants. Although the general public may not have been familiar with the contents of the covenants before the publicity last year, we believe that there is a good awareness within the community of individual rights. This, Sir, is because ours is an open society; the media have played an important role in informing the public; the Government has also been trying to ensure that people are made aware of the channels for complaints and redress of grievances if they feel their rights have been violated.

MR. MARTIN LEE: Sir, bearing in mind that the first step is to educate the public



as to their rights under these two international covenants, will the Administration inform this Council why it had taken so long before it woke up to its undoubted duty to bring to the attention of the public these two international covenants?

CHIEF SECRETARY: Sir, I think I answered that question in reply to Mr. Andrew WONG.

MRS. TU: Sir, in addition to merely sending information sheets on the two covenants to schools -- these may be thrown in the wastepaper basket -- could the Chief Secretary advise whether the Administration would be prepared to set up seminars for teachers of civic education in primary and secondary schools?

CHIEF SECRETARY: Certainly, Sir, we will consider that suggestion.

MR. TAM (in Cantonese): Sir, the British Government will submit a report this year to the United Nations Human Rights Committee on the measures Hong Kong adopted to give effect to the rights recognized under the International Covenant on Civil and Political Rights. Will the Government inform this Council what publicity measures will be taken in this regard and how the public be encouraged to express opinions?

CHIEF SECRETARY: Sir, it is the Administration's responsibility to draft Hong Kong's contribution and to submit this to Her Majesty's Government as part of the United Kingdom's report. The contribution is a factual account of the situation since the report was presented in November 1988. We do not therefore consider it appropriate, nor indeed necessary, Sir, to consult the public in drafting this report. But that said, we do of course welcome throughout the year public comment on our human rights record through channels such as the media, and at our meetings with OMELCO members.

DR. LEONG: Sir, could the Administration clarify whether human rights could really be included as a part of civic education in the school curriculum?

CHIEF SECRETARY: Sir, I have nothing further to add to my previous statement on that. I have said that we will consider the matter, and that is what we will do.

MR. SZETO (in Cantonese): Sir, regarding the two international covenants, could Government inform this Council whether a comprehensive review on those provisions applicable to Hong Kong would be undertaken and whether they have all been incorporated in our legislation for implementation? Are any of these provisions inconsistent with the existing legislation?

HIS EXCELLENCY THE PRESIDENT: That question, Mr. SZETO, goes a long way beyond the original one, or the original answer. Could you put it down please as a separate question for answer?

MR. MARTIN LEE: Sir, is it not clear that this Administration has done its best to suppress these two international covenants from our people until the United Kingdom Government was soundly criticized by the United Nations Human Rights Committee in November last year?

CHIEF SECRETARY: No, Sir.

MR. CHEONG: Sir, with regard to the International Covenant on Civil and Political Rights, the word "international" connotes that the sovereign state signs that particular covenant. Hong Kong being under the sovereign state of the United Kingdom, do we need to seek United Kingdom's approval in following whatever is suggested in the covenant relating to civic education and other matters?

CHIEF SECRETARY: No, Sir, it is a matter for this Administration to decide what it should do in relation to educating the public or publicizing the covenants.

MR. MCGREGOR: Sir, would the Chief Secretary not agree that the most important, or

one of the most important, human rights of all is the right to vote?

HIS EXCELLENCY THE PRESIDENT: That appears also to go beyond the scope of the original question or the original answer.

Control of littering at beaches

2. DR. IP asked: In view of Government's plan to spend \$2.6 million to construct an outfall distally through the breakwater at the western end of Repulse Bay beach to tackle water pollution there, will Government propose for the Urban Council's consideration the introduction of a pilot project to confine eating and drinking to areas immediately proximate to the established refreshment facilities, in order to ensure that the use of taxpayers' money to improve environment will not be fouled by littering?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, beach-going is one of the most popular forms of recreation in Hong Kong and is enjoyed by, literally, hundreds of thousands of people during weekends and public holidays in the swimming season. For many people, simple picnicking forms an essential and enjoyable part of beach-going activity in general.

Studies and surveys conducted by the Environmental Protection Department indicate that littering is a relatively insignificant contributor towards the pollution of waters off Repulse Bay and other beaches. However, strenuous efforts are made by the Urban Council and Regional Council to keep the beaches clean. These include the prohibition of cooking of food except in designated sites, daily cleansing operations, deployment of anti-litter squads to enforce anti-littering by-laws and the annual Keep Hong Kong Clean Campaign, and so on. In fact, beach-goers are nowadays much more conscious of the need to keep our beaches clean and in general they do behave themselves.

The existing Bathing Beach By-laws do not provide for prohibition or restriction of eating and drinking in beaches although cooking of food is prohibited except in designated sites, that is, restaurants and barbecue pits. Any attempt to introduce stricter measures in this regard would be considered as an infringement upon people's

personal liberties, and be virtually impossible to enforce as it would require beach-goers to change their habit considerably. The problem of littering would more appropriately be tackled by enforcement of anti-littering by-laws rather than confinement of eating and drinking. Nevertheless, I shall pass on Dr. Henrietta IP's suggestion to the Urban Council for their consideration.

DR. IP: Sir, is restriction of eating and drinking around the vicinity of public swimming pools, which now occurs, an infringement upon people's personal liberties?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, I think swimming pools and beaches are separate cases. The by-laws are in relation to the swimming beaches.

MRS. TU: Sir, in the second paragraph of his reply, the Secretary says that littering is a relatively insignificant contributor towards the pollution of waters off the beaches. Would he please inform us what are the significant causes and could he ensure that the Urban Council is reimbursed a significant amount of the \$45 million it has to spend on remedying the damage caused to Repulse Bay beach alone?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, as I said, I shall pass on these suggestions to the Urban Council, and I trust that Mrs. TU is more familiar with Urban Council matters.

DR. IP: Sir, in his answer the Secretary suggested that the problem of littering would be more appropriately dealt with by the enforcement of anti-littering by-laws. Could I ask Government how successful they have been in the enforcement of such at the beaches?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, anti-littering campaign is an on-going matter and this also really involves civic education. But, as I said, the survey should indicate that the beach goers are now more responsible and they are conscious of the need to keep the beaches clean. That obviously is a sign of success of the campaign.

MRS. TU: Sir, the Secretary did not answer my question. Since the cause of the problem is outside the jurisdiction of the Urban Council may I ask the Secretary if he will tell us what are the significant causes of the beach pollution at Repulse Bay?

SECRETARY FOR DISTRICT ADMINISTRATION: I shall have to find out from the department concerned on this matter. But I have been informed that the beach-goers are not a major contributor to the littering of the beaches.

DR. IP: The Secretary mentioned that littering is a relatively insignificant contributor to the pollution of the waters. I would like to ask what is the significant contributor towards the pollution of the sand on the beach?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, when you have tens of thousands of people on a beach, obviously there must be some amount of littering. What we are trying to do here is to minimize the littering. I think it is not possible to completely eliminate the littering. As I said, the beaches are cleaned daily, as everywhere else is cleaned daily, and the campaign is to reduce the amount of littering, and that is continuing.

Discrepancy in labour importation policy

3. MRS. FONG asked: Will the Administration inform this Council why there is a discrepancy in the application of the policy for importation of foreign labour in that a large number of foreign domestic helpers are allowed but not other workers?

SECRETARY FOR SECURITY: Foreign domestic helpers are admitted under the general policy governing the entry of persons from overseas to take up employment in Hong Kong. This allows entry for employment where a person possesses a special skill, knowledge or experience of value to and not readily available in Hong Kong.

There is no discrepancy in the application of the policy as between domestic helpers and other workers. Other workers from overseas who meet the admission criteria can be and are admitted for employment.

MRS. FONG: If the criteria for the importation of foreign labour is skill and the extent of its availability in Hong Kong, then the foreign domestic helpers fulfil those two criteria. Could the Administration advise if there are guidelines on defining what is skilled and unskilled labour, and what proof is required to establish that a particular skill is not readily available in Hong Kong? Would the guidelines apply to recruitment advertisements in newspapers?

SECRETARY FOR SECURITY: Sir, in evaluating individual applications for the importation of employees, the Immigration Department takes account of a number of factors. It has to, for example, assess whether the applicant's skill, knowledge, or experience is relevant to the position offered, and whether the terms and conditions of employment are comparable to those offered to local employees taking the same or similar kinds of jobs. It also has to assess whether the employing company has taken any positive steps to recruit locally. And finally, it has to assess whether the activities of the applicant and the employer are beneficial to Hong Kong as a whole.

MR. NGAI (in Cantonese): Sir, certain enterprises are actually practising labour import by offering training programmes to workers of Mainland China. Will the Government inform this Council whether such importation conforms to the existing admission policy? If so, would Government consider arranging with the Chinese authorities for extension of such programmes to all trades, manufacturing industry in particular, so as to alleviate the outflow of our talent to the Mainland to help develop enterprises there, and to relieve the severe labour shortage recently experienced in Hong Kong?

SECRETARY FOR SECURITY: Sir, I believe that for enterprises who wish to import labour into Hong Kong in all cases it would be done under the existing policy.

MR. MCGREGOR: Sir, what special skill does a Filipino maid possess? And might not a construction worker from China possess at least an equal skill?

SECRETARY FOR SECURITY: Sir, in assessing the skill of the Filipino worker we have also to look at the contribution to the economy of Hong Kong. There has been an increasing tendency for Hong Kong women to work outside the home, many at professional and managerial levels. Employment of foreign domestic helpers permits many women to do so, and this undoubtedly makes a significant contribution to the economy. There is no doubt that local domestic helpers are in short supply because the employment opportunities in other trades offer better career prospects and working conditions.

MR. TIEN: Sir, in his reply the Secretary said that there are no discrepancies in the application of the policy as between domestic helpers and other workers. Would the Administration inform this Council why foreign construction workers are not allowed to work here under these same existing policies?

SECRETARY FOR SECURITY: Sir, it is not true to say that foreign construction workers are not permitted to work in Hong Kong under the same policy. As I said in reply to a previous question, the policy applies to all workers, and the Immigration Department would consider applications for the importation of construction workers and would permit such applications where they comply with the criteria which I have mentioned.

MR. TAM (in Cantonese): Sir, I remember the Government has admitted in an OMELCO panel meeting that importation of foreign domestic helpers was a wrong decision made by the Director of Immigration at that time. Will Government inform this Council what lessons can be learnt from such experience and how they are to be utilized to avoid similar mistakes in the future?

SECRETARY FOR SECURITY: Sir, I do not think I would necessarily agree with that comment, and I am afraid I have no knowledge of it. However, certainly it is true that there were in the past malpractices as a result of foreign domestic helpers being

imported into Hong Kong. A few years ago the criteria for and conditions of employment for foreign domestic helpers in Hong Kong were tightened up, and as a result we are satisfied that many of the malpractices have ceased.

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

SECRETARY FOR EDUCATION AND MANPOWER: I think Mr. TAM is quoting from something I may have said. I should perhaps explain that I was referring to historical events about twenty years ago. I think that when the policy was first introduced it was questionable in terms of the policy at that time. But we are talking about very ancient history. I do not think it has any relevance to current policy which has been approved by the Governor in Council.

MRS. FONG: In the answer provided to Mr. MCGREGOR the Secretary for Security indicated that the guidelines on importation of domestic helpers have somewhat departed from skill in favour of benefit to the economy. Is this now an additional criterion for the importation of foreign labour?

SECRETARY FOR SECURITY: Sir, I am sorry if I gave that impression. I did not mean to say that skill was irrelevant. Clearly the skill that is looked for must be appropriate to the job it is sought to fill. I think that we look for in foreign domestic helpers skill in domestic work, and that is one of the criteria that the Immigration Department would assess when deciding whether an application for the import of a foreign domestic helper should be permitted. It is, though, not the only criterion. As I have mentioned, another criterion is that the importation of a particular worker must be of benefit to the economy of Hong Kong as a whole.

MR. MCGREGOR: Sir, since the policy is being applied fairly and equally across the board in terms of the immigration of skilled workers such as Filipino maids, how many foreign construction workers have been permitted entry by the Government?



SECRETARY FOR SECURITY: Sir, I do not have figures available of construction workers as a separate category. In 1988 somewhat over 9 000 workers other than domestic helpers were given permission to enter Hong Kong for employment.

MR. POON CHI-FAI (in Cantonese): Sir, apart from foreign domestic helpers, could Government inform this Council specifically what other types of workers have been admitted to work in the territory under the existing policy? In what circumstances will the Government consider relaxing or tightening up the present policy of labour import?

SECRETARY FOR SECURITY: Sir, the types of workers that have been admitted under the present policy have covered a very wide range, from top managers to artisans and technicians. They have similarly come from a very wide range of countries, countries in Asia and further afield. As regards the second part of the question, we have, I think, been concerned that the present policy for the importation of labour may not be fully understood by the public and, in particular, by employers, and we are aware of the need to promote a better understanding of the present policy. We are considering how we could do this by publication and distribution of information pamphlets explaining the policy and the procedures, or possibly by the Immigration Department setting up a telephone hot-line to provide advice and to answer queries, and possibly by the department seeking opportunities to speak to industrial and trade associations.

Robberies and indecent assaults in lifts

4. MR. MICHAEL CHENG asked (in Cantonese): As the spaces above trap doors at the top of the lifts in recently built public housing blocks are frequently used as hiding places by unlawful elements to bide time to commit robberies and indecent assaults inside the lifts, and as a result give rise to grave concern among the residents, will Government inform this Council what measures will be taken to remedy the situation?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, in public housing estates, trap doors in lifts are provided in accordance with the Building (Lift) Regulations to facilitate

rescue in emergency situations. The trap door is linked to an alarm system which is activated when the door is tampered with. However, there have been cases where the alarm system to the trap door was disconnected to enable crimes to be committed inside the lifts.

