

1 HONG KONG LEGISLATIVE COUNCIL -- 21 June 1989

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 21 June 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 SIR PIERS JACOBS, K.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

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

SECRETARY FOR DISTRICT ADMINISTRATION

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, C.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, 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, O.B.E., 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 HO SAI-CHU, M.B.E., 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.

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 GEOFFREY THOMAS BARNES, C.B.E., J.P.  
SECRETARY FOR SECURITY

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

THE HONOURABLE PAUL CHENG MING-FUN

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

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

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, J.P.

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

THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.  
THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

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

THE HONOURABLE KINGSLEY SIT HO-YIN

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

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

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

THE HONOURABLE PETER WONG HONG-YUEN, J.P.

THE HONOURABLE KENNETH KWOK WAI-KAI, O.B.E., J.P.  
SECRETARY FOR LANDS AND WORKS

ABSENT

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

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

THE HONOURABLE CHUNG PUI-LAM, J.P.

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

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

THE HONOURABLE TAM YIU-CHUNG

IN ATTENDANCE

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

## Announcement by the President

HIS EXCELLENCY THE PRESIDENT: Honourable Members, since this Council last met we have been witnesses, albeit from a distance, to tragic events. These events have taken place more than a thousand miles away. But they have touched us here very closely, not just because of the immediacy of television but because Hong Kong, its people and its future are so closely bound up with China. None of us has been unaffected by what has happened.

It is time now to take stock of these events and the effect they have had on our community. It is time to face up squarely to the problems that they have brought and to draw the right conclusions for the future.

Recent tragic events in Peking and elsewhere in China have shaken confidence in Hong Kong. It could hardly be otherwise. But they have also produced a strong sense of unity in our community. One sign of this has been the consensus reached by Members of both our Councils on the shape and speed of future political development in the territory. If the position reached by OMELCO is accepted by the various political groupings in the territory, we shall have what we have long been seeking -- a wide consensus on political development to replace the divergent views of recent years. This would be a significant political development. The Government would certainly wish to reflect this desire for a more rapid process of development in planning the evolution of our political system over the next few years. Furthermore we would have achieved the common Hong Kong view which the drafters of the Basic Law have wanted to see to help them carry out their important work.

Another element in this emerging consensus is the common wish for a bill of rights or equivalent legislation to safeguard existing freedoms. The Administration is already working hard on the best option to pursue. I shall say more about this in my speech to the Council in October.

Recent events have also produced in members of the community a strong desire for greater assurances about their own personal future. Understandably so. In particular there has been a widespread demand that those holding the various forms of British Hong Kong passports should have the right of entry or the right of abode

in the United Kingdom. As Members of the Council will know, I have put these views, and put them strongly, to the Prime Minister and the Foreign Secretary. I have explained that such a move would do an immense amount of good in Hong Kong at a time when a boost to morale is badly needed. I have also explained that, in my judgement and that of all those whose advice I have sought, the number of people who would actively want to make use of their right would be very small in comparison to the number entitled. The vast majority of Hong Kong people want to stay in Hong Kong. Our objective is to find ways they can do so with as much assurance as possible about their personal futures.

You know the answer we have received -- that British Ministers believe that politically it would not be possible for Parliament to contemplate providing a right of entry or abode to such a potentially large number of people, but they are examining urgently what greater flexibility could be introduced to existing arrangements. We do not know what this review will produce. Meanwhile the two Senior Members, Dame Lydia DUNN and Mr. Allen LEE, are now in London continuing to press the case for generous provisions to cover all British passport holders and a moral commitment to all the people of Hong Kong if the worst came to the worst. They will have the support of all of us in their efforts.

Recent events have shaken confidence in the arrangements for Hong Kong's future. This is a fact which we have to recognize. We have to recognize other facts as well. History has given us the date 1997 as a point of change in Hong Kong's destiny. Our future is inextricably bound up with China. The Joint Declaration remains the best -- indeed the only -- realistic foundation stone for Hong Kong's future, a future as part of China, but a distinctive part with its own freedoms, way of life and free market economy preserved. We must continue to build on the foundation of the Joint Declaration. Work on the Basic Law is at present in suspense. Those responsible for its future work will surely recognize that the process of consultation and promulgation should be prolonged to take account of the recent enforced disruption of the original timetable. When work on the Basic Law resumes it will remain as important as ever: more so, if anything. The people of Hong Kong will want to scrutinize the draft with the greatest possible care, to ensure that it provides to the full for all the guarantees of the Hong Kong SAR's high degree of autonomy and the preservation of basic human rights provided for in the Joint Declaration.

Recent events have shaken the territory. But the way we have come through should also give us cause for comfort. Despite all the buffetings we have suffered, all

our institutions have held firm. The stock market has been badly hit. We have witnessed an inspired run on part of the banking system. But all the financial institutions -- the stock market, the futures market, the banking system and the rate of exchange -- have held firm. We have seen hundreds and thousands of people demonstrating on our streets expressing their feelings with great sincerity and dignity and without any untoward incidents. We have also seen how, even in a well ordered society like ours, a tiny minority can try to take advantage of the situation and disrupt public order. In all these events, peaceful and not so peaceful, we have seen the police behave with patience, skill and a high degree of professional conduct. We have reason to be proud of the Royal Hong Kong Police Force: proud also of the good sense of the people of Hong Kong.

The time has now come when we must move on from the sense of shock produced by recent events. To restore confidence in Hong Kong's future we look for actions from China and from Britain. But we must also, and essentially, look to ourselves. Hong Kong has suffered shocks before -- many times -- and pulled through. We must again turn our minds and devote our energies to building up Hong Kong: maintaining our economic prosperity and doing nothing to damage the stability of the territory. Whilst we should not forget what has happened in China, we must look to our own future. We have massive and far-reaching plans for the future: for developing our social programmes; for improving our environment; and for building an economy which will enable Hong Kong to survive and prosper well into the next century. The Government will be pressing ahead with these plans. I will come back to this Council in October with proposals for the next major steps forward.

Since last this Council met we have been through difficult times. We are still in difficult times. We must now work together to show the world, once again, that Hong Kong can triumph through adversity and that this remarkable place, which will always be home to the vast majority of its people, will survive and prosper through the efforts of us all. For my own part I will work untiringly to achieve this objective. I am confident that all Members of this Council will have the same common and united aim.

Papers

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

Subject

Subsidiary Legislation

L.N. No.

Census and Statistics Ordinance

Census and Statistics (1989 Pilot Census)

Order

1989.....  
157/89

Road Traffic Ordinance

Road Traffic (Registration and Licensing of Vehicles)

(Amendment) (No. 3) Regulations 1989.....

158/89

Interpretation and General Clauses Ordinance

Specification of Public

Office..... 160/89

Import and Export (General) Regulations

Import and Export (General) Regulations

(Amendment of Second Schedule) Order 1989.....

161/89

Regional Council Ordinance

Regional Council (Fees for Official Signatures  
and Miscellaneous Services) (Amendment)

By-Laws

1989.....  
162/89

Waste Disposal Ordinance

Waste Disposal Ordinance

(Commencement) Notice

1989..... 163/89

Revised Edition of the Laws Ordinance 1965

Revised Edition of the Laws (Correction of Errors) (No. 2) Order	
1989.....	164/89
Dutiable Commodities Ordinance Dutiable Commodities (Amendment) Regulations	
1989.....	165/89
Dutiable Commodities Ordinance Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) (Amendment) Regulations	
1989.....	166/89
Immigration Ordinance Immigration (Places of Detention) (Amendment) (No. 5) Order 1989.....	
167/89	
Money Lenders Ordinance Money Lenders (Amendment) Regulations	
1989.....	168/89
Motor Vehicles Insurance (Third Party Risks) Ordinance Motor Vehicles Insurance (Third Party Risks) (Amendment) Regulations	
1989.....	169/89
Immigration Ordinance Immigration (Refugee Status Review Boards) (Procedure) Regulations	
1989.....	170/89
Immigration (Amendment) Ordinance 1989	

Immigration (Amendment) Ordinance 1989 (Commencement) Notice 1989.....	171/89
Road Traffic Ordinance Road Traffic (Registration and Licensing of Vehicles) (Amendment) (No. 4) Regulations 1989.....	172/89
Immigration Ordinance Immigration (Places of Detention) (Amendment) (No. 6) Order 1989.....	173/89
Immigration Ordinance Immigration (Treatment of Detainees) (Amendment) (No. 2) Order 1989.....	174/89
Port Control (Cargo Working Areas) Ordinance Port Control (Public Cargo Working Area) (No. 2) Order 1989.....	175/89
Interpretation and General Clauses Ordinance Rectification of Errors (No. 2) Order 1989.....	176/89
Registration of Persons Ordinance Registration of Persons (Application for New Identity Cards) (No. 7) Order 1989.....	177/89
The Open Learning Institute of Hong Kong Ordinance 1989 The Open Learning Institute of Hong Kong	

Ordinance 1989 (Commencement) Notice 1989.....  
178/89

Tax Reserve Certificates (Fourth Series) Rules  
Tax Reserve Certificates  
(Rate of Interest) (No. 4) Notice  
1989..... 179/89

#### Sessional Papers 1988-89

No. 75 -- The Regional Council's Estimates of Revenue and Expenditure for 1989/90  
-- List of Capital Works Projects to be undertaken in 1989/90

No. 76 -- Hong Kong Broadcasting Authority  
1st Report

#### White Paper

White Paper : Pollution in Hong Kong -- A time to act

#### Address by Member

White Paper : Pollution in Hong Kong -- A time to act

SECRETARY FOR LANDS AND WORKS: Sir, I have the pleasure to table the White Paper on pollution this afternoon.