On 31 January 1989, the Police arrested a five-member gang in connection with 42 robberies and two rape cases committed in lift cars over the last 13 months. One of the members, a former lift technician, is believed to be the person with the special skill required to open the trap door without activating the alarm.

Since early last year, the Housing department has held discussions with the Crime Prevention Bureau of the Royal Hong Kong Police Force, the Lift Engineering Contractors' Association and the lift contractors to see how best the trap doors and the alarm system can be made less susceptible to interference.

With the arrest of the gang and the introduction of these measures, it is hoped that security in lift cars in public housing estates will be improved.

MR. MICHAEL CHENG (in Cantonese): Rapes and robberies during last month or so were still fresh in the memory of public housing tenants in Wong Tai Sin. They are still suffering from a dread of travelling in lifts. Could Government advise this Council what publicity measures would be taken in the estates to allay the fear of these residents?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the discussions which the Housing Department have been carrying on with the police and the lift contractors are made known to the public. In addition, in Wong Tai Sin, as an experimental scheme hand rails mounted in lift cars in some estates directly underneath the trap doors have been dismantled to make it more difficult for the culprits to escape in this way. The effectiveness of this scheme is being monitored and should it prove to be useful similar modifications will be carried out in all estates and made known to the tenants.

MR. MICHAEL CHENG (in Cantonese): Sir, the question I asked a moment ago was: what publicity measures would be taken to allay the fear of the public housing tenants?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the important thing is to make the trap door and alarm system less susceptible to tampering. The trap doors are provided in case of emergency and we must strike a balance between safety and crime prevention.

#### Criminal intimidation

5. MR. HUI asked: With reference to the public concern over recent press reports that two employees of a magazine who were criminally wounded had previously been intimidated, will Government inform this Council:

a) of the number of cases in the past three years where persons who have made reports to the police of intimidation have subsequently been assaulted or otherwise interfered with; and

b) what protection is afforded to those who have reported to the police after being intimidated, particularly where the police enquiries reveal assault or other criminal interference as a result of the victim having made his original report of intimidation?

SECRETARY FOR SECURITY: Sir, there were 502 cases of criminal intimidation reported in 1988, 527 in 1987 and 500 in 1986. I regret that there are no details available of the number of these cases of subsequent assaults on persons who had previously reported intimidation to the police. The number of such cases, however, is believed to be very small. In the majority of cases of reported intimidation the police make an arrest. Where an arrest cannot be made, and where the person reporting the incident appears to be at risk, protection will be offered by the police. In the case that has given rise to this question, the police twice offered protection, but the offer was declined.

As regards the second part of the question, the protection given by the police varies in accordance with the circumstances of each case. Individual protection is offered where the circumstances so warrant. Certainly, any assault on, or interference with, a person who had made a report of intimidation would lead to an immediate offer of individual protection.

Protection might include special attention being paid by police patrols to the victims' properties or premises, or provision of a police escort. Where the risk to a person is assessed as serious, a safe house might be provided to ensure that no approach is made by suspects to the victim or his family.

In cases where a report has led to an arrest, a one-way glass might be used in identification parades so that the suspect could not see the victim. And the police will, where appropriate, oppose bail for a suspect, or apply to the court for an order that the suspect while on bail keep away from the alleged victim.

MR. HUI: Sir, in his reply the Secretary for Security told us that there were 502 cases of criminal intimidation reported in 1988, and he went on to say that in the majority of cases of reported intimidation the police made an arrest. Could the Secretary inform this Council in how many cases out of the 502 reported last year were arrests made, and in how many of these cases had the police opposed bail for a suspect or applied to the court for an order that the suspect while on bail should keep away from the alleged victim?

SECRETARY FOR SECURITY: Sir, I regret that I do not have available all the information which Mr. HUI has asked for, but what I can say is that the detection rate in criminal intimidation cases in 1988 was 66%. This is substantially higher than the average for all crimes which is approximately 46%.

MR. MARTIN LEE: Sir, if investigation of a report of criminal intimidation results in a prosecution, will the police automatically offer protection to all key prosecution witnesses?

SECRETARY FOR SECURITY: Sir, the short answer, I think, is "no". The police would consider any application or any need for protection in accordance with the circumstances of each particular case.

MRS. TAM (in Cantonese): In the second paragraph of his reply, the Secretary for

Security mentioned that individual protection would be offered where circumstances warranted. The offer would be made immediately should any assault on, or interference with, a person having reported a case of intimidation occur. Could the Government inform this Council what other factors would normally be taken into consideration when deciding police protection should be offered to individuals?

SECRETARY FOR SECURITY: Sir, the factors that the police would take into consideration would include the nature and the degree of intimidation, the circumstances which have preceded it, the background of the intimidator (if this is known), and the vulnerability of the victim. Clearly a family quarrel, a business dispute, and a case with triad involvement would be considered in a different light. However, as I have said, police protection will always be offered if the safety of the person reporting the crime appears to be at risk.

MR. MARTIN LEE: Sir, will the Administration consider automatically offering police protection to all witnesses in intimidation cases rather than wait until they are interfered with?

SECRETARY FOR SECURITY: Sir, as I have said, I think that this has to be left to the police to assess. The offer of protection will depend upon the circumstances of each case and the vulnerability of the witnesses to intimidation.

MR. HUI: Sir, since the Secretary does not have relevant information available on my question, could I be provided with a written answer?

SECRETARY FOR SECURITY: Yes, Sir, certainly. (Annex I)

MRS. CHOW: Sir, does the Secretary not think that it is unsatisfactory that no details of the number of cases of subsequent assaults on persons who have previously reported intimidation to the police are available, and that such data are quite essential for the police to devise ways and means to try to further prevent such cases from happening in the future? What would he propose to rectify the present lack of data and details?

SECRETARY FOR SECURITY: Sir, the police are aware of certain individual cases where

assaults have taken place following a threat of intimidation. But they do not keep detailed statistics on every single case and these do not go back several years. As I have said, the police are satisfied, on the basis of the information which is available to them, that the number of such cases is very small. The present system of protection is well tried and frequently used. I believe that where this has been put into effect, there has not been any instance of assault or retaliation against a victim or a member of his family.

#### Control of obscene and indecent video items

6. MR. DAVID CHEUNG asked: Will Government inform this Council, since the establishment of the Obscene Articles Tribunal in September 1987, how many amusement games machines, video tapes and discs have been classified as "neither obscene nor indecent", "indecent", and "obscene" respectively; how many prosecutions have been instituted for offences relating to the showing, sale or renting out of obscene and indecent amusement games machines, video tapes and discs, particularly to persons under the age of 18 years; and whether or not more active measures will be taken to detect similar offences for enforcement action?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, since the establishment of the Obscene Articles Tribunal in September 1987, the tribunal has classified 978 video tapes and laser discs, of which 11 were neither obscene nor indecent, 11 were indecent and 956 were obscene.

Since 1 September 1987, nine out of 207 printed circuit boards of amusement game machines submitted to the Television and Entertainment Licensing Authority (TELA) have been disapproved because of excessive violence or sex in their content. Since September 1987, there have been 744 prosecutions for installation of unapproved printed circuit boards.

Sir, the police and Customs and Excise Department regularly seize items and take out prosecution actions over obscene and indecent video tapes and discs. There is also an inspection team of five in TELA to look out for pornographic or violent video tapes and laser discs displayed in shops. Such action has resulted in 212

prosecutions between 1 September 1987 and the end of 1988 involving 3 700 video tapes.

Sir, our studies have shown that the great majority of video rental outlets work on a membership basis, and only accept persons over 18 as members. In the circumstances, it has not been possible to obtain evidence to take out a prosecution against any video rental outlet for renting indecent material to a juvenile. Prosecutions have therefore had to be based on possession of obscene items for sale or rental.

It is, Sir, not a matter for satisfaction that nearly 1 000 pornographic titles should come to light in a period of some 15 months. But during this period 48 people have been sent to prison for dealing in them. We shall have to maintain our present levels of vigilance for some time, and I assure Members that if necessary, additional measures for detection will be introduced.

MR. DAVID CHEUNG: Sir, I have two supplementary questions if you will allow me to ask them one by one. In his answer the Secretary says it has not been possible to obtain sufficient evidence to take out a prosecution against any video rental outlet for renting indecent materials to a juvenile. Will the Administration please inform this Council whether this is a matter of inadequacy of manpower or a matter of low priority?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, it would be unlikely that we would be able to send an 18-year-old or under to procure an item and thereby providing the evidence. It would be very difficult, and indeed would be a very strange coincidence, for an inspector to have bumped into a situation where an 18-year-old or under happens to be renting an item. I do not think it is inadequacy of manpower. I think it is just a lack of opportunity to catch an actual act of renting an obscene article to a juvenile.

MRS. TAM (in Cantonese): Sir, according to the existing legislation, submission of articles to the Obscene Articles Tribunal for classification is to be made mainly by two groups. They are people connected with the articles and relevant government officials. Would Government inform this Council how many articles have been submitted to the tribunal by the Customs, police and TELA since its establishment?

Of these submitted articles, how many have been subjects of complaint to relevant departments by the public?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION (in Cantonese): Our record shows that 60 cases have so far been submitted to the tribunal by the Administration. Of these, 20 originated from complaints by the public. Another 15 cases were submitted by publishers, readers and related persons. Over 900 cases were referred to the tribunal by the courts in the course of proceedings.

MR. DAVID CHEUNG: Sir, since the inspection team in Television and Entertainment Licensing Authority (TELA) is only a team of five, will the Secretary inform this Council whether the present level of vigilance is adequate or whether he is personally satisfied with this present level of vigilance? What are the additional measures mentioned in the answer by the Secretary?

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, the inspection team of TELA is, of course, augmented by police and by members of the Customs and Excise Service. It is, of course, not for me to say what priority the police should give to the detection and prosecution in relation to obscene material. However, I can assure Members that the police are vigilant and so are the Customs and Excise Service. What additional measures might be taken would involve discussions with the police and with the Customs Department as well as with TELA, with a view to stepping up inspection as well as prosecution action.

Default in payment of wages and severance pay on removal of factories to China

7. MRS. SO asked (in Cantonese): Sir, in view of the increasing trend of Hong Kong industrialists in shifting their production activities into China, will Government inform this Council whether the existing legislation is adequate to enable employees in Hong Kong to recover arrears of wages or severance pay in cases where employers deliberately attempt to evade such payments when moving their factory operations into China?



SECRETARY FOR EDUCATION AND MANPOWER: Sir, as I said in reply to a similar question in this Council on 8 June last year, our legislation provides for five remedies for employees in cases where employers deliberately attempt to evade payment of wages or severance pay, whether or not because of a move of operations. The legal remedies are :

First, if the employer is still solvent but does not pay the wages, he can be prosecuted under section 63A(1) of the Employment Ordinance.

Secondly, any employee who is owed money by his employer and who has good grounds to believe that his employer is about to abscond or transfer his assets elsewhere, can apply to the court for a warrant of arrest under section 67 of the Employment Ordinance.

Thirdly, if the employer is an insolvent limited company subject to winding up, he is required under section 271 of the Companies Ordinance to deliver up all the properties of the company in his custody or under his control for disposal by the court.

Fourthly, if a company is being wound up and the liquidator obtains from the court a declaration that there has been a breach of trust or misfeasance involving assets of the company, the person responsible is liable to repay or restore the value of the assets or property under section 276 of the Companies Ordinance. These assets can be sold by the Official Receiver for the purpose of paying preferential and ordinary claims to employees.

Fifthly, section 224 of the Companies Ordinance also provides for the court to order the arrest of any responsible person of a company who has absconded or is about to leave Hong Kong to evade payment of personal debts due by him to the company, or of avoiding examination respecting the affairs of the company. These powers do not apply in respect of the general debts owing or other liabilities of the company to its creditors.

In practice, employees so affected go to the Labour Department for help. They lodge claims under the relevant provisions of the Employment Ordinance. The Labour Relations Service of the department arranges conciliation in the first instance. If conciliation does not solve the problem, the case is referred to the Labour Tribunal. If the employers are insolvent, wages in arrears, wages in lieu of notice and severance payments owed to employees are preferential debts under the Companies and Bankruptcy

Ordinances. If there is evidence of a criminal offence, appropriate action can be taken under the criminal law. In all cases, the Legal Aid Department is available to employees who may wish to pursue any claims against a defaulting employer.

Meanwhile employees may also receive help under the Protection of Wages on Insolvency Ordinance. At present, the Ordinance covers wages in arrears and wages in lieu of notice. Within the current Session I hope to be able to introduce a Bill into this Council to extend the scope of the Ordinance to cover severance pay.

Sir, this legislation is as adequate as we have been able to make it, but we are always open to suggestions for further improvements.

MRS. SO (in Cantonese): Sir, according to the existing legislation on employment outside Hong Kong, employment protection applies only to employees who have signed contracts with their employers at the Labour Department. With the increasing trend of short-term employment in Mainland China and the ignorance of relevant legislation on the part of many of these workers, would Government consider reviewing the existing legislation and its implementation to identify any loopholes in the law?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, on the question of the employment outside Hong Kong, the Contract for Employment Outside Hong Kong Ordinance does seem to me a slightly different one. But I can in fact inform Members that it is being reviewed by the Labour Department at present and the department does hope to make suggestions for improvements to the Ordinance to the relevant committee of the Labour Advisory Board next Tuesday.

MR. PETER WONG: Sir, the legal remedies advocated by the Secretary is little consolation to a worker when he finds that his boss has absconded to China. Are there any arrangements in force or under discussion with China for the reciprocal dealing of such absconders, and also have there been any instances of employers attempting to avoid their liabilities in this way?

SECRETARY FOR EDUCATION AND MANPOWER: There are no formal arrangements with China. Of course, in appropriate cases, where it is a question of obtaining evidence or whatever, one can informally obtain help from the Chinese authorities as appropriate. The number of labour disputes where this is believed to be the problem is comparatively small. Yes, there are some such cases, but the proportion of all labour disputes is well under 1%. In fact last year it was about 0.7% of the cases.

MRS. FONG: Would the Administration advise whether there are provisions for the exchange of information between Hong Kong and China on crimes of this nature or otherwise; and what joint efforts exist between Hong Kong and China to apprehend criminals?

HIS EXCELLENCY THE PRESIDENT: Only the first part is relevant to this particular original question. I will ask the Secretary to answer that part.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am depending a bit on my memory here. When I was involved in this in the Immigration Department, we used to have at that time meetings with the Chinese authorities in which we exchanged requests for information. I imagine that such meetings still continue but there may be others better informed on this than I am.

MRS. FONG: In the second part of my question I made a reference to criminals because I have assumed that an individual avoiding payment of arrears of wages and severance pay has contravened the labour law. If he should then be prosecuted as a criminal are there any joint efforts to apprehend him?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I understand the police do exchange information with authorities in China on questions of absconding criminals.

Trading fund accounting system for government departments

8. Mr. TAM asked (in Cantonese): Will Government inform this Council whether it has

plans to put some of its departments under a "trading fund" accounting system whereby such departments will impose charges on services provided to other user departments and, if so :

- (a) what services will become subject to such an accounting system;
- (b) what are the objectives of introducing the system and what criteria will be used to assess its effectiveness;
- (c) what criteria and procedures will be used to ensure that the charges are reasonably fixed;
- (d) what measures will be taken to ensure that the quality and quantity of user departments' services will not be adversely affected by such a system; and
- (e) what will be the implications on the civil service system?

FINANCIAL SECRETARY: Sir, the Administration is still in the process of examining the benefits of introducing a trading fund accounting system in some of our service departments. I am therefore not yet in a position to give detailed answers to Mr. TAM's five-part question.

Nevertheless, let me take this opportunity to reiterate that it is the objective of the Administration to seek continuously to improve the efficiency of the Civil Service so that work can be carried out in the most cost effective manner. Trading funds, if introduced, should help to raise the cost consciousness of civil servants in securing services from other government departments. I should add, however, that although departments with trading fund accounts should have greater financial flexibility than traditional government departments, their staff would remain part of the Civil Service and will be subject to its terms and conditions.

There is still a considerable amount of work to be done before we are able to determine whether trading funds are appropriate for our circumstances, and we will not embark upon any major changes before the issues concerned have been thoroughly considered.

MR. TAM (in Cantonese): Sir, according to the Financial Secretary's answer, Government is of the view that a trading fund accounting system could add to flexibility and efficiency. Has Government considered what effects this arrangement would have on effective monitoring of use of public funds? If yes, what is the conclusion drawn?

FINANCIAL SECRETARY: Sir, as I indicated in my principal answer, this whole subject is under examination. I do not believe that the use of trading funds would have any adverse effect whatsoever on the monitoring of the use of public funds.

MR. PETER WONG: Sir, would the Financial Secretary tell this Council whether there are other governments that use such an accounting system and, if so, what are their experiences? And, also, will the Administration in due course consult the accounting profession on its possible use?

FINANCIAL SECRETARY: Sir, I do not have full details of other places that have used accounting funds but I do believe that they are widely applied elsewhere. If we decide to introduce the trading fund concept in Hong Kong, I see no objection to our consulting the accounting profession and I have noted Mr. Peter WONG's remarks.

MR. BARROW: Sir, would the Financial Secretary confirm that in considering this issue, the Administration will bear in mind that there is a need to avoid a proliferation of unproductive interdepartmental memoranda and disputes that could result from such a scheme and which would not, at the end of the day, add to overall efficiency?

FINANCIAL SECRETARY: Yes, Sir, we will certainly do our best to ensure that there are no unnecessary interdepartmental disputes. What we are talking about, Sir, with these trading fund systems is basically an accounting system. I do not think it will lead to any disputes at all.

MR. ANDREW WONG: Sir, may I be enlightened as to what exactly is the trading fund concept? Does it mean that the Government is going to be engaged in business in trading?

FINANCIAL SECRETARY: Sir, I am glad Mr. WONG asked me that question because I do have the answer in my brief here (laughter). Trading funds basically are accounting frameworks established by law for departments providing services on a quasi-commercial basis with the objective of recovering costs. Trading fund departments do not have the same autonomy as a corporation but have greater financial flexibility than traditional government departments. Their staff, as I have indicated in my principal answer, do remain part of the Civil Service and are subject to its terms and conditions.

MR. TAM (in Cantonese): When will the Government's proposals be made public? Will there be a public consultation exercise?

FINANCIAL SECRETARY: Sir, we do have an internal working document on this particular subject. If we do decide to use the trading fund concept, we would certainly inform the public, probably through our usual publicity arrangements, before any changes are made.

DR. LEONG: Sir, can the Administration specify which government departments or quasi-government bodies, both existing and new, such as the future Hospital Authority, are being considered for inclusion within the ambit of this particular new accounting system?

FINANCIAL SECRETARY: Sir, at the moment we do operate commercial accounts in six departments which provide services of a commercial nature to the public. These departments are: the Post Office, the Hong Kong International Airport, the government toll tunnels, government quarries, the Water Authority, and the marine ferry terminals. It is possible, if we decide to adopt this concept, that we would apply it to such departments as the Printing Department, to computer services, and to plant and vehicle maintenance. The Hospital Authority which has been mentioned would not be a suitable body because that is being established outside the general administration.

MR. PETER WONG: Sir, does this mean that the department operating under the trading fund will be able to ask for its services from outside the Civil Service?

FINANCIAL SECRETARY: Sir, I think we have got to work this concept up a little bit further before I can answer that question in detail. I think that a department that was operating the trading fund concept could use the private sector in various ways and perhaps could even offer its services to the private sector.

Written answers to questions

Maintenance of fire-fighting installations in temporary housing area

9. MR. HUI asked: In view of recent claims by residents that the lack of proper maintenance to fire-alarm and life-fighting installations in some temporary housing areas and public housing estates have hampered fire-fighting operations, thus allowing the fire to spread and causing greater losses, will Government inform this Council:

(1) how it ensures that these installations are maintained in proper working order; and

(2) how soon after a fire is a burnt site cordoned off and cleared up in order not to cause hazard to children at play and to the environment?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, fire services installations in public housing estates and temporary housing areas are subject to regular maintenance and annual checks by a registered contractor in accordance with the requirements of the Fire Services (Installations and Equipment) Regulations of the Fire Services Ordinance. In addition, there are frequent inspections by management staff of the Housing Department to ensure that the equipment continues to be serviceable as described in the Annex.

These arrangements have proved to be satisfactory. The only problem to have arisen recently was in respect of the fire which occurred last December at Yick Yuen

temporary housing area in Yuen Long. In this case, a fault in an automatic electrical switch affected the operation of a fire pump and a fire alarm. This was an isolated incident and the switch has since been repaired.

The Housing Department also follows procedures agreed with the Fire Services Department in respect of the clearance of fire sites. Once a fire has been extinguished in a temporary housing area, temporary barriers to prevent unauthorized entry are erected around the site immediately, with more substantial hoardings provided within 10 days. Moreover, the site is kept damp by spraying water, and clearance is arranged as quickly as possible, normally within 14 days. In case asbestos debris is found at fire sites, an approved specialist contractor will be engaged for its removal. These arrangements have proved satisfactory in keeping the public away from fire sites until such time as the areas are cleared.

In the event of a fire in public rental units, the Housing Department will look up or seal off the affected units as appropriate until repairs are carried out.

## Annex

### Additional Inspections and Improvement of Fire Services Installations

#### (a) Public Housing Estates

(i) fixed gas installations in transformer houses and switch rooms and smoke detectors in sheltered housing and commercial centres and so on are subject to quarterly inspections.

(ii) Wet risers, dry risers and hose-reels in buildings and fire extinguishers placed in switch rooms, garages, estate offices and so on are subject to annual inspections.

(iii) In addition to (i) to (ii), the Housing Department management staff carry out regular checks on all fire-fighting installations in estates under their charge and in case of damage, immediate repairs are arranged.



(iv) Apart from routine servicing, the fire services installations in older housing estates are now being systematically upgraded under an ongoing improvement programme.

(v) The Housing Department maintenance staff constantly carry out studies to identify methods and materials to minimize vandalism and abuse of fire services installations.

(b) Temporary Housing Areas (THA)

(i) Fire pumps are checked by Housing Department staff every quarter to ensure that they are serviceable. In view of the higher fire risks in temporary housing areas, arrangements are being made to step up the inspection frequency to once a month during the dry season.

(ii) In addition, Housing Department management staff check installations during their regular patrols of THAs and arrange immediate repair in case of damage, for example, as a result of vandalism.

Investment of charitable funds

10. MRS. TAM asked: Will Government inform this Council how investment decisions are made in respect of charitable funds vested in the trusteeship of and/or serviced by the Secretary for District Administration, and what safeguards exist against unduly speculative investment decisions being taken so that the real value of the capital is well preserved for perpetual use?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, there are eight statutory trust funds under the trusteeship of the Secretary for District Administration Incorporated. The operation of these trust funds is over-seen by statutory committees which, amongst their other functions, make decisions on investment matter. Members of the statutory committees are appointed by the Governor.

The investments of two of these funds, that is, the Sir Murray MacLehose Trust Fund and the Sir Edward Youde Memorial Fund, are handled by financial institutions under the guidance of the statutory committees concerned. The performance of the

financial institutions is monitored closely by the committees which issue instructions to them from time to time. As for the other trust funds, the investment portfolios are administered by the Secretary for District Administration Incorporated in accordance with the advice of the statutory committees and changes are made when necessary upon periodical reviews.

All the trust funds operate on the basis that only their recurrent income is used for their respective purposes in order to preserve their capital for posterity. Each fund maintains a balanced investment portfolio comprising equities, bonds and bank deposits. Whilst bonds and bank deposits are less susceptible to market price fluctuations, they generally do not appreciate in capital value. Income from these investments remain broadly the same in monetary terms year after year and its purchasing power is likely to be eroded by inflation. A suitable proportion of each portfolio is thus invested in quality equities of proven track records and good prospects to achieve long-term growth in both capital and income.

All forms of investments involve some degree of risk-taking. However, the investment policy described above and its judicious administration by the statutory committees provide the best safeguard against undue speculation and improper investment. The success of the policy is borne out by the remarkable growth of the trust funds over the years as shown in the Annex, despite the stock market falls in 1967, 1974, 1982 and 1987.

#### Annex

As at 1987-88 year end, the following Trust Funds were valued approximately as follows (as compared to the year of inception except for items (g) and (h), please see note):

(a) Sir Murray MacLehose Trust Fund  
\$48 million (\$22.71 million in 1982)

(b) Sir Edward Youde Memorial Fund  
\$78 million (\$83 million in 1987)  
[It was unfortunate that the stock market crash occurred in the first year of the establishment of

the Sir Edward Youde Memorial Fund, before it was given any real opportunity to achieve growth.]

- (c) Brewin Trust Fund  
\$36 million (\$0.34 million in 1955)
- (d) Grantham Scholarships Fund  
\$44 million (\$0.43 million in 1955)
- (e) Sir Robert Black Trust Fund  
\$16.40 million (\$1.43 million in 1962)
- (f) Li Po Chun Charitable Trust Fund  
\$165.51 million (\$2.98 million in 1964)
- (g) General Chinese Charities Fund  
\$77.32 million (\$0.58 million in 1955)
- (h) Chinese Temples Fund  
\$71.38 million (\$0.19 million in 1955)

Note: The General Chinese Charities Fund and the Chinese Temple Fund were established shortly after the enactment of the Chinese Temple Ordinance in 1928. However, the earliest accounting records available now pertain to the year 1955. Besides investment, public donations have also contributed to the growth of these two funds.

Responsibility for supervision of children

11. MRS. TAM asked: Will the Government inform this Council whether or not measures, including publicity campaigns, will be taken to draw the attention of parents and guardians to their responsibility for the proper supervision of the children and young persons under their care, and to their liability under the Juvenile Offenders Ordinance, in order to help prevent juvenile crimes?

SECRETARY FOR SECURITY: The Administration has taken and will continue to take measures to draw the attention of parents and guardians to their responsibility for the proper supervision of children and young persons under their care.

The Social Welfare Department, in conjunction with voluntary agencies, has in recent years launched a number of family life education publicity campaigns, with responsible parenthood and parent-child relationship as the main themes. Booklets, posters and calendars have been widely distributed to the public; newspapers, magazines, television and radio have been used; and exhibitions, competitions and family camps have been organized to promote the campaign messages.

In addition, social workers, as well as counselling children with behaviour problems, also counsel their parents with a view to helping them to understand better their parental role, and their responsibility for the proper care and supervision of their children.

The fight crime publicity campaigns on triad involvement, drugs and shoplifting, whilst aiming primarily to draw the attention of the public to these crimes, also have the effect of drawing the attention of parents to the need for care and supervision of their children.

The Health and Welfare Branch is now planning a major campaign, to be launched this summer, which will arouse public awareness of child neglect, responsible parenthood and the role of the family in supporting the well-being of the child. We are now considering whether it would be appropriate to include in the campaign reference to parents' liability under the Juvenile Offenders Ordinance.

Separately, under the auspices of the Fight Crime Committee, a television documentary programme on juvenile crime, which will emphasize the dangers of parental neglect, is under preparation and is expected to be screened shortly.

Employment of the mentally handicapped

12. DR. IP asked: Will Government inform this Council:

(a) What is the estimated number of mildly mentally handicapped persons over the age of 18 years who wish to be employed but have not yet found jobs and what has been

done successfully so far to solve the current labour shortage problem by placing this group of workers;

(b) what is the annual cost for a place in a sheltered workshop for the mentally handicapped with a breakdown to include, inter alia, the unit cost, the range of disability allowance, incentive payments and other miscellaneous items; and

(c) what is the estimated demand for sheltered workshop places for the mentally handicapped for the next five years and how much saving can be achieved annually if half of this estimated demand can be met through successful job placements?