This White Paper is the first comprehensive statement of our objectives for tackling all forms of pollution -- waste, water, air and noise, regardless of source. It also points the way forward in enforcement, education and planning. It is a blueprint for the future and I look forward to a stimulating debate in this Council next month.

Sir, the proposals in the White Paper will lead to government expenditure of some

\$20 billion (at 1988 prices) over the next 10 years, mostly for major infrastructural projects, in particular the new sewerage systems. In addition, expenditure will be needed by those individual concerns contributing to the pollution. These costs should therefore be built into the economic viability assessments for industrial developments.

Members will also note that this is a White Paper, as against a Green Paper. We have dispensed with a Green Paper because time is of the essence on this subject matter.

Nevertheless, public comments will be very welcomed, and we will be following our normal consultative processes with industry and with the municipal councils.

Oral answers to questions

Advisory role of district boards

1. MR. LAM asked (in Cantonese): Will Government inform this Council what measures will be taken to ensure that the advisory role of district boards and their advice will be respected following the abolition of the district board constituencies of the electoral college in the Legislative Council elections in 1991?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, over the years, the 19 district boards have developed into a very important part of our system of representative government. They give valuable advice to the Government, primarily on matters pertaining to the districts, and sometimes on issues of territory-wide concern.

Government policy is that the advice given by the boards should be respected and followed wherever practicable and that sufficient resources and administrative support should be provided for the boards to enable them to perform their functions effectively and efficiently. The abolition of the district board constituencies of the electoral college in 1991 is to avoid having two parallel systems of geographical representation in the Legislative Council. This change will not, in any way, affect the advisory role of the district boards.

MR. LAM (in Cantonese): Sir, with the abolition of the district board constituencies of the electoral college in 1991 and the retention of two seats to be returned by the two municipal councils, will Government inform this Council, firstly, what plans there will be to preserve the links between district boards, the two municipal councils and the Legislative Council after 1991; and secondly, since district boards play an integral part in the system of representative government, whether Government will contemplate expanding the consultative role of district boards to enable them to tender useful advice on district policies and related matters, thereby further strengthening their advisory status?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, the arrangement to retain the two municipal councils is to preserve the links between the different tiers of government, with the district boards electing representative members to the two municipal councils and the latter in turn electing two members to sit on the Legislative Council. With regard to the second part of the question, the operation of the district boards is closely monitored by both the district officers and City and New Territories Administration Headquarters with a view to strengthening further the advisory role of the district boards. In the 1988 review of development in representative government, it was generally agreed among members of the public that district boards should continue to play an advisory role and that this role should be enhanced. The Government's policy is to maintain efforts to provide the necessary support to help develop further the advisory role of district boards.

MR. MCGREGOR: Sir, will the Government note that some of us on this Council look forward to having democratically elected members representing each and every one of the 19 districts in 1991?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, that is also the wish of the Government.

MRS. LAM (in Cantonese): Sir, part of my question has been covered by Mr. MCGREGOR. I wish to point out that there are only 10 seats returned by the electoral college to the Legislative Council while Hong Kong has a total of 19 district boards. Could Government advise that as far as direct election is concerned there will be 19 seats representing district interests instead of 10 at present?

HIS EXCELLENCY THE PRESIDENT: Your question, Mrs. LAM, goes a good way beyond the original question. I think it would be better to put that down as a separate question.

MR. POON CHI-FAI (in Cantonese): Sir, in the second paragraph of the main reply it was indicated that government policy is to respect and take into account district boards' advice wherever practicable. How many instances have there been in the past two years where it has been found practicable to respect and adopt the advice of district boards; how many instances have there been where it has been found otherwise; and what are the criteria for making such a finding?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, I am afraid I have not got the exact figures for which Mr. POON has asked, but generally speaking, a directive was issued by the Chief Secretary to all government departments and policy branches requiring them to follow the advice of the district boards whenever practicable and, in cases where the board's advice cannot be accepted, provide an explanation and suggest an alternative course of action for the board. I will try and obtain the figures and provide a written reply. (Annex I)

MR. ANDREW WONG (in Cantonese): In his reply to Mr. Daniel LAM the Secretary for District Administration indicated that the returning of Members through indirect election from the two municipal councils to the Legislative Council aims at maintaining links in the three-tier system. However the two municipal councils are regionally based. Would this not run counter to the argument in his original answer?

SECRETARY FOR DISTRICT ADMINISTRATION: In my reply, I mentioned that the arrangement is to maintain the links between the different tiers of government. There are 19 different district boards and there are two municipal councils representing the regional interests. This is the relationship.

MR. ANDREW WONG (in Cantonese): Pursuing this line of reasoning, it could be inferred that the Government in its 1988 White Paper had, though without spelling it out in

writing, already seen its way clear to this, namely, that ten or more directly elected seats will emerge from single-seat constituencies rather than multi-seat constituencies and hence the duplication. Could the Secretary confirm if such has been the Government's conception?

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, this question is rather similar to Mrs. LAM's question and I would prefer to answer it some other time.

Services provided by public bodies

2. MRS. FAN asked: In relation to public bodies, such as the Kowloon-Canton Railway Corporation (KCRC), which were initially funded by a large injection of public money and which are accordingly expected to provide essential public services at minimum reasonable cost to the consumer, how does Government ensure that such public bodies continue to give value for money in the provision of services; and will it consider authorizing the Director of Audit under section 15 of the Audit Ordinance to examine the financial practices of such bodies in the public interest?

FINANCIAL SECRETARY: Sir, when public bodies such as KCRC were established, the intention was to allow them to operate with the minimum of direct government involvement. The relevant Ordinances which apply to such bodies provide general directions and enable the Government to give specific directions. Any directions that may be given must be consistent with the deliberate intention to allow the bodies sufficient operational and financial independence to discharge their obligations.

The extent to which the Government should exercise its authority is currently under review, but there is no intention to alter the basic policy of allowing public bodies to operate according to prudent commercial principles and with the minimum of government involvement.

The accounts of both KCRC and Mass Transit Railway Corporation are subject to independent audit by certified public accountants, and there is therefore no need to require the Director of Audit to carry out this function. So far as ensuring compliance with the Ordinance and acceptable operating performance are concerned, this matter is being considered as part of the review of Government's relationship with the bodies concerned.

MRS. FAN: Sir, the Financial Secretary referred to prudent commercial principle and minimum government involvement in his answer. These are to allow the bodies sufficient independence, presumably for such bodies to offer more cost-effective services to the public without being bogged down by bureaucracy. However, does the Financial Secretary agree that these bodies do have public accountability to our community, and if he does agree, how can he ensure that this accountability is being fulfilled?

FINANCIAL SECRETARY: Yes, Sir, I do agree with Mrs. FAN that these bodies have public accountability. They are obliged to provide services that are acceptable to the public within the public's reasonable demands. As far as that accountability is concerned, the reports of most of these statutory bodies are tabled before this Council and there are opportunities to raise questions on those reports or to debate them.

MR. CHOW: Sir, will the Administration consider amending relevant legislation to enable the Director of Audit to carry out regularity audits and value for money audits on these public bodies, or will the Administration, to follow the practice of the United Kingdom, have a Monopolies and Mergers Commission to oversee these corporations?

FINANCIAL SECRETARY: Sir, I do not think a Monopolies and Mergers Commission would be the right answer at all. As far as amending the relevant legislation is concerned, that is certainly something that we would consider in the context of the review. But I would add this: the Director of Audit has a limited staff; he has certain duties in relation to government departments, and if he was to take on onerous new duties, that would have serious financial implications. But I will certainly bear these suggestions in mind.

MR. PETER WONG: Sir, would the Financial Secretary advise when he would expect this review to be completed and whether the fact that we require a review would mean that the Administration is not satisfied that those public bodies are giving value for money?

FINANCIAL SECRETARY: Taking the last part of the question first, in general terms the Administration is satisfied with the performance of these public bodies, but numerous questions have been raised in the public and we thought it was an entirely appropriate response that there should be a review. As far as the date of completion of the review is concerned, there are a number of bodies involved, and I am afraid that at this stage I cannot give any date for completion. But we are starting the task as early as possible and I know that Members are anxious to see it completed in a timely manner.

MRS. FAN: Sir, I accept that the Financial Secretary has already a review in hand. However, public perception has it that it is possible that funds are not being used in the most cost-effective way. So would the Financial Secretary be prepared to give an assurance to this Council that the final package which will eventually emerge from this review will be capable of ensuring that the savings derived from running the services at minimal reasonable cost by these public bodies are passed on to the consumer?

FINANCIAL SECRETARY: The only thing that makes me hesitate is the use of the word "minimal". Certainly I can give an assurance that the object of the review is to ensure that these public bodies do give good value for money to the public of Hong Kong.

Anti-dumping actions by the European Economic Community

3. MRS. SO asked (in Cantonese): In view of the increasing number of anti-dumping investigations conducted by the European Economic Community in relation to Hong Kong products and threats of anti-dumping duties being imposed on such products, will Government inform this Council what measures it will take to help local manufacturers to deal with this problem?

FINANCIAL SECRETARY: Sir, we have devoted a great deal of effort and resources in helping companies which have been affected by the recent spate of anti-dumping actions

by the European Economic Community (EEC), and we will continue to do so. In fact the Hong Kong Government has done far more to assist industry in this respect than other governments in similar positions elsewhere.