SECRETARY FOR HEALTH AND WELFARE: There is no accurate information on the number of mildly mentally handicapped persons over the age of 18 years who wish to be employed but have not yet found jobs. However, the Selective Placement Division (SPD) of the Labour Department is currently assisting 171 mildly mentally handicapped persons to find suitable jobs.

In 1988, the SPD successfully placed 181 mildly mentally handicapped persons into open employment, an increase of 30% over the comparable figure for 1987. The employment of these mildly mentally handicapped persons in various trades and industries helped, to a very limited extent, to alleviate the current labour shortage.

The placements achieved by SPD are mainly the result of its promotional efforts to enhance the employment opportunities of disabled persons of various categories. In 1988 these activities included a special campaign to promote the employment of disabled persons in the hotel industry, an exhibition on employment opportunities for the disabled, two district-based exhibitions on the working abilities of the disabled and a presentation of souvenirs to outstanding employers of disabled persons. Officers of the SPD also paid regular visits to prospective employers to encourage them to employ disabled persons and gave talks to disabled students and their parents and to other interested persons in special schools and training centres with a view to providing employment market information and introducing the services available to assist them.

Sheltered employment is provided to those disabled persons who cannot enter into open employment because of their disability. The current annual cost for a place in a sheltered workshop is broken down as follows:

	Cost	
	Per annum	
	\$	
Per capita cost	12,869	
Incentive payments (on the basis of 22 working days per month)		1,980
	-----	
	14,849	

Disability Allowance is not included in the calculation because it is granted on account of a person's disability but not his status as a worker in a sheltered workshop.

Sheltered workshop places are provided for all disabled groups and not just mentally handicapped persons although in practice over 60% of sheltered workers belong to this group. The 1987 Rehabilitation Programme Plan estimated the demand over the next five years to be as follows:

1989-90	1990-91	1991-92	1992-93	1993-94
5 299	5 366	5 431	5 492	5 550

If half of these places were to be met through successful job placement, the average annual saving would be \$40.3 million, although some additional resources would be required by the Selective Placement Division. However, only a small fraction of sheltered workers are suitable for open employment, and it is unlikely that as many as half of the mentally handicapped persons could be so placed.

Government Business

Motion

HONG KONG FUTURES EXCHANGE LIMITED (TEMPORARY PROVISIONS) ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

That, as no meeting has been, or is likely to be, held under section 3 of the Hong Kong Futures Exchange Limited (Temporary Provisions) Ordinance prior to 1 April 1989, a reference to "1 July 1989" be substituted for the reference to "1 April 1989" in that section.

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

The purpose of the resolution is to allow the Futures Exchange to postpone holding its third Annual General Meeting by a further three months to 1 July 1989.

To facilitate the self-initiated reforms of the Futures Exchange along the lines proposed by the Securities Review Committee, the Hong Kong Futures Exchange Limited (Temporary Provisions) Ordinance was enacted on 14 July 1988. This effectively postponed the holding of the third Annual General Meeting of the Hong Kong Futures Exchange Limited due to be held on or before 30 September 1988 by a period of up to six months to 1 April 1989. Section 5 of the Ordinance provides for a further postponement of three months by resolution of this Council.

The Hong Kong Futures Exchange held an Extra-ordinary General Meeting on 23 February 1989 to seek shareholders' endorsement of its reconstitution package which aimed at improving the structure, operational efficiency and risk management of the Futures Exchange along the lines recommended by the Securities Review Committee. Whilst three resolutions which concerned revisions to capital requirements and the membership structure were passed without difficulty, a fourth resolution which concerned reconstitution of the board and the proposed disenfranchisement in due course of non-member shareholders and those members in default of their obligations was endorsed by just over 74% of the votes cast at the meeting, thus narrowly missing the 75% majority vote required for its adoption as a special resolution.

The fact that the reconstitution proposals were supported by almost all active member-shareholders who attended the Extra-ordinary General Meeting indicates general support of market users for the constitutional reforms put forth by the Board of the Futures Exchange. In view of these encouraging signs, it is essential for the present board of directors, including those appointed by the Government, who have been instrumental in proposing these reforms, to retain their positions for a few more months to assist in seeing through a full reconstitution of the exchange.

Sir, I beg to move.

Question proposed, put and agreed to.

First Reading of Bill

DRUG TRAFFICKING (RECOVERY OF PROCEEDS) BILL 1989

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

Second Reading of Bills

DRUG TRAFFICKING (RECOVERY OF PROCEEDS) BILL 1989

THE SECRETARY FOR SECURITY moved the Second Reading of: "A Bill to provide for the tracing, confiscation and recovery of the proceeds of drug trafficking, to create the offence of assisting drug traffickers to retain those proceeds, and for incidental or related matters".

He said: Sir, I move that the Drug Trafficking (Recovery of Proceeds) Bill 1989 be read a Second time.

The Bill seeks to empower the courts to freeze and to confiscate the proceeds of drug trafficking; it proposes new powers of investigation to permit the identification of such proceeds; it will create new offences of assisting a person to retain or to conceal the proceeds of drug trafficking; and it will establish a framework for the enforcement of confiscation orders made by the courts of other countries.

It is widely recognized that one of the most effective measures to combat illicit drug trafficking is to deprive the traffickers of their ill-gotten gains. At present the Dangerous Drugs Ordinance has provision for the forfeiture of money or property received by any person as a result of a drug trafficking offence. However, this applies only where the money or property can be proved to be related directly to the specific offence for which a person has been charged. The wealth accumulated by a trafficker from his past illegal activities can thus remain largely intact and



available to him, despite his conviction on a specific offence.

Clause 3 of the Bill will empower the High Court or District Court, before sentencing a convicted drug trafficker, to determine whether the offender has benefitted from drug trafficking, irrespective of whether or not this benefit has resulted from the offence of which he has been convicted. If he has so benefitted, the court will assess his proceeds and impose a confiscation order. For the purpose of this assessment, the court may make certain rebuttable assumptions under clause 4, namely, that the whole of his property at the time of his conviction, together with any property which has passed through his hands during the previous six years, represents the proceeds of drug trafficking, and that all his expenditure in that six year period was paid out of such proceeds.

As regards the enforcement of confiscation orders, the courts will have the power under clauses 10 and 11 to freeze a person's property by imposing restraint and charging orders, and under clause 8 to fix an additional term of imprisonment to be served by the offender in the event that he fails to comply with such orders.

In attempts to retain their illegal profits, drug traffickers often seek to disguise their assets by what is commonly known as the "laundering" of money. To counteract this, clause 25 will create a new offence of assisting a person to retain or conceal proceeds from drug trafficking.

The offence will carry a maximum penalty of 14 years' imprisonment. However, no offence will be committed if a transaction which is believed or suspected to have this purpose is reported immediately to the authorities.

Banks and other financial institutions in particular will be affected by this obligation to report knowledge or suspicion of drug trafficking. To assist them to comply with these new requirements, the Hong Kong Association of Banks and the Hong Kong Deposit-taking Companies Association have drawn up model guidelines for their members. These will ensure that proper internal procedures are in place for individual staff to report suspicious transactions to a designated member of the management, who will in turn report such transactions to the authorities where he shares the suspicions.

Finally, I would like to mention that clauses 28 and 29 will provide the power for the Governor in Council to designate by order countries or territories whose

confiscation orders, and orders for restraint of property liable to confiscation, will be enforceable in Hong Kong. We intend that this be done on the basis of reciprocity. It will enable Hong Kong to co-operate more effectively with other governments in efforts to prevent convicted drug traffickers from retaining their illegal profits by transferring them overseas.

Sir, the proposals in this Bill will require additional staff and other resources for the police, Customs and Excise Department, the Attorney General's Chamber and the Judiciary. The cost is estimated to be about \$21 million in the first year of operation of the legislation, rising to approximately \$28 million in five years' time and thereafter. In addition, it may be necessary to appoint public accountants in private practice to assist in investigations and the enforcement of confiscation orders. This is estimated to cost an additional \$10 million per year.

The Bill will also generate revenue. It is not possible to forecast accurately how much this will be, but experience overseas indicates that the amount is likely to be considerable, and that it will substantially exceed the recurrent costs of enforcing the legislation.

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

Question on adjournment proposed, put and agreed to.

#### INLAND REVENUE (AMENDMENT) (NO.2) BILL 1988

Resumption of debate on Second Reading which was moved on 2 November 1988

Question proposed.

MR. PETER POON: Sir, one of the major attractions of Hong Kong as a business centre is that under our tax laws, only income or profits arising in or derived from Hong Kong is subject to Hong Kong tax. Under the existing section 20A of the Inland Revenue Ordinance, non-residents operating in Hong Kong earning assessable income or profits here are taxed through their agents in Hong Kong. A recent court case, involving a non-resident film distributor, decided that if the parties are dealing on a principal to principal basis, tax due by the non-resident is not recoverable by the Commissioner of Inland Revenue through the party who pays such non-resident. The

purpose of the Inland Revenue (Amendment) (No. 2) Bill 1988 is mainly to plug such loophole.

Since the introduction of the original Bill, concerns have been expressed that the scope of clause 2 is too wide and may cause hardship and uncertainty under certain circumstances. An ad hoc group formed to study the Bill had two fruitful meetings with the Administration and has carefully considered the various representations made. As a result, a new section 20B has been proposed which, in our view, would alleviate the concerns expressed but would nevertheless enable the Commissioner of Inland Revenue to collect tax due by non-residents, such as sportsmen, entertainers and recipients of royalties and licence fees, who obtain assessable income and profits in Hong Kong by dealing with a Hong Kong resident on a principal to principal basis. There has been consultation with relevant professionals and the commissioner has indicated that guidelines on the new law will be issued as soon as possible.

Sir, with the agreed amendments, I support the motion.

MR. PETER WONG: Sir, I rise to support the Inland Revenue (Amendment) (No. 2) Bill 1988. When the Bill was first published, taxation practitioners, especially the accountants, opposed it because of the unnecessary wide scope of the Bill the main purpose of which was to close a small loophole in the law resulting from a case found against the Inland Revenue Department. There were other useful amendments, such as increasing the number of Board of Review members and deputy chairmen, with which we are all in agreement.

I am pleased that the revised restricted formula (contained in the amendments to be moved at Committee stage) has been found acceptable to tax practitioners whilst closing the loophole to the satisfaction of the Inland Revenue Department. I hope that this will be a lesson to us all that it is not necessary to use a sledgehammer to crack a nut.

I am, however, disappointed that the commissioner does not see fit to release his "Practice Notes" at the same time that this legislation is enacted because that would give us all the full details of how the commissioner intends to apply the law in practice. Here I refer to the departmental practice of considering one-third of a non-resident entertainer or sportsman's income as deductible expense and only taxing the other two-thirds. This is not widely known amongst all practitioners,

but I understand from the commissioner that it is readily accepted by taxpayers as it finalizes the tax payable quickly and with a minimum of fuss. I will be pleased if the Financial Secretary will confirm that this will be the practice.

With these comments, Sir, I support the motion.

FINANCIAL SECRETARY: Sir, I am most grateful to Mr. Peter POON and Mr. Peter WONG for their support. I would also like to thank Mr. POON and members of the ad hoc group for the careful and detailed consideration that they have given to this Bill. I shall be moving the amendment to which Mr. POON and Mr. Peter WONG referred at the Committee stage.

With regard to the comments of Mr. WONG, not the "nutcracker" comments but the comments on the timing of the release of Practice Notes, it should be borne in mind that Practice Notes are no more than a statement of departmental practice issued for the information and guidance of taxpayers. They have no binding force and do not affect a person's right of objection or appeal under the Inland Revenue Ordinance. In many cases amendments can be made to the Ordinance without the need to issue a Practice Note. So, against this background I consider that the correct time for the issue of a Practice Note should be shortly after the law has been enacted. In the present case the date for the new provision to come into operation is 1 April 1989. The commissioner has advised me that the Practice Note will be issued before then. I can, however, give the assurance sought by Mr. WONG that a practice does exist of allowing a deduction to non-resident entertainers and sportsmen of an amount equal to one-third of the income derived.

Sir, I beg to move.

Question put and agreed to.

Bill read the Second time.

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

LIFTS AND ESCALATORS (SAFETY) (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 15 February 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).

#### PHARMACY AND POISONS (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 15 February 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).

#### PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 15 February 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 Bills

Council went into Committee.

#### INLAND REVENUE (AMENDMENT) (NO.2) BILL 1988

Clauses 1, 2 and 5

FINANCIAL SECRETARY: Sir, I move that clauses 1, 2 and 5 of the Bill be amended as set out in the paper circulated to Members.

Members will recall of the Inland Revenue (Amendment) Bill 1989 seeking to amend two aspects of the principal Ordinance. The first involves the Inland Revenue Board of Review and the second involves the collection of profits tax from non-resident persons. It is with regard to the second aspect that concerns were expressed that the scope of the original Bill might have been too wide, thereby carrying unintended taxation implications for those Hong Kong persons who have business dealings with non-residents.

Following consultation with the ad hoc group and with members of the accounting and legal professions, I am proposing amendments to limit the scope of the operation of the new provisions to a specified and restricted class of non-residents. The proposal is designed to ensure that the new provisions in respect of the collection of profits tax from non-resident persons will apply only to situations where persons in Hong Kong, who are not agents, deal with a specified class of non-residents. In essence, this class comprises non-residents in receipt of royalties and licence fees from Hong Kong, and non-resident entertainers and performers who perform in Hong Kong.

The Commissioner of Inland Revenue is satisfied that this class includes those categories of non-Hong Kong residents from whom he believes tax collection is presently at the greatest risk.

Sir, I beg to move.

Proposed amendments

Clause 1

That clause 1(1) be amended--

by deleting "(No. 2) Ordinance 1988" and substituting "Ordinance 1989".

Clause 2

That clause 2 be amended--

by deleting clause 2 and substituting the following --

"Section added

2. The following is added after section 20A --

"Persons chargeable in respect of certain profits of a non-resident

20B. (1) Without prejudice to section 20A, this section applies in respect of a non-resident person who is chargeable to tax in respect of --

(a) sums deemed by virtue of section 15(1) (a) or (b) to be receipts arising in or derived from Hong Kong from a trade, profession or business carried on in Hong Kong; or

(b) sums received in respect of, or which in any way derive directly or indirectly from, the performance in Hong Kong by a non-resident entertainer or sportsman (whether or not he is the non-resident person who is so chargeable) of an activity in his character as entertainer or sportsman on or in connection with a commercial occasion or event, including --

(i) any appearance of the entertainer or sportsman by way of or in connection with the promotion of any such occasion or event; and

(ii) any participation by the entertainer or sportsman in or for sound recording, films, videos, radio, television or other similar transmissions (whether live or recorded).

(2) Where this section applies, the non-resident person is chargeable to tax in respect of the sums described in subsection (1) in the name of any person in Hong Kong who paid or credited those sums to that or any other non-resident person, and the tax so charged shall be recoverable by all means provided in this Ordinance from that person in Hong Kong.

(3) Where a person in Hong Kong from whom tax is recoverable by virtue of this

section pays or credits to a non-resident person (whether or not he is the non-resident person who is chargeable to tax) sums described in subsection (1) he shall, at the time he makes the payment or credit, deduct from those sums so much thereof as is sufficient to produce the amount of such tax, and he is hereby indemnified against any person in respect of his deduction of such sum.

(4) In this section --

"entertainer or sportsman" means a person, other than a corporation, who gives performances (whether alone or with others) in his character as entertainer or sportsman in any kind of entertainment or sport, including any activity of a physical kind which (whether in a live or recorded form) the public or any section of the public is or may be permitted (whether for payment or not) to see or hear;

"commercial occasion or event" includes any description of occasion or event --

(a) for which an entertainer or sportsman (or other person) might, by virtue of his performance of the activity, receive or become entitled to receive anything by way of cash or any other form of property; or

(b) which is designed to promote commercial sales or activity by advertising, the endorsement of goods or services, sponsorship, or other promotional means of any kind."."

Clause 5

That clause 5 be amended --

by adding, in new section 79(3), "or 20B" after "section 20A".

Question on the amendments proposed, put and agreed to.

Questions on clauses 1, 2 and 5, as amended, proposed, put and agreed to.

Clauses 3 and 4 were agreed to.

LIFTS AND ESCALATORS (SAFETY) (AMENDMENT) BILL 1989



Clauses 1 to 11 were agreed to.

PHARMACY AND POISONS (AMENDMENT) BILL 1989

Clauses 1 to 3 were agreed to.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1989

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

The ATTORNEY GENERAL reported that the

LIFTS AND ESCALATORS (SAFETY) (AMENDMENT) BILL 1989

PHARMACY AND POISONS (AMENDMENT) BILL 1989

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1989

had passed through Committee without amendment and the

INLAND REVENUE (AMENDMENT) (NO.2) BILL 1988

had passed through Committee with amendments and moved that the Bills be read the Third time and passed.

Question on the Bills proposed, put and agreed to.

Bills read the Third time and passed.

Member's motion

#### INTERPRETATION AND GENERAL CLAUSES ORDINANCE

Mr. ARCULLI moved the following motion :

That the Road Traffic (Public Service Vehicles) (Amendment) Regulations 1989, published as Legal Notice 38 of 1989 and laid on the table of the Legislative Council on 15 February 1989, be amended in regulation 7 by repealing paragraph (b) of the Eighth Schedule and substituting --

"(b) be in English and Chinese; and".

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

Under Regulation 7 of the Road Traffic (Public Service Vehicles) (Amendment) Regulations 1989 laid on the table of this Council on 15 February 1989, it is provided that with effect from 1 July this year a notice in Chinese, English and Japanese must be displayed in taxis informing passengers that under our laws it was compulsory for front seat passengers to wear a safety seat belt. Members have considered this provision very carefully and it is felt that we may give the wrong message if our laws were to direct that such a simple matter warranted a legal notice in a language other than Chinese and English. Our Japanese visitors may not appreciate being singled out -- whilst the Americans might once again accuse us of getting emotional by insisting that they "belt up" without the courtesy of being asked to do so in their own language. Sir, with these remarks, I beg to move the amendment standing in my name.

Question proposed, put and agreed to.

3.56 pm

HIS EXCELLENCY THE PRESIDENT: We have a motion for the adjournment. So Members might appreciate a short break at this moment.

4.16 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

4.16 pm

Adjournment

ATTORNEY GENERAL: I move that this Council do now adjourn.

HIS EXCELLENCY THE PRESIDENT: Twelve Members have given notice of their wish to speak in the debate, so I propose to exercise my discretion under Standing Orders to allow Members up to 60 minutes to complete their speeches before officials reply. And similarly, I will extend the period for officials to reply to 20 minutes.

Medical and health services in public sector hospitals

DR. LEONG: Sir, I rise to lead the debate on "Medical and Health Services in Public Sector Hospitals". Were this a motion debate, I would have moved that the motion be "that the public hospital system victimizes the patients and the staff". It is still on this theme, Sir, that I shall base my text today.

I must declare my interest as I am a medical doctor by trade. Yet I am addressing this problem not as a doctor, but rather as one who has been a victim having worked in this system, and has witnessed repeatedly patients being victimized by the system.

Let us first look at the present abysmally horrifying hospital environment that our patients have to endure.

I was once told that public hospitals are always built with wide corridors. I can see the reasoning, for it is obviously the wisdom and the foresight of the Administration that spaces are needed to accommodate camp-beds. The detested state of congestion is not only extremely uncomfortable to the sick, conducive to spreading infection, but also stifles staff morale. Ironically, Hong Kong boasts some 4.5 hospital beds per 1 000 population -- a ratio that many countries look forward to matching.

It is bad enough to be sick, it is worse to be poor and be sick, it is unbearable if one is poor and sick and has to be turned away after hours of waiting at a government clinic -- only to be told that the day's quota had been filled! Unfortunately, if one is poor and sick, one has no alternative but to rely on the services provided under the government cheap health scheme. It is inconceivable in a progressive society as ours that it is a very common phenomenon for the sick to wait some nine months to one year to get an appointment for a specialist consultation.

Hong Kong boasts to be one of the major financial centres, to have the world's largest container terminal, to have one of the most efficient telecommunication services; yet our major hospitals do not even have a 24-hour pharmacy service.

I could go on indefinitely with similar examples that Hong Kong regrets to have experienced. Time, however, does not allow me to dwell on except to say that these are but just some of the symptoms of an ailing medical and health system which deserves a complete overhaul!

Sir, let me put it to you that our patients are our consumers of the medical and health system. Their misfortune with the public hospitals reflects the lack of proper management of our existing medical and health delivery services.

Hong Kong has accumulated a total reserve in revenue of over \$14 billion for 1988, but there is actually a decrease from 9.3% to 8.7% of the total budget spent on medical and health services for the year to come. Yet within this period, there are expanding medical projects! Is the Administration really sincere in its commitment to improve the medical and health services? Or are the administrators insensitive to the needs of the needy as they themselves belong to the privileged few who get special treatments in the government hospitals?

If the patients in government hospitals are treated badly, those in the subvented hospitals are even worse. With the same heavy workload on patient care, subvented hospitals are afforded a much lower running sum per hospital bed whilst their staff are entitled to much reduced staff benefits. They seem like the discarded son or of the government medical and health system.

Let me turn, Sir, to the plight of the public doctors and nurses. It is an unprecedented move that the doctors decided to pursue graded industrial action in protest of their salaries, fringe benefits and poor working environment. Let me

assure you, Sir, that their decision is in no way a knee-jerk action, but rather an explosion under years of frustrations and years of neglect. The warning signs have always been there for all to see, but have simply been ignored by those in charge. The condition deteriorates, but treatment, though asked for, has never been forthcoming. Now that there is a crisis, those responsible are not around and their poor successors are left to hold the hot potatoes that they do not know what to do with!

Sir, let me quote a few examples that illustrate the frustrations of the public doctors (government and subvented alike), and perhaps offer some thoughts on improvement:

#### Excessively long hours of work

It is no surprise to see a public doctor doing a 70 to 80-hour week job. Whilst it is within the Hippocratic Oath that the medical profession should do its utmost for the benefit of the sick, the physical and mental strain on human stamina also has to be considered. What sort of performance could one expect from the doctor who is completely exhausted after spending 36 hours of continuous struggle! What kind of care and devotion can one expect of him? At the end, the patients suffer indirectly through the inefficient system.

#### Unreasonable salary structure

Monetary returns for the staff is a major bone of contention, though not the only area. The doctors and nurses have made repeated requests for a separate pay scale but were denied; yet their counterparts in the legal and security departments were given such flexibility. The extremely long hours of work and the risks that they are exposed to have never been recognized. The meagre offer of overtime allowance and some increase in senior posts could only be taken as an interim measure to improve staff benefits, while sincere considerations must be taken by the Administration for an independent pay scale and across-the-board professional allowances.

All too often, the Administration is trying to shirk its responsibility to the future Hospital Authority. This will not do; positive action must be taken now! Whatever shred of confidence that the staff have in the Administration will only be lost by hiding behind the skirt of the "not yet materialized" Hospital Authority!

## Poor job satisfaction

The government doctors, I am sure, are willing to put up with a lot more including lower financial returns if they can feel job satisfaction and better working environment. But, alas, job satisfaction is difficult to come by, for with the present system, they bear the brunt of the Government's lack of a workable medical care policy. Repeated requests for improvement of working environment such as office space, better call room and availability of clerical help have been met with deaf ears!

## The lack of proper management

All is still not lost if the doctors feel that things will and can improve in the future. Unfortunately, the lack of management expertise in hospitals makes it a mockery for improvement. Furthermore, any suggestion for re-organization or improvement is taken as rocking the boat. Criticism is never welcome!

## The absence of communication between staff and the administration

Frustrations of staff are never sympathized with by senior officials. There is no channel for medical officers to air their grievances to the senior administrators. Safely ensconced in the headquarters they are removed from the mess of the hospitals. Grievances from junior staff, doctors and nurses alike, have to be swallowed by themselves. Those who dare to criticize run the risks of unpopular posting or being barred from promotion.

Sir, their frustrations have reached a crescendo. Graded industrial action, as I see it, is only one facet of their expression of disgust. Perhaps more important is the stream of wastage of staff into the private sector. In the case of doctors, this has reached a critical situation. Most of the losses are from senior staff. Urgent moves must be made by the Administration to curb this wastage which, given time, will undermine the quality of medical care to our community. The loss of expertise through wastage of well trained staff will never be replaceable with employment from overseas as some may have suggested.

Sir, it is a wonder that, with all these, Hong Kong's medical and health system can still boast the lowest infant mortality rate, the absence of epidemics for years and an increasing average life expectancy. All these are due to the extreme devotion

and dedication of frontline workers. But unfortunately, such devotion is dwindling and we are skating on thin ice -- the frontline workers' endurance should never be over-exploited!

In conclusion, Sir, it is my most sincere hope that the Administration come out of the cocoon and wake up from hibernation. We have new men, young and energetic, in the related branches and departments. I am sure the medical and health profession would be more than willing to work with them to uphold our splendour in the delivery of health services to this community that we treasure!

DR. IP: Sir, in the past seven years in the Legislative Council I have publicly identified many chronic problems within the Medical and Health Department, such as bad working conditions in hospitals, too low a staff to patient ratio, low morale among the medical and paramedical staff, the lack of adequate clerical support, a hopeless medical record system and an unfair distribution of resources between government and subvented hospitals, among others.

I have fought hard in the Legislative Council, in the Steering Committee to Review the Delivery of Hospital Service, in the Finance Committee and at times lobbied my Executive Council colleagues for support, to push for a review of the clinics concurrently with that of the hospitals. But the problems I have identified were either vehemently denied, played down or ignored.

Fortunately now, I no longer have to stand up to give lengthy 45-minute speeches alone because dozens of my colleagues will speak on these problems today, echoed in the press by the medical and the paramedical workers. I agree with everything my colleague Dr. LEONG Che-hung said in his speech. That is probably the reason why both of us who have worked long hours together in the public hospital and failed to improve the situation from within had left to try now to improve the system from without.

I am only sad that it has required a strike before Government admits and remedies the problems. But I am glad all these have at long last come up into the open in a big way. Everybody believes in ; failing that, it is better late than never! My only regret is: why has it taken so many years before doctors and nurses come out in the open to fight to improve services for their patients? Where have they been all these years?

In retrospect it seems that Government had either trusted and appointed a previous incompetent Director of Medical and Health Services, listened to the wrong advisers, played down the importance of a good medical and health service in relation to other services, or a combination of these three.

Furthermore, it seems that the inability to identify problems within a professional department will continue, if the advice on the appointment of senior officials and members of the overseeing advisory committee continues to come from the same professional department.

Alas for once, I do believe that Government has taken the problems on board squarely and is sincere in tackling them. Whether they would really succeed depends very much on the allocation of the budget which is now under study. I will and urge the medical and paramedical staff also to, be patient as these efforts will take time. More importantly, I urge for their valuable co-operation. A personal tip . . . . . they ought to have no fear that their plight will be forgotten if their industrial action is called off. They have already won the overwhelming support of Members of this Council, as demonstrated by the number of colleagues speaking today.