As soon as anti-dumping proceedings involving Hong Kong companies are announced, the Trade Department briefs the affected companies on the anti-dumping regulations and the investigation procedures, and on how best to deal with these proceedings. At the same time, the Hong Kong Government Office in Brussels will make representations to the European Commission.

The Trade Department has retained two consultants to advise on the compatibility of EEC anti-dumping regulations and procedures with the provisions of the GATT Anti-dumping Code, and on problems relating to specific proceedings. The consultants are helping to improve our expertise in this area so that we are ready to challenge the EEC where we believe it has overstepped the line.

While the Government is always ready to provide advice on general issues relating to the EEC anti-dumping regulations and procedures, it is not in a position to answer detailed company-specific questions posed by the EEC. There is no substitute for individual companies' own active participation in these proceedings. So the companies concerned must play their part in order to secure the best protection.

The Government remains firmly of the view that the anti-dumping actions instituted by the EEC against Hong Kong are both unfair and ill-founded.

Sir, as Members may have noted from the European Council's recent announcement on anti-dumping duties on video cassette tapes originating in Hong Kong, the very high provisional duties ranging from 8.1% to 59.3% announced last December have been substantially reduced to nil to 21.9%. Judging from European Council's decision on duties, the representations made by the companies concerned and by the Hong Kong Government have clearly prompted the European authorities to take a fresh look at the case against Hong Kong and to make significant concessions towards Hong Kong.

MRS. SO (in Cantonese): Sir, the purpose of industrial and commercial entities forming themselves into bodies or associations is to, among other things, resist anti-dumping proceedings. A preliminary plan for a publicity campaign has been drawn up. What effort to go with this campaign will the Administration mount?

FINANCIAL SECRETARY: Sir, as I have indicated, we are happy to work with any companies against which anti-dumping proceedings have been taken. I believe it to be correct that the companies should take strenuous and vigorous action themselves, but certainly we would like to know of their problems and to work with them in fighting any anti-dumping proceedings.

MR. MCGREGOR: Sir, I find it a little difficult to accept the word "concession" used by the Financial Secretary in the last part of his final sentence. A concession suggests, if I may say so, Sir, that we are getting something to which we are not entitled, as a gift from the EEC. Therefore I have a question. Is the Government aware that, under specific GATT provisions, any unreasonable restrictions applied to imports of Hong Kong products can be answered by equally damaging actions by Hong Kong against products imported into Hong Kong from the country concerned?

FINANCIAL SECRETARY: Yes, Sir, I accept what Mr. MCGREGOR has said about the word "concession". It is the wrong word. He is absolutely correct to take me up on that. We are aware of the point that he made. I would think, however, that it would be disadvantageous for Hong Kong to enter into this sort of battle. It is much better from our point of view that we take up this sort of problems within the GATT, which is exactly what we do.

MR. NGAI (in Cantonese): Sir, I would like to thank the Administration for their effort in this regard which has led to the European Council's eventual decision to lower from 59% to 21% the upper limit of anti-dumping duties levied on Hong Kong manufacturers of video tapes. But the levies would still appear to be on the high side. The Trade Department is also of the view that the European Council does not seem to have fully considered the main points of the representations made by the Hong Kong Government. Such being the case, will the Trade Department consider taking specific and practicable measures to further protect the interest of manufacturers in Hong Kong? The next part of my question relates to the last sentence in paragraph 4 of the Financial Secretary's reply which says, "The companies concerned must play their part in order to secure the best protection." What measure then will the Administration take to induce local manufacturers to work in concert with the Trade

Department to achieve their common objective?

HIS EXCELLENCY THE PRESIDENT: I am going to ask the Financial Secretary to try to tackle both of those at once, but could Members please try to divide questions into one at a time.

FINANCIAL SECRETARY: Thank you very much, Sir. As far as further measures by the Trade Department are concerned, I agree with Mr. NGAI that the recent finding or determination by the EEC is not entirely satisfactory because it carries with it the implication that there has been dumping, whereas we believe that there has not been dumping. So we are continuing to work through the Brussels office in making further representations. As far as inducing local companies to work with the Trade Department is concerned, I would have thought that there is every incentive for companies to work with the Trade Department because it is in their own interest. We are endeavouring to provide a service to those companies.

MR. CHEONG: Sir, given that the present EEC regulations provide an opportunity for any single company to file an anti-dumping action against any company in Hong Kong, it could be extremely disruptive to Hong Kong's manufacturing interests. Could Government consider taking it up in a multilateral forum so that the general protectionist measures could be dampened as much as possible?

FINANCIAL SECRETARY: Yes, Sir, that is exactly what we have been doing. We have been having discussions within the GATT. Hong Kong is an active member of the GATT's anti-dumping committee and we are in fact in the process of suggesting improvements to the GATT's anti-dumping code. We are doing this in conjunction with other countries.

Industrial action by civil servants

4. MR. MICHAEL CHENG asked (in Cantonese): In view of the recent increase in industrial action taken by civil servants of various grades, will Government inform this Council what the causes are for such industrial action and what plans are in hand to avoid and reduce such action?

CHIEF SECRETARY: Sir, may I first set the problem in some sort of context. Although there has been an apparent increase recently in industrial action taken by civil servants, only four out of a total of some 400 grades within the Civil Service have been involved in any sort of industrial action this year.

In the main, the causes have been related to pay, conditions of service or work, or promotion prospects.

The Government is not insensitive or unresponsive to civil servants' concerns about their terms of employment. Essentially there are two ways in which such concerns can be and are addressed. First, pay and conditions of service should be reviewed periodically to take account of changing circumstances and secondly it is important for there to be effective communication and consultation between the Government and its staff.

The present framework for civil service pay and conditions of service was established 10 years ago by the Standing Commission on Civil Service Salaries and Conditions of Service on the basis of a comprehensive review which it carried out at the time. It has now embarked upon a similar overall review of pay principles and salary structures. It will also address such issues as recruitment and retention problems.

The commission has also recently completed a review of consultative arrangements in the Civil Service and its recommendations have been the subject of consultation with staff associations. The objective then is to achieve a further strengthening of the existing consultative machinery in the Civil Service.

Finally, Sir, I would make the point again which I have made in this Council before that we have a long tradition in the Civil Service of resolving our problems by careful and patient discussion. That principle has served both management and staff well and has helped to ensure in most cases that service to the people of Hong Kong has not been affected.

MR. MICHAEL CHENG (in Cantonese): Sir, in view of manpower shortage and massive volume of work in various government departments, will Government contemplate measures to

streamline work procedures, cut down on superfluous paperwork and reduce bureaucratic redtape in an effort to enhance work efficiency?

CHIEF SECRETARY: Sir, I am grateful to Mr. CHENG for that suggestion. Of course, we will try to do more in that area. We already have a system of value for money studies which look at just the sort of thing Mr. CHENG is talking about, and we are also pursuing the idea of putting into government departments business managers who will again look at efficiency and overloading of staff. I hope these sorts of measures we have in mind will meet some of Mr. CHENG's concerns.

MR. TIEN: Sir, will the Administration inform this Council whether the Government has in the past taken any disciplinary measure against any civil servants who actively participated in industrial action?

CHIEF SECRETARY: Sir, in general we do try to resolve our problems without resorting to action against staff. As to the explicit action taken in particular cases, I will let Mr. TIEN know the answer in writing. (Annex II)

MR. MICHAEL CHENG (in Cantonese): Sir, could this Council be informed whether, in an effort to strengthen the sense of belonging of civil servants, the Administration would consider adopting incentives, such as those available in the private sector, of offering attendance bonuses and long-service increments to middle and lower ranking staff?

CHIEF SECRETARY: Sir, we have looked on previous occasions at the question of bonuses of various types, either incentive bonuses or attendance bonuses. It is extremely difficult in the civil service structure to bring in such ideas. But the whole question of retention, Sir, is a subject that is currently being looked at by the Standing Commission in the overall review and I hope the point that Mr. CHENG has made can be taken into account in that general review.

MR. CHOW (in Cantonese): Sir, the fifth paragraph of the main reply mentioned that changes to consultation arrangement are being deliberated. Does this refer to central or departmental consultation? As I understand it, central consultation has

been introduced since 1968 and hence is out-moded by now. Will Government consider modifying the consultative structure together with its representative profile?

CHIEF SECRETARY: Sir, as I said in my main answer, the Standing Commission has made recommendations about the changing of the consultative process. That has been discussed with the staff associations, and the result of that consultation is presently being considered by the Administration.

Sale of handicraft items by handicapped persons

5. MRS. LAU asked: In view of the recent increase of handicapped persons engaged in the sale of small handicraft items in public places and public housing estates, will the Administration inform this Council whether approval is required to conduct such activities and whether the Administration will take any steps to ensure that handicapped persons will not be exploited for commercial gains?

SECRETARY FOR HEALTH AND WELFARE: Sir, under the Public Health and Municipal Services Ordinance, any person, handicapped or otherwise, who trades in public places without a hawker licence issued by the Urban Council or the Regional Council commits an offence and is liable to prosecution. Under Housing Authority policy, hawking activities are prohibited in public housing estates.

I understand that there have been reports of persons, apparently deaf and mute, hawking illegally at MTR stations and public housing estates by offering handicraft items for sale. Such people are subject to law enforcement action by the two municipal councils and the Housing Department in the same way as any illegal hawker. Although there are no readily available statistics the number of handicapped persons engaged in illegal hawking activities is believed to be very small.