I will finish off by warning Government, yet, again against:

- (a) splitting the medical and health services, as they are inseparable;
- (b) downgrading the posts of the Director of Hospital Services and the Director of Health if such a split is inevitable; and lastly,
- (c) the very possibility that improving the medical and health services in accordance with the wishes of the people and modern standards under the existing framework of low fee charges without a concurrent development of medical insurance will in 10 years put a strain on the economy of Hong Kong.

If such advice is again ignored, the problem in medical and health services in 10 years' time will be far greater than it is today! I can assure you that! The future shall again speak for itself.



MR. MARTIN LEE: Sir, I propose to contribute to this debate from the consumer's point of view. But before I begin, I wish to disclose to this Council that I am one of the honorary legal advisers of the Hong Kong Medical Association and a member of the Board of Governors of Our Lady of Maryknoll Hospital, a subvented hospital.

Sir, the first thing I wish to say is that the doctors and nurses are not irresponsible in taking industrial action in the way they do, particularly bearing in mind the very limited scope of their action and the very reasonable demands they are making. And I do not subscribe to the view that since the grievances raised by the doctors and nurses are more than 10 years old, they should patiently wait for another year or so for the Hospital Authority to come up with its proposals for reform. For if one were to apply this chop logic to a hospital, it would mean that a patient who has been suffering from pain for 10 hours should not be given immediate attention because he can probably bear it for another hour or so.

Sir, the Government Doctors' Association (GDA) has outlined six pressing problems in their letter dated 30 January 1989 to the chairman of the OMELCO Health Services Panel, relating to poor out-patient services, shortage in the supply of linens, acute shortage of hospital beds, lack of air-conditioning in hospital wards, failure to provide a 24-hour pharmacy service in government hospitals other than regional hospitals, and wasting doctors' time by requiring them to do clerical work. Not only are all these criticisms fair and valid, but the GDA has also proposed clear and simple solutions to these problems. Sir, I really fail to see why these problems are still with us.

Sir, for all these years, the Government's philosophy in public health care has been to provide the minimal service at the minimal cost. And as the public have grown up with the system, they have accepted it as charity bestowed upon them by their Government.

Sir, I insist that this philosophy must now be rejected. For this is the age of consumer rights and Hong Kong has developed into a stage when its people are entitled to have the quality of their life improved. It is therefore the Government's undoubted duty to provide a public health service commensurate with the needs of the modern society and to acknowledge that all patients have certain basic rights. And these include the right to prompt treatment, the right to considerate and respectful care, the right to privacy, the right to information and to make a decision in the light of such information, and the right to complain.

Sir, but what rights do our government doctors and nurses have? Do they not have the right to insist that all their patients be treated with proper care and respect, and that they be given time to ask questions, to listen and to console? Or are they only to dispense medical care like a machine at the rate of three minutes per head, and hope that somehow they have made the right diagnosis and given the right prescription?

Sir, I accept that it may be necessary to overhaul the whole structure of government hospitals, and that the Hospital Authority needs time to do so. I also accept that the present Secretary for Health and Welfare has been instrumental in bringing about some improvements. But there is no good reason why the Government does not immediately put right the six pressing problems referred to above.

Finally, I wish to thank the government doctors and nurses for having drawn the public's attention to these problems and I salute them for having done so much for their patients under such trying circumstances and for still remaining in government service. And although regrettably the Consumer Council cannot give its support because it has no jurisdiction over services provided by the Government under the Consumer Council Ordinance, let me assure the government doctors and nurses that they have my fullest support as a Member of this Council.

MR. SZETO (in Cantonese): Sir, the provision of medical services is to ensure the good health of the public. It is a responsibility which falls squarely on the Administration. For many years the failure of the Administration in fully discharging this responsibility and in rectifying the defects and inadequacies in order to improve the services has been a recurrent subject for question by this Council and has been variously criticized, deplored and complained of by professional people and the public. Last September government doctors delivered an ultimatum and demanded that the Administration boost manpower in its medical and health care sector, improve conditions of service and curb wastage. They emphasized that the situation had become too critical to brook any further delay.

Confronted with this strong and pressing call, what was the attitude the Administration adopted? It resorted to its own brand of industrial action -- go-slow. Thus it was the Administration who first took industrial action by going slow and

responding to the doctors' urgent plea with the lethargic speed of a snail.

Early March, six months after the delivery of the ultimatum, government doctors resorted to industrial action but without affecting the well-being of the citizens. And today, government nursing staff also launched a similar action, while medical personnel of certain subvented organizations also warned of following suit.

The prime objective of the industrial action by the government medical staff is to seek to bring about improvement to medical services provided to the public. Improvement to their conditions of service will mean improvement of medical services. At the present stage, whatever action our medical staff are taking, they still have the interests of the public foremost on their mind. It follows that the action and interests of the medical staff and the interests and expectations of the public do converge.

Any objection by the most bigoted and inveterate opposer to industrial action of any kind should first be directed against the Administration's industrial action in going slow on introducing improvements to medical services.

What appears to be even more inconceivable is that, given the gravity of the situation today, the Administration still persists in rejecting a well-meant proposal of taking in a third party for mediation. Could this rejection have arisen from fear that the mediation process would expose the Administration's unfairness and incompetence? I hope the Administration will turn away from this "autistic" attitude in order to bring about a smooth, speedy and reasonable settlement.

Sir, with these remarks, I pledge my support to the industrial action taken by the government medical staff. I would also be glad to dedicate my utmost efforts to the mediation of this dispute.

MR. TAI : Sir, during the period from the '60s to '80s Hong Kong has succeeded in making very great improvement in the general living standard of its residents. We have witnessed very significant progress in the provision of housing, education, social welfare service as well as medical services for our citizens. These services have become more efficient during the past decade. During the mid-'80s, we have made most impressive economic progress resulting in consecutive large budget surpluses. In area of medical services, we have succeeded in providing higher minimum standard to meet the ever increasing demand of our citizens. In some aspects, our medical

services are better organized to maximize our staff resources. But in other areas little has been done to improve the actual quality of services provided.

During the past years, we have annual increment in our budgetary allocation for medical and health services in the region of 8% to 9%. However, this increase in our resources has largely been swallowed up by inflation and increasing demand for additional services. Matters such as overcrowding in our regional public hospitals, inadequate staff, equipment support and long patient waiting time and, in particular, the quality of primary health care are constant sources of complaint. Steps have been taken by the Administration in the formation of a hospital authority in order to increase flexibility and to improve efficiency in the performance of our medical services. The provisional authority has now been set up to do all the preparation work for the formation of the Hospital Authority and I must say that improvement in terms of efficiency and flexibility will take time to work its way through.

The establishment of a hospital authority will not resolve the fundamental problem facing the health service which is largely a question of funding. Perhaps it is time we again examine the policy towards the delivery of health service including primary health care. Are we going to continue to have a heavily subsidized service? What priority do we give to improve the present quality of service significantly? What are our long-term financial commitment from general revenue if we really give priority to improve the quality of service and the sources of funding? In Hong Kong, we have a low tax system and the medical service offered is non-means-tested and heavily subsidized. Apart from one or two areas where we can expect the Medical and Health Department to improve efficiency or in redeployment of their staff to where it is more urgently needed, little can be demanded from the department, because they are also restricted by the annual budgetary allocation granted to them. As far as I can see, the same difficulties will be faced by the future Hospital Authority in providing all the medical services really needed.

Despite the fact that we have approximately 9% increase in our budgetary allocation for the hospital services this year, with the current rate of inflation, increase in wages, cost of medical equipment and medicine, little improvement in quality can be expected. So far I have to say with the opening of some of our new regional hospitals this will significantly lessen the overcrowding in some of our existing hospitals. But with the increasing movement of our population, a saturation in demand will soon be met. The recent incident of work to rule by our medical staff in the public health sector is an example of breakdown in morale over years of

discontent, overworking environment and the frustration created in view of the heavy demand of medical services. Hospital administration, especially those in the subvented sector, has to cope with whatever funding allotted to them despite the fact that the original estimate submitted is severely cut down. I do not think the Medical and Health Department is not aware of the problems facing the medical sector. Perhaps some of the problems have existed over the years, such as manpower, additional equipment and ancillary facilities.

The Medical and Health Services Department has failed to persuade the Finance Branch to deal with the problem positively in respect of allocation of funds in time to defuse the anxiety of our medical staff resulting in lack of trust between the medical staff and the department. With the increasing affluence of Hong Kong, our citizens expect better quality of health service.

During the past year, we have the problems of emigration. One of the greatest attraction for our outflow of talent is that several host countries have a better social welfare system in terms of medical facilities and education. They can provide a greater sense of security for their nationals. The provision of medical and health care is a very expensive service. It requires huge financial commitment. In view of our present tax base, our taxation system and the ever increasing need in other areas of services now provided by the Government such as housing and education, it is doubtful whether we can show such huge financial commitment for the long term. One option that can be looked at is to increase charges for patients, but the return would be comparatively insignificant in terms of the overall expenses. Overall hospital services in Hong Kong are more than 90% subsidized. A hefty increase in charges would face stiff political opposition, create severe hardship for the poor and the needy and would be hardly justified in view of our present economic condition.

If Hong Kong is to be prosperous, it must also offer a sense of security to its citizens. If the Financial Secretary is considering changing and diverting our tax system from direct taxation to indirect taxes such as sales tax, could he not look into the possibility of a national insurance scheme which would provide us with a fair and long-term financial contributory system? Such a scheme would provide us with the fund to expand and improve our health service. After all, we are spending about \$5.5 billion yearly on our health service.

MR. TAM (in Cantonese): It is an indisputable fact that the existing services in

public sector hospitals in Hong Kong are deteriorating. Who should be held responsible for the decline in standard in medical services? I wish to spend the next four minutes examining the problem.

When members of the public receive treatment at the out-patient clinics or when they are hospitalized in public sector hospitals, it is the doctors, nurses and other medical and nursing staff who provide them with the service. But when dissatisfaction over medical services develops, the doctors and nursing staff become the ones to blame. I am of the view that the majority of medical staff who work at the front line have served the public silently. They have been under heavy work pressure and have been suffering from adverse working conditions over a very long period of time, yet they have tried their best to maintain medical services at satisfactory level. I believe that the medical staff resort to the present action because they have no alternative under the existing unbearable situation.

The Government should take heed of the doctors' and the nurses' reasonable demands and step up efforts in improving the working environment and ward facilities in public sector hospitals, because their demands, which can be met by the resources of the government department concerned, are meant for enhancing the service level of public sector hospitals.

According to the medical staff, the crux of the problem in public sector hospitals lies in Government's continued oversight in improving the organization and the management structure of these hospitals. Why is it that no improvement has been made in this field? The Administration may point out that the setting up of the Provisional Hospital Authority and the splitting up of the Medical and Health Department both aim at improving the organization and the management system of our medical and health services. However, I am particularly concerned about the inadequacy in the consultation process in formulating government policies.

The setting up of the Provisional Hospital Authority and the urgent implementation of the proposed splitting of the Medical and Health Department into two departments on 1 April this year will affect the interests of a large number of medical staff in many ways. Yet the relevant department is not sincere enough in seeking the views of its staff. To steamroll the proposals will make the staff side even more perplexed and uneasy about their future career, thus severely dampening their morale. How can we expect the restructuring programme to win the understanding and support of the medical staff if there is a lack of representation from the staff side, particularly when sufficient information and adequate communication are also

lacking? If such a situation persists, I am worried whether any reform can be effective.

As the Chinese saying goes: "The person whose tongue has failed him will not be able to express his discomfort even if the medicine is extremely bitter". The medical and nursing staff have endured their untold sufferings for a long time. Today they no longer remain quiet. They have put forward their reasonable demands to the Government. I take the view that the Government should improve our medical services as soon as possible for the benefit of the general public.

MR. CHOW (in Cantonese): Sir, several days ago, members of the OMELCO Standing Panel on Health Services, including myself, met representatives of the Government Doctors' Association who petitioned the OMELCO. We also received the representation on improving medical service from the Association of Government Nursing Service. On both occasions, a host of problems existing in government hospitals were raised, including insufficient provision of hospital beds, clothings and beddings for patients, incomplete record of patients, inadequate in-service training and absence of round-the-clock dispensary service. My immediate feeling was that all those problems presented were exactly what I had raised for the attention of the Government a decade ago when I was in the labour union concerned. Why have such problems remained unsolved after a lapse of 10 years?

A decade ago, government nurses first made their clamorous demand, urging the Government to improve medical services and not to leave the patients in rags anymore! Today, even doctors join in the vociferous demand for rectifying the deficiency in the medical services.

Take for instance the system of keeping patient records. It is learnt that even the most recently completed Tuen Mun Hospital will not be equipped with computer devices despite the prolonged talk over the years about the need to improve the service. Thus the chain effect in the industrial action of medical and care workers is understandable.

Compared with the Western countries, Hong Kong's expenditure on medical service has always been surprisingly low, so much so that even private medical expenses account for less than 2% of GDP. In Western countries such as the United Kingdom, the United States, Switzerland and South East Asian countries like Japan, the corresponding figure amounts to an average of 5.9% - 10.6% of GDP.

Does it mean that the above countries are extravagant in medical expenses, or the Hong Kong people are exceptionally healthy and strong by nature? As most of our medical equipment and medicine are imported, the cost is not cheap at all. As far as Hong Kong's medical service is concerned, there is little "input" and yet a fairly satisfactory "output". The only explanation that can be given for this phenomenon is that there is exploitation in the course of the operation of the service. Such exploitation includes inadequate medical facilities and hospital beds, the lack of in-service training for medical workers and the incessant increase in workload. The frontline nurses, in particular, have been praised as the "doing all" medical staff. For instance, nurses have to assume part of a dispenser's job after 5 pm as the service is not provided on a 24-hour basis.