Whilst I am not aware of any reports that these people are being exploited for commercial gain, it is obviously desirable that suitable employment opportunities for the disabled should be widened. In this regard, our efforts include the provision of special education for handicapped children, vocational training for adults suitable for open employment and assistance in seeking jobs for those who possess the appropriate skills. For those who are unsuitable for open employment, we shall

continue to provide placements in day activity centres and sheltered workshops.

MRS. LAU: Sir, in his answer the Secretary has stated that these persons reported to be hawking illegally are apparently deaf and mute. Can the Secretary inform this Council whether any action will be taken to ascertain whether these persons are genuinely deaf and mute and whether consideration will be given to legalizing such activities, for example by issuing licences so that the members of the general public can be sure that by patronizing such persons they are lawfully, and in the real sense, helping the handicapped?

SECRETARY FOR HEALTH AND WELFARE: Sir, with regard to the first part of the question, I would say that it is rather difficult to establish whether a person is genuinely deaf and mute. An attempt has been made by one of my staff recently when she came across one such person. She attempted to use sign language practised by the deaf to communicate with the person in question, but he either failed or refused to respond. I think apart from actually arresting such persons and taking them to a hospital for examination, I do not see how we can effectively determine whether they are genuinely deaf and mute. With regard to the second part of the question, the issue of hawker licences falls within the jurisdiction of the two municipal councils, and I am not in a position to comment or to answer questions on behalf of those two councils on their hawker policy.

MR. POON CHI-FAI (in Cantonese): Sir, the third paragraph of the main reply says that the Administration has not been aware of any reports that disabled persons are being exploited for commercial gain. Since the question has now been raised, will the Administration consider taking the initiative to conduct an in-depth study to ascertain if any handicapped people are being thus exploited and whether the whole of proceeds from hawking of small handicraft items are being spent on handicapped people?

SECRETARY FOR HEALTH AND WELFARE: Sir, the statement in the main reply actually means that it is very difficult to define what is meant by exploitation for commercial gain. If we are talking about a legal concept then I am not in a position to comment at all, except to say that I have been advised by the Attorney General's Chambers that

there are rules which, in so far as they relate to the protection of persons entering into contracts, could apply equally in the case of the handicapped, and these rules relate to things such as undue influence and fraudulent misrepresentation. If, on the other hand, we are talking about a moral or philosophical issue, then I would say, Sir, that as Members will be aware, there are some people who would argue that the capitalist system under which Hong Kong operates is itself a system based on exploitation. I myself, of course, do not subscribe to such a theory. But the point I am trying to make, Sir, is that it is very difficult to deal with such an issue and that, as I said in my main reply, the problem is a very small one and I doubt if it would merit the use of the police force to mount a full-scale investigation into this problem.

MR. TIEN: Sir, is the Government aware that it has recently been reported that some children are selling handicraft items in public housing estates claiming that they are doing it for the blind? Would the Administration inform this Council what action would the Administration take when such cases are discovered?

SECRETARY FOR HEALTH AND WELFARE: Sir, I have recently discussed this issue with the Director of Social Welfare who is especially concerned where children are involved. But the problem is that there are very few such cases and these people do not remain in the same place for a long time; they move about. So it is very difficult to get hold of them and talk to them and try to understand the problem. But the Director of Social Welfare has told me that her outreach social workers, when they come across children involved in such activities, will approach such children and ask them for their names and addresses and offer assistance, if necessary.

MRS. FONG: Can the Administration confirm to this Council that it is always the policy of the Administration to appeal to the public to refrain from acquiring goods from illegal hawkers?

SECRETARY FOR HEALTH AND WELFARE: Sir, I think that again falls within the policy area of the two municipal councils, and I am not in a position to comment.

## Police Cadet School

6. DR. IP asked: Will Government review its decision to close down the Police Cadet School, considering that over the recent years:

(a) an average of 300 newly recruited police constables have graduated from the Police Cadet School;

(b) there has been an increase in the targetted annual recruitment of police constables; and

(c) there has been a decrease in the number of applications for appointment as police constables?

SECRETARY FOR SECURITY: Sir, since its formation in 1973 the Police Cadet School has been a valuable source of recruitment for the police force. It will remain so until its closure in March 1990.

The decision to close the school has been taken because it faces a recruitment problem of its own. Sufficient pupils cannot be found to keep the school going, and it cannot therefore be regarded as a continuing source of recruits for the police.

The reason for the Police Cadet School facing a recruitment problem is the development of secondary education in Hong Kong. The required educational standard for direct entry into the police force as a police constable is completion of Form V. However, over 70% of the recruits into the cadet school are Form III students who have not been allocated a Form IV place within the secondary school system. They receive training and further education during the two years in the cadet school to enable them to meet the standards for recruitment into the police.

Until 1987 the pool of Form III students who were not offered any type of post-Form III education exceeded 20 000 annually. This was a sufficiently large pool for the Police Cadet School to select good quality recruits. However this number will be reduced to around 7 000 by 1990 and 4 000 by 1991, as a result of government policy to provide more post-Form III places in government subsidized and private schools. These students will be at the lower end of the academic scale and are unlikely to be suitable for enrolment as police cadets. The implication is therefore that, if

the cadet school were to remain open it would have insufficient entrants to justify its continued existence.

Sir, we are all agreed that police service to the public must be maintained at a high level at all times. The standards of police recruits have to be maintained, and at the same time recruitment problems have to be resolved. We believe that the right way to do this is by making a career in the police force attractive to Form V graduates. The Police Cadet School has helped in the past, and will always hold a proud place in the history of the police force, but in the changing academic environment in Hong Kong it can no longer offer the numbers of good quality recruits which will be required.

DR. IP: Sir, considering that there were 1 103 applicants to Police Cadet School in September 1986 and 1 040 in September 1987, all of whom were of Form III standard or above, and of which 231 and 285, namely only around 25% of the applicants, were admitted, how can Government justify its answer that the Police Cadet School "faces a recruitment problem of its own and sufficient pupils cannot be found to keep the school going"?

SECRETARY FOR SECURITY: Sir, as I have said in my main reply, this is based on the statistics projected over the next few years and it is on this basis that it is not thought that there will be sufficient recruits for the Police Cadet School.

MR. BARROW: Sir, with reference to the last paragraph of the Secretary's answer, I am sure that the entire community would agree that the force's excellent performance in recent weeks has demonstrated that a very high quality of service is being maintained. Could the Secretary inform this Council as to what new recruitment techniques are being used or being considered?

SECRETARY FOR SECURITY: Yes, Sir, I can give details of that. Strengthened publicity, amongst other things, will be a crucial element in attracting new recruits to the police force. In this connection new films have been made to attract applicants, an increased budget of \$4.75 million has been allocated to advertisements through the media, a 24-hour recruitment hotline has been established to provide immediate response to enquiries, an expanded programme of school visits, career talks

and career exhibitions are being conducted, and the operating hours of recruitment centres have also been extended. These measures are being supervised and co-ordinated by a special police working group which is also considering other options to increase recruitment. It is, I think, also to be expected that with the improved pay and conditions of service for the police which should, I hope, bear some results before the end of the year, we will see some reversals in the present dropping-off in applications to join the police force at junior police officer level.

MRS. FAN: Sir, the decision to close down the Police Cadet School seemed to be based on an assumption that only those youngsters who are not offered a Form III place or Form IV place will wish to enrol in the school. This assumption is not necessarily correct. In fact there are youngsters who may benefit much more from the form of education and training as offered by the Police Cadet School. So in the light of this, would the Secretary be prepared to consider the possibility of continuing the Police Cadet School as a special school, similar to the Sea School, through the co-operation of the Education Department and the police?

SECRETARY FOR SECURITY: No, Sir, I am afraid I am not prepared to consider that. There are other factors which have been taken into consideration. One of these is the financial implications and a recent assessment by the Finance Branch indicates that the unit cost of a cadet is more than six times the unit cost of a direct entry constable. Moreover, if the cadet school were to continue in some form or other, it would be necessary to construct a purpose-built training school. This has been estimated to cost at least \$79 million, and this is at 1987 values. On the grounds of cost-effectiveness therefore, Sir, and on the grounds of what is best for the police force, and what is best for Hong Kong, I believe that the decision to close the Police Cadet School has to stand.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, when I raised a similar question last time I was told by the Secretary for Security that the Police Cadet School was closing down as the academic standards of recruits were indeed found to be on the decline. Now that he mentioned about difficulties in recruitment, could this Council be informed as to which of the two is the genuine reason? The Police Cadet School certainly helps those youngsters who do not do well in their studies.

SECRETARY FOR SECURITY: Sir, the decision has been made primarily on the basis that insufficient recruits to the Police Cadet School will be forthcoming. That is the prime consideration. But as I have indicated in my previous reply to Mrs. FAN, there are also other factors which have to be taken into consideration.

MR. EDWARD HO: Sir, I refer to the second paragraph of the Secretary's reply where he attributed the decision to close the cadet school to recruitment problems. Would the Secretary inform this Council whether this is a problem of general vocational desire on the part of young people to join the police rather than the provision of more Form III places and therefore, with more encouragement to young people as outlined by the Secretary just now, whether the closure of the cadet school should be reconsidered?

SECRETARY FOR SECURITY: Sir, it was primarily on the basis of Form III places. But that is an overriding factor if the educational standards in the police force are to be maintained. To do otherwise would, as I have indicated, be entirely non-cost effective.

MRS. FONG: Sir, could the Secretary advise whether the Administration has stepped up its campaign to attract ordinary citizens to join the auxiliary police in an effort to promote the spirit of community involvement and service to the Hong Kong public?

SECRETARY FOR SECURITY: Sir, that is a rather different question, but I shall nevertheless provide an answer in writing. (Annex III)

MR. DAVID CHEUNG: Sir, in view of the decrease in the number of applications for appointment as police constable, is it realistic for Government to make Form V the minimum qualification for entry to the police force by closing down the Police Cadet School? If recruitment problems continue, what will Government do?

SECRETARY FOR SECURITY: Sir, we all hope that the recruitment problem will not

continue and therefore it is premature to start thinking about alternatives. If I might give this Council some idea of the vacancy figures for junior police officers up to the end of May this year, we are talking about vacancies of 571 out of an establishment of 24 735 for junior police officers and vacancies of only 61 out of 2 403 for inspectors. For the whole police force, this is 632 vacancies out of 27 138. I think Members will agree that at the moment this does not indicate any sort of crisis.

DR. IP: Sir, in balancing the need to ensure reaching the targeted number of police recruits on the one hand and the ideal wish to fill all of these places with the best quality of Form V graduates on the other, and it must be obvious that the former is to be preferred, would Government consider deferring the premature, and I use the word "premature", closure of the Police Cadet School and seriously review whether the estimated fall in the number of recruits to the school due to the increase in Form IV places in 1990 and onwards does in fact occur before a final decision to close is made?

SECRETARY FOR SECURITY: No, Sir, I am not prepared to look into that. This question has been examined very carefully, and to do as Dr. IP suggests would, I am afraid, be to run the cost of the school into the red, and this would be an irresponsible course of action.

Food poisoning

7. MRS. LAM asked (in Cantonese): In view of an incident on 17 May 1989, in which 48 students and a teacher were suspected to have suffered from food poisoning, will Government inform this Council how the hygiene standards of food sold from fast-food vans are controlled, and whether there are plans to provide canteen services in schools?

SECRETARY FOR HEALTH AND WELFARE: Sir, there are at present no legally operated fast food vans. Anyone who is found operating such a van is liable to face prosecution and, upon conviction, to confiscation of his equipment or commodity, in addition to other penalties.

As regards canteen services in schools, the Secretary for Education and Manpower has advised me that there are at present no plans to provide such services. It is felt that it would not be economical to provide a canteen for each school because, firstly, this will take up valuable space which can be better used for purely educational purposes and, secondly, there may not be sufficient demand within a school to make a canteen economically viable. Plenty of licensed food caterers are available to serve the needs of students for lunches. The Education Department has issued a list of licensed food factories to the schools for reference.

MRS. LAM (in Cantonese): The Secretary for Health and Welfare indicated in the first paragraph of his reply that there are at present no fast food vans which operate legally. However, every day there are large numbers of students and members of the public who would patronize these vans, and hence reports of cases of food poisoning. Could this Council be informed as to what measures the Government would take to curb the business of these mobile fast food vans in order to safeguard public health? And what effective measures are being considered to educate the public to refrain from patronizing these vans?

SECRETARY FOR HEALTH AND WELFARE: Sir, the general duties teams of the Urban Services and the Regional Services Departments do undertake frequent and regular raids and also deterrent patrols to curb such unlicensed businesses. But as with other illegal activities it is difficult to stamp them out completely. I would mention, however, that in the past two and a half years there has been only one case of food poisoning involving food from an unlicensed fast food van. This indicates that the action taken by the two municipal services departments has not been ineffective. As regards education, the Urban Services Department and the Regional Services Department, in conjunction with the Health Education Unit of the Municipal Services Branch, have recently launched a food hygiene campaign. The purpose of this campaign is to disseminate the message of food hygiene and good hygiene practices to people in the food trade and to members of the public and I would imagine that in doing so they would also educate the public not to buy food from such unlicensed hawkers.

DR. IP: Sir, in the incident quoted, was the food in question provided by a licensed food caterer? If not, how many schools are at present purchasing food for their

students from unlicensed food caterers?

SECRETARY FOR HEALTH AND WELFARE: Sir, in response to the first part of the question, the answer is that the food was provided by an unlicensed or illegal fast food van, and therefore not a licensed caterer. As regards the second part of the question, I think the Secretary for Education and Manpower would be in a better position to provide an answer.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I have no information on schools buying or arranging meals from unlicensed hawkers. I am sure there is no way we could find this out. I mean if a school was doing this they certainly would not inform us about it.

MR. EDWARD HO: Sir, the proliferation of fast food vans indicates that there is a need for such a business and a deficiency in schools to provide suitable and reasonably priced meals for students. Will the Secretary inform this Council what measure the Administration will take to address this deficiency?

SECRETARY FOR HEALTH AND WELFARE: I would again defer to my colleague, the Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think it is up to individual schools to make their own arrangements. As the Secretary for Health and Welfare said in his reply, there are plenty of licensed caterers available. The Education Department issues lists of such caterers, divided by districts. This list is re-issued from time to time. It was re-issued recently in November last year.

MR. DAVID CHEUNG: Sir, will the Secretary inform this Council how he has come to the conclusion that there may not be a sufficient demand within the schools to make a canteen economically viable, or is it purely conjecture?

SECRETARY FOR HEALTH AND WELFARE: I think the Secretary for Education and Manpower will be in a better position to provide the answer.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think it is in the nature of things that this kind of canteen is difficult to be made viable because it only has a demand at school lunch-times on school days. This is not really a basis for a viable business.

MRS. LAM (in Cantonese): Sir, the Secretary for Health and Welfare said that schools might proceed to arrange with licensed caterers to serve lunches for students. But even then space will be required for students to eat in. Why then was it mentioned that canteens would not really be necessary?

SECRETARY FOR HEALTH AND WELFARE: I would again defer to the Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the circumstances differ in each school. I think it is best for the school itself to decide what space is most suitable. But the point is if you make space available for eating meals, that space cannot be used for other purposes. If it is set aside for a canteen it tends to mean under-utilization and the space is lost to education purposes, which we think are more worthwhile.

DR. IP: Sir, I recall an OMELCO visit to Kwun Tong three years ago in which we were informed that there were licensed food hawkers who operated from vans. I therefore cannot understand why in his answer the Secretary said that there is no such entity. Is it possible for a check to be made with the Director of Urban Services?

SECRETARY FOR HEALTH AND WELFARE: Sir, the information in my main answer was provided to me by the Secretary for Municipal Services. I will certainly ask him to find out from the Urban Council the actual position.

School sponsoring body

8. MR. DAVID CHEUNG asked: Will Government inform this Council of the criteria for the allocation of a school for operation by a sponsoring body; what action can be taken against the sponsoring body if it is subsequently found to be managing the school ineffectively; and in the past three years, how many sponsoring bodies have been the object of such action and what was the nature of the action?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, when deciding whether to allocate a school to a sponsoring body the Director of Education takes into account:

- (a) the body's experience in the field of education;
- (b) its financial capability;
- (c) the number and location of schools already operated by it; and
- (d) any local ties with the district concerned.

The management of a school is the responsibility of its management committee. On being allocated a school, the sponsoring body nominates managers for registration by the director. Under the Education Ordinance, the director has to be satisfied that the proposed managers are suitable before he registers them.

The Education Department monitors the management of schools during regular inspections, and helps schools to overcome any management problems which may arise.

If it appears to the director that a school is not being managed satisfactorily or that the children are not being properly educated, he may issue a warning letter to the management committee. If improvements are not made to the director's satisfaction he may de-register any manager and appoint one or more new ones.

During the past three years warning letters have been issued on 24 occasions to a total of 17 schools, but no manager has been de-registered nor any new manager appointed by the director.

MR. DAVID CHEUNG: Sir, since the Government depends on the school managing committee to ensure the sound running of the school, will the Secretary inform this Council whether qualifications have been specified and required of school managers, and if not, in view of the rapid progress of society is it not time for Government to consider this question?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, so far we have felt that this is a matter for the sponsoring body. In the absence of any evidence that a particular manager was unsuitable or doing a bad job, we have no reason to suppose at this stage that we need to impose further restrictions.

MR. POON CHI-FAI (in Cantonese): Sir, the first paragraph of the main reply says that in deciding whether to allocate a school to a sponsoring body, there are at present four factors for deliberation. However in the past three years as many as 17 schools received warning letters. Would the existing procedure be reviewed in this regard? And should children become victimized through not being properly educated as mentioned in the fourth paragraph of the reply, what measures would there be to remedy the situation?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I do not think there is any suggestion that children are being inadequately educated. What I said was describing a hypothetical situation, the sort of situation which would lead to managers being disqualified. But in fact we have not had to do that during the last three years. The kind of things about which warning letters may be sent may be such things as collecting excessive fees, operating unapproved classes, employing unregistered teachers. But generally speaking schools respond to the warning letters and it has not been necessary to take follow-up action.

DR. IP: Sir, as regards the entity of a supervisor to a school on behalf of the management committee, how often is a principal also his own supervisor and whether such situation represents a conflict of interest?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I do not know how often this occurs or

whether it has led to any problems of conflict of interest. I will send a written reply on that point. (Annex IV)

MR. DAVID CHEUNG: Sir, in the Secretary's reply, in the past three years 17 schools have received warnings involving 24 cases. Can the Secretary confirm whether some of these schools have been warned more than once, and if so, what actions have been taken by the Government?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, from the figures it would appear that some of the schools have been warned more than once, but the number of cases is not greatly in excess of the number of schools. So in fact the number of repeated warnings is pretty limited as can appear from the figures. And in fact schools have responded to warning letters and it has not been necessary to take further follow-up action. I think the situation is reasonably satisfactory.