Most regrettably, at yesterday's meeting (7 March) between the OMELCO panel and the Administration, I felt most disappointed at not seeing any concrete plan or action proposed by the Government to improve the situation. Yesterday's discussion on inadequate nursing staff and the unfairness of the nurses to patients ratio seemed to have reflected the Government's "juggling with figures" approach as often alleged by the public. They might have forgotten that I have worked in government hospitals for more than 10 years. The way one of the representatives of the Medical and Health Department spoke showed that he still regarded me as a layman knowing very little of the medical and care field. At the moment, I can hardly think of any words to describe his attitude. Perhaps, a Chinese allegorical saying "Chinese herbal medicine" can be aptly used in this case, for it carries the meaning of -- "blat whatever comes off"!

Sir, I often hear people from different walks of life say "the workload and pressure of nurses are unfairly great. They have our greatest sympathy!". I hope these sympathetic feelings will be turned into action in support of nurses.

Had yesterday's meeting been held earlier than the mass assembly of government nurses the night before, I would have felt even more regretful for not being able to join in the capacity of a government nurse now in their industrial action to promote patients' welfare.

Sir, it is time for the Government to pledge sincerity and take concrete action to effect improvements! It may be a bit too late to mend. But still it is better to do something than turn a blind eye to it.



MRS. FONG: I will not be commenting directly on medical and health services in public hospitals, but rather, I will focus on the industrial action that is being undertaken by government doctors in public hospitals from 1 March. As from today, the nurses have started their industrial action.

We all have frustrations, some big, some small, and from time to time. But, is resorting to industrial action to force the Government to concede to one's demands the right attitude and approach?

Hong Kong's reputation is largely and justifiably based on the hard work and resourcefulness of its workforce. We are all proud of that reputation. Actions such as strikes, industrial actions, and work to rule will undermine Hong Kong's reputation. If Hong Kong's projected image is that our labour force has become prone to taking industrial action, investors might well choose to invest elsewhere. The damage caused to Hong Kong could be severe. It is with this thought of the well-being of our territory that I must urge government doctors and nurses to cease their industrial action.

I acknowledge that there are many things that need to be looked at in our medical system, and that the government doctors are confronted by genuine problems, and have legitimate complaints. But solutions take time. The refusal to sign discharge forms, to teach student nurses, to attend medical board meetings, and to write certain medical reports are not the solution. The claim that this industrial action will not harm the interests of patients cannot be true. It may be true on the surface, but the frustrations, and other side effects that derive from these apparently risk free measures will, in all probability, endanger lives and inevitably cause great inconvenience and be a disservice to the public.

Government doctors and nurses and the Administration must resume negotiations. In the interim, I appeal to government doctors and nurses, as dedicated health professionals, and as educated members of the public, to stop their industrial action. Their voices have been heard, and their actions have spoken even louder. It is time now to show their real strengths and to fulfil their responsibilities to the public. The negotiators must make serious efforts to reconcile their wishes with those which can in fact be achieved in practice. I do believe that this form of continuous confrontation is not going to cause problems to be settled more quickly. But I do know that, if it continues, it will have a very rapid negative effect on Hong Kong.

These are very difficult times in Hong Kong for most sectors, the government medical sector included, because of the brain drain and the general labour shortage. This is not the time for strike and industrial action. Instead, it is a time for working together to overcome the problems. We must all pull together and co-operate, for as they say, "a house divided cannot stand". Therefore, I appeal to those who feel frustrated for more understanding for the good of Hong Kong.

MR. TIEN: Sir, our medical services are under severe pressure at this time. Conditions in our hospitals, both government and subvented, are inadequate.

Nevertheless we should not be intimidated by threats of so-called industrial action (perhaps even strike action). We are in effect not talking about medical questions but about medical policy.

While on medical questions medical people are the professionals, on high policy questions they may be rather too self-interested for their own financial benefits.

While the Provisional Hospital Authority is currently studying these questions, Government's temporary solution involves the creation of 74 senior posts and 32 consultant posts to tackle the question of career structure, and envisages a further 5 000 beds in four years with additional support staff.

In my view, industrial action now will only make our problems worse. This is no policy, it is the negation of policy. Such trade union tactics can only be counter-productive and are contrary to the spirit of the Hippocratic Oath.

Given the seriousness of the shortage of doctors, let me suggest several possible remedies. Firstly, we need to train more doctors from our universities over and above the 290 produced annually now. After all, without taking the wastage factor into consideration, we shall need up to a thousand more doctors to attend to the extra 5 000 beds due by 1992.

Secondly, if in the near future such expansion is not possible in our universities we should consider "buying places" at overseas university medical schools. Subject to adequate safeguards we could, with loans, grants and contracts, send young people overseas for training as doctors, on condition that they return to Hong Kong on the completion of their studies.

Thirdly, we should immediately recruit several hundred doctors from overseas countries; either from the Commonwealth or other advanced countries like the United States. This measure must help to reduce the burden on our overworked doctors and lead to much better patient care.

Fourthly, we should create enhanced opportunities for post-graduate study, to allow our own doctors to ensure that their knowledge and skills are kept up-to-date.

And lastly, we should mount a determined media campaign to attract girls into the nursing profession, rather than them taking up employment in other more glamorous sectors.

These suggestions which I have made will naturally call for additional expenditure for our medical services. I shall support any suitable steps which are necessary to make improvements in this area at this time.

Finally, the Hospital Authority will be established next year. I am confident that it will come up with recommendations for the benefit of Hong Kong's overall long-term medical development.

MR. DAVID CHEUNG: Sir, I rise to speak as a concerned citizen and Member of this Council.

Based on my experience in dealing with Government in my capacity as a principal of a school in the aided sector, I must say that it has always been most difficult, if not impossible, to get the Government to improve on things because Government is a huge bureaucracy with impenetrable layers. One has to talk and talk, then shout and shout, then fight and fight before one gets somewhere. Frustratingly enough, sometimes one gets nowhere. Having said that, I must admit in a more comforting fashion that things have somewhat improved in the past several years.

The rather dreadful situation in our public sector medical services is, in my view, a shining example of the bureaucracy allowing the situation to deteriorate, unmindful of the possibility that, like a time bomb, it will one day explode. In my view, the gravity of the situation sufficiently warrants the immediate appointment of a special and high-powered task force to look at the problems quickly and find

ways to solve them efficiently as the negotiation between the medical personnel and the Medical and Health Department does not seem to get anywhere. The task force should be composed of high level government officials representing the Administration, professional medical personnel chosen by the doctors and nurses themselves as their rightful representatives and a third element of non-civil servants and non-medical personnel with experience in administrative work, finance and labour relations. The third element will ensure greater objectivity and serve as a means of check and balance and arbitration. The chairman should be from the third element. The task force should in three months' time come up with a comprehensive long-term package for improvement, with adequate funding on the part of Government not only for medical personnel but also for the patients.

To the medical personnel who are taking or are about to take industrial action, I urge them to be patient for a little bit longer. Our unusually large population exerts constant strains on the limited resources. Camp-beds in hospitals, I believe, are there not because anyone likes to have them that way. They are there to meet a need which, even with the best of planning, cannot be wholly met. Where can most people go to if public hospitals turn them away, particularly those who are less well-off? Industrial actions will in one way or another affect the qualities of service to patients. Whatever the claim may be, this, I am sure, is not what our medical personnel intend to have. For the sake of those people who are unfortunate enough to be sick, I urge our medical personnel to stop their industrial action. The public have always respected doctors and nurses. Let us keep this respect untarnished, and not forget that all of us have the responsibility for the welfare of the patients. Let us work towards the solution of this problem rationally and peacefully without further ado.

On the other hand, Government must not procrastinate. It must act now.

MR. MICHAEL CHENG (in Cantonese): Sir, I wish to comment on the present medical and health services in public sector hospitals from the view point of a citizen.

The quality of service in public sector hospitals has long been under criticism. Little has been done to improve the many undesirable conditions, such as unduly long waiting time for out-patient service and dispensary service, the absence of patients' records, inadequate supply of hospital linens, insufficient provision of hospital beds and the use of camp beds, in the last 10 years.

After more than 60 meetings with the medical staff, the Government has not yet been able to raise the standard of patient care services, giving us the impression that the Government lacks sincerity in improving the quality of medical service and is sticking to its undesirable practice of following the old routine.

To address the above problems, I have the following proposals in respect of the basic medical services in public sector hospitals:

- (1) the procedures for obtaining out-patient service and the appointment system for specialist service should be streamlined;
- (2) a centralized computer system for keeping patients' records should be introduced;
- (3) a 24-hour dispensary service should be provided;
- (4) more hospital linens such as bed sheets, bedding, clothes for patients and doctors' gowns should be procured and provided and the ventilation system should be improved with the provision of more air-conditioning facilities to reduce the risk of cross infection;
- (5) the construction of hospitals should be stepped up and more beds should be provided by making use of existing resources;
- (6) the recruitment of additional clerical staff should be expedited to relieve the doctors of their clerical work.

In addition, the shortage of doctors is also a pressing problem that needs to be dealt with immediately. Four new public sector hospitals will have been completed by 1991-92. The number of additional beds provided by these hospitals will be around 5 000. The existing strength of only 1 700 government doctors is 18% short of the target suggested by the Medical Development Advisory Committee. The wastage rate last year was as high as 10%. Taking account of these facts, the number of government doctors is expected to fall short of demand in the next few years. The long-term solution to this shortage should rest on the active promotion of medical training by increasing the number of places in medical degree course in the universities. As a contingent measure, non-Commonwealth qualified doctors who are up to a specified standard should be employed to cope with the pressing demand for medical service.

If the Government is contemplating pay increases or better promotion prospects as means to retain talents, it should also take into account all other grades with high wastage rate, such as analysts/programmers, court interpreters, social workers, teachers, engineers and disciplined services staff, as well as its overall effect on government expenditure. Any industrial action will affect the community to a certain extent. Since the government medical staff are fully aware of the defects and inadequacies of the present medical system, they should try to co-operate with the Administration with a view to finding a solution to this problem. Instead, they have now resorted to industrial action and even planned to take stronger action. This will only make the situation worse and may even lead to social unrest. After all, it is the general public who will suffer the most. Meanwhile, I would like to appeal to the medical staff to give the matter a second thought and, for the benefit of the general public, put the interest of the community before individual gains.

Sir, these are my remarks.

MR. POON CHI-FAI (in Cantonese): Sir, medical services have long been a chronic problem in Hong Kong. Over the years, the public has frequently expressed strong feelings against the problem through the media and various channels. Nevertheless, the Administration has never come up with any thorough solution. The issue has not only caused great dissatisfaction among the general public, it has now triggered off industrial action from the medical staff. Before the situation deteriorates, the Government should seek a solution to the problem as soon as possible. The reasonable demands and the constructive proposals put forth by the medical staff should also be implemented quickly.

All along, the Administration has been unfavourably known for its delay and low efficiency in improving our medical services. This is contrary to the highly efficient Civil Service we are so proud of. On the other hand, the Administration has been swift in dealing with the Vietnamese refugee problem and meticulous in taking care of them. The Administration even goes to the extent of sacrificing the welfare of the local people by deploying nurses to work in refugee camps while we are already facing an acute shortage of nursing staff. The taxpayers' money has also been wasted in refurbishing the old Hung Hom Police Station at the first instance even before the news of another influx of Vietnamese refugees was confirmed, and the refurbished premises were deserted afterwards. Sir, if such high efficiency is applied to making

improvements on our medical services, I am sure there would not be such discontent among the public and the nursing staff.

Sir, the qualification and nature of jobs of medical staff in subvented hospitals are similar to those of their counterparts in government hospitals but salaries and conditions of service between the two are poles apart. Consequently, subvented hospitals not only experience difficulties in recruitment, they have to overcome a high wastage rate as well. The recent announcement made by the Administration to create more posts with better promotion prospect for government medical staff can be seen as a good start to solving the problem. However, not a word was mentioned about a similar offer for better promotion prospect or the creation of posts by the same ratio in the subvented sector. As the saying goes that "It is human nature to aspire for better jobs", medical staff in subvented hospitals will quit or switch to government hospitals when they find their welfare benefits are relatively unfavourable and their promotion prospects are uncertain. Subvented hospitals will then be in greater distress. Therefore, the Administration should, before the worries of the medical staff in the subvented sector deepen, level out the unequal elements between staff in government and subvented hospitals as promptly as possible by making clarification and assurance on equal treatment to the latter, otherwise the problem may sparkle a great "fire" which can do great harm to our medical services.

Sir, in the provision of medical services, the Government should ensure that the residents of each district would be provided with the same kind of services and be charged at a common rate. Nevertheless, in terms of facilities and the allocation of funds, subvented hospitals are in a position far worse than that of the government hospitals. Some subvented hospitals have no choice but to charge their patients for certain medicines and medical examinations due to the lack of funds. United Hospital in Kwun Tong is the case in point. At present, the hospital is serving nearly 1 million people living in East Kowloon, Junk Bay, Clear Water Bay and Sai Kung and its out-patient department is handling over 240 000 cases of attendance per month. Owing to insufficient fund, the hospital has to levy charges on its patients for some dispensary items and medical check-ups. Furthermore, due to the inadequate supply of medical facilities, some patients have to be transferred to other hospitals for treatment. This may result in a deterioration of patients' condition, hence a prolonged period of recovery. Just like all others living in Hong Kong, residents in East Kowloon have to pay tax at the same rate. For the sake of equity, they should enjoy the same level of medical services and be subject to the same charges. The majority of the Kwun Tong residents belongs to the low income group living in public

housing estates or squatter areas. They only have limited income and can barely make both ends meet under the current high inflation rate. They have no other alternatives for medical services as there are no government hospitals in Kwun Tong. Thus, I have received numerous complaints against unfair provision of medical services, unaffordable medical charges and deterioration of patients' condition after transferral to other hospitals due to inadequate medical facilities. Undeniably the Administration does inform the public that those who cannot afford the expenses can apply for exemption or reduction, yet is it fair or humane to ask the patient, who is poor and sick, to run around to apply for exemption or reduction? Why does the Government not seek an early solution to redress such unreasonable situation?