Written answers to questions

"No Waiting" signs

9. MRS. LAM asked: In view of the problem of illegal parking, particularly in Wan Chai, and the limited police manpower resources to take enforcement action, will the Government re-install the "No Waiting" traffic sign to provide visual warning to motorists and to deter illegal parking?

SECRETARY FOR TRANSPORT: Sir, the "No Waiting" traffic sign ceased to be used when a new signage system was introduced in 1984 under the Road Traffic (Parking) Regulations and the Fixed Penalty (Traffic Contraventions) Ordinance. Under this new system, waiting and parking are prohibited on any road where there is a system of street lighting furnished by means of lamps not more than 200 m apart, except at designated parking spaces.

The above signage arrangement was well publicized when introduced in 1984. Advice on this is also included in the current Road Users' Code. It simplifies the signing system and brings substantial savings in public expenditure in not having to erect and maintain so many "No Waiting" signs.

The proposal to re-use the "No Waiting" signs and markings along the many streets with a system of street lighting would lead to a proliferation of traffic signs. The problem would be particularly serious in the older districts, such as Wan Chai, where many of the pavements are very narrow and the erection of signs along them would cause inconvenience and obstruction to pedestrians.

Government will mount suitable publicity to remind the motoring public of the present signage arrangement.

### Social indicators

10. MR. TAM asked: Will Government consider setting up a system of social indicators in Hong Kong, similar to those used by many advanced countries in Europe and America, to provide information relevant to the analysis and formulation of social policies?

FINANCIAL SECRETARY: Utilizing data collected in surveys or derived from administrative records, the Government already maintains a system of social statistics which can be used as broad indicators of social conditions in Hong Kong. The system is constructed with the following aims in mind :

- (a) to provide answers to many socially relevant questions : How healthy are we? How educated? How adequate is our housing? What is the crime situation? etc;
- (b) to monitor the effectiveness of social policies; and
- (c) to give warning of certain social problems, for example, drug addiction.

The social statistics available in Hong Kong are broadly in line with international practice and cover the following areas :

- (a) Population composition and change
- (b) Households and families, marital status and fertility
- (c) Housing

- (d) Health conditions and health services
- (e) Educational attainment and educational services
- (f) The labour force
- (g) Income and consumption
- (h) Social security and welfare services
- (i) Public order and safety

These statistics are published regularly by the Census and Statistics Department. Reference may be made in particular to the "Hong Kong Social and Economic Trends" and the "Hong Kong Annual Digest of Statistics".

#### Hill-side escalator linking Central and Mid-levels

11. MRS. SO asked: Will Government inform this Council whether consideration will be given to advancing the schedule for the construction of the hill-side escalator linking Central and the Mid-levels in view of the deteriorating traffic conditions in the road network caused by rapid property developments in the Mid-levels?

SECRETARY FOR TRANSPORT: Sir, I have previously stated that I intended to proceed with the pilot hill-side escalator project linking Mid-levels with Central in early 1991. I have reviewed the programme of this project and I now plan to seek funding for it in early 1990 with a view to starting construction in mid-1990. The project will then be due for completion by mid-1992, some six months ahead of the original time-table. However, this timing will depend on the number and nature of objections to the scheme (including land resumption) after it is gazetted shortly and how soon such objections can be resolved.

#### Municipal council elections

12. MR. CHOW asked: Concerning the Urban Council and Regional Council elections held in March this year, will Government inform this Council:

(a) of the respective amounts Government spent on publicizing the district board election in 1988, the municipal councils elections in 1986, and the municipal councils elections in 1989;

(b) of the efforts made by the departments concerned to encourage voters' participation in the 1989 elections;

(c) whether the sharp drop in the voting rate in 1989 was due to a large number of voters having moved from their original places of residence and, if so, will Government consider making arrangements to update the residential addresses of voters prior to each election; and

(d) whether the review group investigating the reasons for the low turn-out rate is expected to submit a report and whether the report will be made public?

CHIEF SECRETARY: Sir, the Government spent about \$1 million on publicizing the municipal council elections in 1986 and \$0.86 million in 1989. The low expenditure resulted mainly from the elimination of activities that had proved less effective, such as variety shows, and the introduction of cost saving measures, for example in standardizing publicity material. In addition, the numbers of candidates reduced from 79 in 1986 to 53 in 1989, while the numbers of uncontested seats increased from two to seven. This also had the effect of lowering publicity costs to some extent. In practice, the quality and intensity of Government's publicity efforts were very similar to what was provided in 1986.

Expenditure on publicity for the district board elections in March 1988 was \$1.43 million, but it is inappropriate to make comparisons with the municipal council elections given the far greater number of constituencies involved.

Publicity to encourage electors' participation in the municipal council elections in 1989 was arranged on both a territory-wide and a district basis. It included announcements in the mass media, display of posters and publicity banners in public places, special issues of district newspapers, and arrangements for

candidates to meet residents. Leaflets providing information on polling procedures and the candidates were mailed to registered electors, in addition to their poll cards. Government's publicity efforts were complemented by mass media coverage of the elections and the candidates' own election campaigns.

In this year's municipal council elections, 1 211 109 poll cards were sent to electors living in the contested constituencies and 30 710 were returned undelivered. Change of address was not therefore a major factor in the low voter turn-out. Nevertheless, Government continues to encourage registered electors to report changes in address, so that the electoral roll can be kept up to date. Efforts will be intensified in 1990, in preparation for the 1991 elections.

It is the practice to conduct an internal review of the publicity and electoral arrangements after each election to district boards, municipal councils and the Legislative Council. The purpose is to identify possible improvements which might be applied in future elections. The review of the latest municipal council elections is due to be completed in August. As in the past, any major improvements will be announced before they are introduced for the next round of elections.

Hospital school services

13. DR. IP asked: Will Government inform this Council which government or government subvented hospitals' paediatric wards are not currently provided with hospital school services; the reasons for their not being so provided; and whether there is any plan to provide such services to these wards in future?

SECRETARY FOR HEALTH AND WELFARE: Hospital school services are operated in paediatric wards by the Red Cross Hospital School, and are subvented by the Government through the Education Department. There are currently six public hospitals which do not provide this service in their paediatric wards. They are: Tsan Yuk Hospital, Our Lady of Maryknoll Hospital, Nethersole Hospital, Pok Oi Hospital, Yan Chai Hospital and Grantham Hospital.

Tsan Yuk Hospital does not provide a school service as its paediatric patients are all below school age. Regarding the other five hospitals, a school service has not been set up mainly because of the small number of paediatric patients in these

hospitals considered to be in need of this service.

Consideration is being given to providing hospital school services to Yan Chai Hospital after the completion of its extension project and to the relocated Nethersole Hospital in Tai Po. Both hospitals will, by then, have increased their number of paediatric beds. As regards the other four hospitals, there are no plans at present to provide such services to them.

Licences required for retail outlets

14. MR. BARROW asked: Will Government inform this Council of the progress in the plans to reduce the number of individual licences and approvals required to open retail outlets, the preparation and vetting of which involve considerable manpower in both the public and private sectors?

SECRETARY FOR HEALTH AND WELFARE: Like all businesses, a retail outlet is required to register with the Business Registration Office; this is part of our taxation system. The Commissioner of Inland Revenue has advised that registration and renewal are very simple matters involving little paperwork.

With regard to the licences and permits issued by the Urban Council (Regional Council in the New Territories) significant streamlining was achieved in April 1988. Since then a retail outlet has been required only to obtain a single licence, namely, a fresh provision shop licence, to sell food and fresh provisions. Permission to sell various controlled food items such as restricted food, ice-creams, milk and non-bottled drinks, can be granted by way of endorsements on the same licence. It must be borne in mind that the purpose of these licences is to protect public health and safety and this must surely be considered a worthwhile use of manpower. Some retail outlets may also require a licence as a "Seller of Part II Poisons" and again it is felt that the present arrangements must be maintained as a necessary safeguard for the public.

The sale of dutiable commodities, namely, tobacco, intoxicating liquor, hydrocarbon oil, ethyl alcohol and methyl alcohol, at present requires a licence for each. This requirement is cumbersome and, in recent years, has contributed nothing to the protection of revenue. The Secretary for the Treasury is therefore pleased

to report that he has decided to remove the requirement. The Dutiable Commodities (Amendment) Regulations of 1989 gazetted on 9 June 1989 will give effect to this.

Overall, it is felt that over the past couple of years quite considerable progress has been made in reducing the number of licences and approvals required and that what remains represents the minimum necessary for good administration in the wider interests of the community.

#### Attendance in public galleries in the Legislative Council Chamber

15. MR. BARROW asked: In view of the importance of encouraging wider public interest in the affairs of the Legislative Council, will Government inform this Council whether additional steps can be taken to publicize the availability of seats in the public galleries which are normally empty before the end of Legislative Council sittings?

CHIEF SECRETARY: Sir, a booking system is in operation for seats in the public galleries in the Chamber. The seats are fully booked for most sittings of the Council. As people may leave at any time during a sitting, there is no way of telling when seats will be available during the afternoon.

Funds will be sought in the 1990-1991 Estimates for the purpose of further publicizing the functions and activities of the Council. It is hoped that public awareness of the Council's activities will be enhanced through such efforts and lead to increased attendance throughout sittings of the Council.

#### Freedom of expatriates to travel after 1997

16. MRS. LAU asked: Given the increasing number of expatriates employed in Hong Kong and their importance to Hong Kong's continued economic prosperity, will the Government inform this Council what information it has received from the British Government as to the preservation after 1997 of their freedom to travel in and out of Hong Kong as their work may require?

CHIEF SECRETARY: Sir, the freedom to travel into and out of the Hong Kong Special

Administrative Region (HKSAR) is a matter addressed by various provisions in the Joint Declaration as follows:

"The current social and economic systems in Hong Kong will remain unchanged and so will the life-style. Rights and freedoms, including those..... of travel, of movement, ..... of choice of occupation, ..... will be ensured by law in the Hong Kong Special Administrative Region." (Paragraph 3(5) of the Joint Declaration.)

"Unless restrained by law, holders of valid travel documents shall be free to leave the Hong Kong Special Administrative Region without special authorization." (Section XIV of Annex I to the Joint Declaration.)

"The Hong Kong Special Administrative Region Government may apply immigration controls on entry, stay in and departure from the Hong Kong Special Administrative Region by persons from foreign states and regions." (Section XIV of Annex I to the Joint Declaration.)

The object of these provisions is to enable the existing freedom of travel into and out of Hong Kong to remain unchanged after 1997.

Expatriates make an important contribution to Hong Kong's economy, and they will be able to continue to do so after 1997 while enjoying all freedoms, including the same high degree of freedom of movement into and out of Hong Kong which they currently enjoy. In this regard, I would emphasize that after 1997 discretion to grant permission for such persons to enter and stay in the HKSAR for employment will lie with the HKSAR Government alone; the Chinese Government will have no say over the exercise of this discretion.

The freedom of travel of expatriates will be enhanced further if they become permanent residents with the right of abode in the HKSAR. Under the Joint Declaration, expatriates may acquire the right of abode if they have lived for a continuous period of seven years or more in Hong Kong, and if they have taken Hong Kong to be their place of permanent residence. As explained by the Secretary for Security on 8 April 1987, during the Second Reading of the Immigration (Amendment) (No. 2) Bill 1987, the process will be a straightforward one. Following discussions in the Joint Liaison Group, the British and Chinese Governments have reached a common understanding that a person may establish that he has taken Hong Kong as his place of permanent residence by signing a simple declaration. It will thus be relatively

easy for expatriates to become permanent residents of the HKSAR. With such a status, they will enjoy the automatic right of entry into the HKSAR, and the right to live and work there, without being subject to those immigration controls applicable to non-permanent residents.

Payment of exact tunnel tolls

17. MR. DAVID CHEUNG asked: Will the Government inform this Council whether consideration will be given to requiring all vehicles to pay exact tolls when using tunnels, so as to relieve the congestion outside these tunnels?

SECRETARY FOR TRANSPORT: Sir, the proposal to require all motorists to pay exact tolls has been fully examined before but found to be unable to relieve congestion at or outside the tunnels. This is because congestion does not result from the limited capacity of the toll booths. Congestion exists because the volume of traffic going through the tunnel exceeds the designed capacity. To designate more exact payment booths or to require all motorists to pay exact tolls will not increase the flow through the tunnel. On the contrary, this will aggravate congestion at the plaza area and the tunnel portal. It may also adversely affect emergency rescue operations in case of accidents inside the tunnel.

From a public relations point of view, it is also desirable to provide some ordinary toll booths to cater for those motorists who have no small change.

There are at present four exact payment booths at each of the two government toll tunnels and six at the Cross Harbour Tunnel. These numbers are considered appropriate under the current traffic conditions.

Motions

ROAD TRAFFIC ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the period for which there remains in force the limit on the number of vehicles

which may be registered as taxis specified in the Taxis (Limitation on Number) Notice 1988 published as Legal Notice No. 165 of 1988, be extended to 7 July 1990."

He said: Sir, I move the motion standing in my name on the Order Paper. Under section 23(3) of the Road Traffic Ordinance, a period is specified during which the number of vehicles, which may be licensed as taxis, is limited. This motion proposes that the period be extended by 12 months up to 7 July 1990.

The effect of this extension is that the total number of vehicles which may be registered and licensed as taxis will remain at 14 800 in the case of urban area taxis, 2 838 in the case of New Territories taxis and 40 in the case of Lantau taxis, as ordered by the Governor in Council on 7 June 1988.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

#### PHARMACY AND POISONS ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That the following regulations, made by the Pharmacy and Poisons Board on 12 April 1989, be approved--

(a) the Pharmacy and Poisons (Amendment) Regulations 1989; and

(b) the Poisons List (Amendment) Regulations 1989."

He said: Sir, I move the motion standing in my name on the Order Paper in respect of the Pharmacy and Poisons (Amendment) Regulations 1989 and the Poisons List (Amendment) Regulations 1989.

Section 29 of the Pharmacy and Poisons Ordinance (Cap. 138) empowers the Pharmacy and Poisons Board, subject to the approval of this Council, to make regulations providing for the control of pharmaceutical products and poisons.

The board has resolved to amend regulation 19 of the Pharmacy and Poisons

Regulations to require that in a retail shop or premises any specified poison should be stored in a receptacle which is securely locked and situated in a part of the premises inaccessible to customers. The present provision only requires that it should be securely locked or situated in a part of the premises inaccessible to customers. The amendment would thus ensure that the pharmacist is in a better position to control security arrangements and prevent the unauthorized sale of poisons. The opportunity is also taken to replace the words "cupboard or drawer" by the broader term "receptacle".

The schedules to the Pharmacy and Poisons Regulations and the Poisons List set out in the schedule to the Poisons List Regulations are updated by the Pharmacy and Poisons Board from time to time when new pharmaceutical products requiring control appear on the market. The proposed amendments to the two sets of regulations reflect the latest up-dating of the schedules and the list by the board.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

CONSUMER COUNCIL (AMENDMENT) BILL 1989

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 1989

ELECTRICITY BILL 1989

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) BILL 1989

MERCHANT SHIPPING (LIABILITY AND COMPENSATION FOR OIL POLLUTION) BILL 1989

LAW REFORM (LEGAL EFFECTS OF AGE) BILL 1989

PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1989

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1989

GAMBLING (AMENDMENT) BILL 1989

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

Second Reading of Bills

CONSUMER COUNCIL (AMENDMENT) BILL 1989

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

He said: Sir, I move that the Consumer Council (Amendment) Bill 1989 be read the Second time.

The Consumer Council was incorporated in 1977. Section 6 of the Consumer Council Ordinance provides for the appointment of a chairman, and not less than 13 nor more than 15 members to the council. In 1985 the Ordinance was amended to provide for the appointment of a vice-chairman.

Over the years the council's workload has increased significantly. Furthermore, many consumer protection issues are becoming more complex and difficult to resolve. This has placed an increased burden on members of the council.

In order to reduce that burden and to allow for the appointment of members from a wider selection of professions and backgrounds, it is proposed that up to 20 members may be appointed to the council. This represents an increase of up to five extra members. Consequential to this increase, the Bill also provides that a majority of members will form a quorum for meetings of the council.

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

Question on the adjournment proposed, put and agreed to.

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Dutiable Commodities Ordinance."

He said: Sir, I move that the Dutiable Commodities (Amendment) (No. 2) Bill 1989 be read the Second time.

This Bill seeks to simplify and improve the licensing and permit controls on dutiable commodities. These controls, introduced in the 1930s for the protection of public revenue, have outlived their usefulness in their present form.

This Bill, if enacted, will exclude from licensing and permit controls certain goods containing liquor, hydrocarbon oil or methyl alcohol. It also proposes certain minor consequential amendments following the abolition and consolidation of a number of licences.

The proposals will reduce costs and eliminate inconvenience to the trade, and will result in a reduction in the number of various licences and permits issued.

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

Question on the adjournment proposed, put and agreed to.

#### ELECTRICITY BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to repeal and replace the Electricity Supply Ordinance, to provide for the registration of electrical workers, contractors and generating facilities, to provide safety requirements for electricity supply, electrical wiring and products, and to provide powers for electricity suppliers and the Government respecting electrical accidents and enforcement of the Ordinance."

He said: Sir, I move that the Electricity Bill 1989 be read the Second time.

The Bill seeks to replace the existing Electricity Supply Ordinance to provide a new regulatory framework for electricity-related matters. It delineates the responsibilities of the Government, the supply companies, the electrical trade and

lastly consumers. It also acts as the enabling legislation for six sets of regulations which embody the technical and detailed measures.

The existing Ordinance, which was originally enacted in 1911, has long required a major overhaul to incorporate new provisions updating its regulatory and safety aspects. Before the Administration completed the draft Bill, three rounds of consultation were conducted with concerned parties, including the supply companies, the Consumer Council and 10 professional organizations.

The most important feature of the Bill is the provision for a registration system for electrical contractors and workers under the Registration Regulations. To ensure that electrical work is undertaken only by qualified people, all electrical contractors and workers will be required to be registered after meeting certain requirements. As a general rule, only registered electrical contractors may be employed to undertake electrical work. In turn, they will be required to engage registered electrical workers who are qualified to carry out the work in question. The contractors will need to supervise their workers effectively in order to ensure that all contracted work is carried out in compliance with the legislation.

The Bill also provides for the making of Wiring Regulations and Electrical Products (Safety) Regulations. The former will set out the minimum safety requirements for the wiring of electrical installations. The latter will prescribe the minimum safety requirements for electrical products for local use. The enforcement of both sets of regulations will improve electrical safety since the requirements will be based on international standards.

Sir, I mentioned in this Council on 3 May this year that the Administration is examining the implications of upgrading the supply voltage in Hong Kong. And this Bill now provides for the introduction of Supply Voltage Regulations to regulate the supply voltage.