Sir, I am sympathetic with the medical staff and their industrial action has my understanding. However, such action will definitely affect medical services to the public to a certain extent. I would like to ask the medical staff to have the interest of the public in mind and call off their industrial action. The Administration, on the other hand, should not ignore their demands even if industrial action has been suspended.

Sir, these are my remarks.

HIS EXCELLENCY THE PRESIDENT: I congratulate Members who have spoken so far on sticking so carefully to their self-appointed time limits. We are well within the 60 minutes.

5.12 pm

SECRETARY FOR HEALTH AND WELFARE: Sir, I am most grateful to Members for their frank comments. Time will not permit me to respond to them individually but I can assure them that I have taken careful note of their comments and suggestions. Members have dwelt at length on the problems and deficiencies we now face in the delivery of services in our public hospitals. Unfortunately, many of these problems, such as overcrowding in government hospitals, have been with us for many years. With the best will in the world, they cannot be solved overnight.

Some of these problems have recently been highlighted by medical and nursing staff of the government hospitals. Their complaints have been loud and clear. I can assure them and Members that I have heard them and that I am determined to address



them and to find solutions which are capable of being implemented in the short term. Let me give a few examples of short-term measures which I have already asked the Director of Medical and Health Services to implement --

(a) Out-patient service: "a block appointment" system is already in force in a number of out-patient clinics. It is our intention to extend this system to the other clinics in the near future. This will considerably shorten the waiting time for patients. In addition, a system for keeping patients' records will be introduced on a trial basis in a few general out-patient clinics next month. Such a system already exists in the specialist out-patient clinics.

(b) Supply of linen: action is being taken to increase the stock of hospital linen to alleviate the immediate shortages while longer-term solutions are being worked out to overcome the long-standing high-wastage and circulation difficulties.

(c) Pharmacy service in regional hospitals: as a start, the closing hour of the pharmacy in Queen Elizabeth Hospital will be extended from 5.00 pm to 10.00 pm within the next couple of weeks.

(d) Clerical and other support services for doctors: 22 additional secretarial and clerical posts will be created in the Queen Elizabeth Hospital this month and another 47 posts will be created shortly afterwards for the other three regional hospitals.

Where overcrowding is concerned, obviously one of the longer-term solutions is the provision of more hospital beds. In this regard, an additional 5 000 beds will become available in new or extended government and subvented hospitals over the next three to four years. This medium-term increase of 23% over the current number of beds should go a long way towards reducing the current overcrowding. For the more immediate future I shall make a determined effort to see if shorter-term solutions can be found to reduce some of the existing overcrowding.

Another major concern is the high wastage rate of government doctors. It is clear that the Government must provide terms and conditions of service, including promotion prospects, which are attractive enough to retain in the public service those doctors who find service in the public sector more rewarding professionally and more satisfying personally than private practice. The package of improvements in this regard that we have decided upon was announced three months ago. And here, Sir, I would disagree to the view that we have been moving at a snail's pace. I need now

only to report on the progress that has been achieved in implementing it --

(a) 74 Senior Medical Officer posts have already been created with effect from 1 March 1989, this is in addition to the original 316 posts;

(b) a proposal to provide an honorarium for doctors who consistently work unusually long hours will be considered by the Finance Committee of this Council later this afternoon;

(c) action is proceeding with the creation of 32 consultant posts, on top of the present 82 posts; the necessary approval by the Finance Committee of this Council will be sought in three batches between June and October this year.

I have today written to the Government Doctors' Association to invite them formally to send their representatives to participate in a committee which the Government has decided to set up to address the practical and staffing problems involved in the management of government hospitals. This high-level committee will be chaired by me personally and will include representatives of the Civil Service Branch, Finance Branch and the Medical and Health Department and, subject to the Government Doctors' Association's agreement, representatives of that association. It is my most sincere wish that through this direct dialogue, effective measures can be identified and introduced in the short term to alleviate some of the problems that have existed for so many years.

We are equally concerned about the high wastage of government nurses in the past two years and the recent recruitment difficulties. Our nurses are working under great pressure and the demands placed upon them are heavy indeed. To address these and other related problems, a Nursing and Allied Grades Review Committee was set up last December between the senior management of the Medical and Health Department and the nursing staff. So far the review committee has identified the need to create 205 Nursing Officer II posts and 591 Registered Nurse posts. It has also recommended increasing the starting pay of student nurses in order to attract more recruits. A package of improvements will be finalized in two months' time and, where necessary, put to the Standing Commission on Civil Service Salaries and Conditions of Service and the Finance Committee of this Council.

We have equally dedicated service from doctors in subvented hospitals. Contrary to the views expressed by several Members, it is the Government's policy to provide

similar manpower and equipment resources to government and subvented hospitals which provide similar services. Thus, resources are allocated on the basis of the type of function which each hospital performs, having particular regard to the ratio of acute to convalescent beds, irrespective of whether they are part of the government or subvented sector. It thus follows that similar treatment should be given to both sectors in respect of efforts to retain experienced doctors. Accordingly, the doctors in subvented hospitals will benefit from the honorarium, to which I referred earlier, on the same terms as their counterparts in government service, that is, subject to the approval of the Finance Committee of this Council this afternoon. Further, contrary to Mr. POON's belief, the Medical and Health Department has since January been in contact with all the subvented organizations to identify areas of service which would require more senior posts. It is expected that the exercise will be completed within the next couple of months.

Sir, it ought to be clear from what I have said already that where solutions can be found and improvements made in the short term, we are taking action. But, I repeat, there are no instant solutions to the many problems of our public hospitals. With respect to Dr. LEONG and Dr. IP, Sir, it did not require a strike or a crisis before the Government would admit that problems existed. When, in 1984, the Government engaged consultants to examine the delivery of medical services in hospitals, it did so because we were all too conscious of these problems.

The decision to establish a statutory Hospital Authority, with overall responsibility for the provision of services in all public hospitals, is a bold initiative to attack the root causes of these problems. It is not, as some critics of the decision have implied, an opportunity for the Government to "pass the buck". Nor do we contend that, overnight, it will provide the panacea to all ills. But, Sir, it is a crucial first step towards tackling those problems which we have not managed to overcome within the present framework for providing services.

Members of the Provisional Hospital Authority are working energetically and with great commitment to achieve our target of setting up the Hospital Authority in April 1990. I have no doubt that the expertise and breadth of vision which they are bringing to the task will ensure that a firm framework is established for the development of a public hospital system of which we can be truly proud in the years to come.

Sir, the problems which confront us now should not blind us to the achievements

which have been made in the provision of medical and health services to the people of Hong Kong.

These achievements owe much to the rapid expansion of the medical and health system which has ensured that a comprehensive range of services are within easy reach of the vast majority of the population. Since the publication of the 1974 Government White Paper "The Further Development of Medical and Health Services in Hong Kong", we have invested huge sums in the building of new hospitals and the extension of existing ones. The number of beds in government and subvented hospitals has increased from 14 900 to the present 22 170 and the bed to population ratio improved from 3.9 to 4.5 per thousand population over the same period.

Sir, the expansion of our hospital system, before 1974 and since, had to take place over a period during which there were several major and unexpected influxes of people, which have led Hong Kong's population to increase from 2 million in 1951 to the present 5.7 million. The most recent such influx was, of course, that which took place in the late 1970's, when several hundred thousand people entered Hong Kong in the space of a few years. Is it any wonder then that the hospital building programme has not been able to keep pace with the ever-increasing demands placed upon it?

Sir, the daunting problems which our public hospital system has had to face have certainly not come about because the Government has held back spending on our medical and health services. Expenditure on medical and health services has grown by 1 064% since 1974 when the White Paper was issued, representing an increase in real terms of 388%. It will constitute 8.9% of total government expenditure in the coming financial year. The proportion of total government expenditure allocated to medical and health services is expected to rise further to over 11% in 1992-93.

Sir, we have been conscious that the provision of medical and health services is not simply a matter of bricks and mortar. The Government has invested and will continue to invest heavily in the training of the wide range of professionals needed to staff our medical and health services.

Since the publication of the 1974 White Paper, a second medical school has opened at the Chinese University of Hong Kong, two new schools of general nursing have been commissioned at the Princess Margaret and Prince of Wales Hospitals and the training of psychiatric nurses has been expanded at Castle Peak Hospital. The Hong Kong

Polytechnic now provides course locally for the training of a wide range of paramedical staff. For the future, the recent report by the Working Party on Post-Graduate Medical Education and Training recommends the establishment of an Academy of Medicine to enable Hong Kong to become self-sufficient also in the further training of doctors to specialist level.

Sir, we have heard allegations today that patients in our public hospitals are being victimized or exploited. I do not agree with those allegations but I do believe that they must be placed in their proper context. All that we have done in the provision of public hospital services has been achieved within the context of a low tax economy, and at minimal expense to the large sector of the population which depends on heavily subsidized medical and health services. In this connection, I should point out, Sir, that any Hong Kong resident who requires hospitalization is admitted on demand to our public hospitals at the cost of only \$26 per day, when the average cost of an acute hospital bed is \$1,050 per day. There must be few places in the world where such a wide range of modern and sophisticated medical treatment is available to the bulk of the population at such low cost. While the Government remains firmly committed to a policy which ensures that no one is deprived, through lack of means, of the medical treatment he requires, we must recognize the challenges that this policy presents.

Sir, the evidence of Hong Kong's economic success and increasing prosperity is all around us. The people of Hong Kong have worked hard to achieve this prosperity and it is natural and proper that they should expect that prosperity to secure for them better standards of medical and health care.

It is also natural and proper that the dedicated and hardworking staff who man our public hospitals should seek to provide an ever improving standard of care to their patients and that they should, at times, feel frustrated at the apparent inability of the system to achieve these improvements. I can assure Dr. LEONG and other Members that the Government is indeed sincere in its efforts to meet their concerns. The coming months will prelude major changes to the way the public hospital system is managed and operated. Worries and uncertainties about the future are inevitable and entirely understandable. But we must ensure, at all cost, that standards of patient care do not suffer and that the present high level of public confidence in the quality of the public hospital system, and the professional integrity and dedication of our staff, is maintained.

CHIEF SECRETARY: Sir, I would like to speak briefly in support of the comprehensive

and positive comments by the Secretary for Health and Welfare.

When emotions are running high as they are at present amongst some hospital staff, it is important that we retain a sense of perspective about the problems that confront us. Our record of achievements in the field of health care over the period of the last two decades are considerable and Hong Kong can derive satisfaction from the fact that the standard of health of this community is very good in comparison with many developed countries: for example, our infant mortality rate is lower than that of the United Kingdom, life expectancy is longer than that in the United Kingdom and the high incidence of tuberculosis, poliomyelitis and epidemics, which were of such concern two decades ago, are no longer a worry.

As Dr. LEONG has pointed out, we owe much to the dedication of our doctors and nurses, and of course I agree, but the high priority given to our health services and the efforts of our Administration have been major factors also.

Sir, all that said, clearly more needs to be done to improve not only the quantity but more importantly the quality of our patient care. If we are to improve the quality of service we must look for a comprehensive solution to the problems in our hospitals; a solution which addresses how our hospital service should be organized and managed, how we can improve communication between staff management and, above all, how we ensure that we have highly motivated and contented hospital staff. Of course we share the concern of doctors and nurses about conditions in which they now work and the quality of patient care. But I do not believe that any reasonable persons could expect us to come up with a comprehensive solution overnight to these long term problems. A new organization and structure for the hospital service and revised conditions for staff must be a matter for the Hospital Authority.

Sir, I know that some staff believe that we are using the formation of the Hospital Authority as an excuse for delay. This is simply not true and I speak with your authority, Sir, today when I say that you and I are taking a close personal interest in the development of our hospital service and that top priority is being given by the Administration to the solving of our current problems. We are determined to tackle them urgently.

Sir, as head of the Civil Service I am concerned by the recent action taken by doctors and more recently by nurses, and I use their words, to embarrass the Administration by taking industrial action. We have a long tradition in the Civil Service of resolving our problems by careful and patient discussion. That principle

has served both sides well and in most cases has ensured that the service to the people of Hong Kong, which is after all what being a civil servant is all about, has not been affected. In our recent dealings with both doctors and nurses I believe the Administration has shown great sincerity in responding to the problems which have been raised with us. The substantial measures that the Secretary has explained today are clear evidence of our good faith. We have explained that not all the problems can be tackled in the short term and I do not think it is in any way helpful for impossible deadlines, two weeks for example, to be set by the staff side for us to come up with comprehensive solutions to problems such as overcrowding. Against this background I was surprised, to say the least, to find the OMELCO Standing Panel on Health Services reported yesterday as being in support of industrial action taken by the nurses. Industrial action should be a matter of last resort when negotiations and discussions have broken down. Clearly this is not the case. We made positive proposals to the doctors and the nurses which we expect them to consider carefully. We stand ready and willing to continue discussions with them.

Sir, the Secretary has announced a new high-powered group to take up the dialogue with doctors. Talks with the nurses will continue. In these circumstances I am sure the people of Hong Kong will expect both sides to talk over the problems and not put patients' care at risk by taking industrial action of any sort. Industrial action, however carefully devised, can have an effect upon the administration and operation of our hospital service. Instead, it is intended to do just that. Our hospitals are for the benefit of patients and no one else. Clearly, we as a community do not wish the hospital service to be put under any additional stress or strain as a result of our industrial action.

Sir, we have every admiration for our hospital staff. I have no doubt they joined their profession because they are dedicated people who above all wish to serve the community of Hong Kong. They have a fine reputation in this regard. May I therefore appeal to both doctors and nurses to consider very carefully all that has been said this afternoon, the commitment that you and I, Sir, have given to resolving their problems and, above all, their first duty to patients under care.

Next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 15 March 1989.

Adjourned accordingly at twenty-eight minutes to Six 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.