The Electricity Supply Regulations cover the technical standards to which the supply companies should maintain their installations and will replace the existing Electricity Supply Regulations. The existing provisions of the Electricity Supply (Special Areas) Regulations control the supply of electricity in squatter areas, temporary housing areas and those areas designated by the Director of Housing, and these regulations will be retained with minor amendments.

To ensure that the Bill and its subsidiary legislation are properly enforced,

there is provision for the setting up of a disciplinary tribunal to hear cases concerning registered electrical contractors or workers, and an independent appeal board to hear any appeal cases under this legislation.

After enactment it is the intention that the legislation will be implemented in phases in order to minimize disruption to the public and to the electrical trade. A sustained programme of publicity, timed to coincide with the making of the relevant subsidiary legislation, will be launched to advise the public of the details of the legislation.

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

Question on the adjournment proposed, put and agreed to.

#### MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to provide for the prevention and control of pollution from ships and for incidental or related matters."

He said: Sir, I move that the Merchant Shipping (Prevention and Control of Pollution) Bill 1989 be read the Second time. This is the first of two Bills which I am moving today dealing with the subject of marine pollution.

The purpose of this Bill is to provide local legislation to give effect to the provisions of two international maritime conventions aimed at the prevention and control of maritime pollution incidents. These conventions are :

The 1969 International Convention Relating to Intervention on the High Seas and its Protocol of 1973 (known as the Intervention Convention); and

The 1973 International Convention for the Prevention of Pollution from Ships and its Protocol of 1978 (known as MARPOL 73/78).

Both of these conventions already apply to Hong Kong but they have been given legislative backing by virtue of United Kingdom enactments. These United Kingdom enactments need to be replaced by equivalent local legislation before 1997 so that there is a continuity of legal backing. This Bill, if enacted, will provide that

continuity.

Essentially the Bill does not introduce any changes of substance to the existing provisions. The United Kingdom legislation is merely being replaced by Hong Kong legislation having the same effect. This process of "localization" of the United Kingdom legislation involves largely the substitution of references to the United Kingdom authorities by references to Hong Kong authorities.

Sir, the Bill implements the provisions of the Intervention Convention and MARPOL 73/78 by empowering the Government to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate danger to our coastline by marine pollution by oil and other substances, following a maritime casualty.

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

Question on the adjournment proposed, put and agreed to.

#### MERCHANT SHIPPING (LIABILITY AND COMPENSATION FOR OIL POLLUTION) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to provide for compensation for pollution caused by the discharge or escape of oil from oil-carrying ships and for the liability of shipowners; for compulsory insurance in respect of such liability; for contributions by oil importers and others to the International Fund for Compensation for Oil Pollution Damage; for the liability of the Fund in certain circumstances for such pollution; for the indemnification of shipowners by the Fund; and for incidental or related matters."

He said: Sir, I move that the Merchant Shipping (Liability and Compensation for Oil Pollution) Bill 1989 be read the Second time.

The purpose of this Bill again is to replace existing United Kingdom enactments which apply to Hong Kong with our own legislation having similar provisions. This will ensure that continuity of legal backing beyond 1997 is given to international conventions on marine pollution.

In relation to this Bill, the two international maritime conventions concerned

are :

The International Convention on Civil Liability for Oil Pollution Damage 1969 (known as the Liability Convention); and

The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (known as the Fund Convention).

The Bill implements the provisions of these conventions by imposing civil liability on shipowners for pollution damage in Hong Kong caused by the escape of oil from bulk carriers, whether the casualty takes place inside or outside Hong Kong waters. That liability is extended to pollution damage arising from the same incident to any adjacent country adhering to the convention. The Bill also requires all Hong Kong registered ships, wherever they may be, and other ships in Hong Kong waters, if in either case they are bulk oil carriers, to carry valid certificates of insurance covering the owner's liability.

Finally, the Bill implements the Fund Convention by detailing the Fund's liability to compensate for oil pollution damage arising from a maritime casualty, and provides for payment of contributions to the Fund in respect of oil imported into Hong Kong by sea.

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

Question on the adjournment proposed, put and agreed to.

#### LAW REFORM (LEGAL EFFECTS OF AGE) BILL 1989

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to amend the law relating to the age of majority; to amend the law relating to a minor's contracts and related matters; to amend the age requirement for making a valid will; and to amend references to particular ages in certain Ordinances, and for incidental and connected matters."

He said: Sir, I move that the Law Reform (Legal Effects of Age) Bill 1989 be read a Second time.

This Bill gives effect to the main recommendation in a report by the Law Reform

Commission on the effects on age in civil law. The report, which was published in April 1986, recommended in essence that the age at which a person attains full legal capacity should, for most purposes, be reduced from 21 to 18.

The report was the result of four years' work in the commission and its sub-committee. The sub-committee under the chairmanship of Mr. David LI comprised Members of this Council, members of the legal and medical professions, members of the financial community and representatives of the Social Welfare and Legal Departments. I congratulate Mr. LI and his colleagues on a thorough and thoughtful report of great significance to the community.

In the course of the sub-committee's deliberations there was widespread consultation of interested parties on the appropriate age at which specified legal functions could be undertaken. Following publication of the report, comments on the proposals from a variety of sources were received including district boards, the Hong Kong Medical Association, the Social Welfare Advisory Committee, the Hong Kong Social Workers' Association and the Federation of Youth Groups. Although views were divided in a few areas, the commission's proposals met with general approval.

As I have said, the present Bill implements the main recommendation of the Law Reform Commission Report. The other recommendations cover a wide range of disparate subjects and it is intended that those recommendations should be dealt with in separate legislation.

The Bill, if enacted, will lower the age of majority and will effect changes in the law relating to minors' contracts, wills, and companies.

The law at present defines "a minor" as a person who has not attained the age of 21. The protection offered by the law to minors in limiting their capacity to make contracts and to deal with property may act to the minor's detriment in both his or her personal and business life. It is felt that there is no good reason why young persons who are working and enjoying a degree of financial independence should suffer these constraints. From various surveys and studies, the commission concluded that at 18 years of age most young persons have attained the necessary independence. Clauses 2 and 6 of the Bill therefore provide for the age of majority to be reduced to 18.

Three amendments to the law relating to minors' contracts are also proposed. the

first of these relates to guarantees. Under the common law, a person entering into a guarantee of an obligation incurred by a minor may avoid liability under the guarantee if the minor fails to fulfill his or her contractual obligation on the ground of his or her age. This could lead to injustice, and a guarantee in these circumstances should no longer be unenforceable against the guarantor for that reason alone. Clause 3 of the Bill so provides.

Secondly, in relation to contracts with minors, at present section 46 of the District Court Ordinance removes the defence of minority in respect of claims of up to \$60,000 brought in the district court. This provision finds no counterpart in relation to claims brought in the Small Claims Tribunal or the Supreme Court and is thus anomalous. The commission took the view that the historical basis for the provision no longer held, and that the erosion of the protection given by the common law should be reversed. Clause 17 of the Bill seeks to reverse that erosion and to restore the defence of minority in all actions brought in the district court in respect of agreements made after the commencement date of this Bill.

Thirdly, except in the case of the anomaly to which I have reference, the present law affords no remedy against a minor who, under a contract, obtains goods or property not regarded as necessary for him and who then fails to pay for them. A dishonest minor could take unfair advantage of his protected position. It is felt therefore that some remedy should be available against him in such cases. Clause 4 empowers a court, where it considers it just and equitable, to require a minor to restore property to the other party.

As regards wills it is felt that the age at which a person may make a valid will should be the same as the age at which a person may freely deal with his property during his lifetime. Clauses 11 and 12 amend the Wills Ordinance to enable a person who has attained 18 years of age to make a valid will.

In its consideration of the age at which a person can be appointed a director of company, the commission concluded that the present level of 21 years provided in the Companies Ordinance had probably been selected to correspond with the age of majority. To maintain this correlation, clause 13 provides for the age for appointment as a director to be reduced to 18, and for similar changes to be made in respect of certain other age restrictions in the Ordinance.

In respects of trustees and personal representatives, the Bill maintains the

present position and provides that the age at which a person may act as a sole trustee or may be granted administration or probate in their own right be retained at 21. This is because there should be a distinction between the appropriate age for dealing freely with one's own property or estate and for carrying full responsibility for the property or estate of other persons. The age of 21 should be, as in effect it is now, the minimum age for being granted probate as sole executor of a will, or appointment as a sole trustee.

Finally, Sir, the Bill would remove the anachronism whereby at common law a person is held to reach a particular age on the day preceding his birthday. Clause 5 provides that in future a particular age shall be attained, as one would expect, on the day of the birthday.

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

Question on the adjournment proposed, put and agreed to.

#### PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1989

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Protection of Wages on Insolvency Ordinance."

He said: Sir, I move that the Protection of Wages on Insolvency (Amendment) Bill 1989 be read a Second time.

The object of the Protection of Wages on Insolvency Fund is to provide help quickly for employees when their employers become insolvent. At the moment the fund covers wages in arrears and unpaid wages in lieu of notice. These payments are intended to tide an employee over the difficult period after the sudden loss of employment. Our aim is gradually to improve the protection given to employees by this fund.

We have recently reviewed the operation of the fund and concluded that its scope should be extended to give some help with severance payments. We feel it is prudent to limit this help to \$4,000 per employee in the first instance because the fund has only been in operation for a few years, and its future financial position is difficult to foresee.

The Protection of Wages on Insolvency Fund Board and the Labour Advisory Board

both agree that the fund should be extended to include severance payments. As regards the amount of payment, a majority of the fund board favour the cautious approach of a limit of \$4,000 per employee in the first instance. There is a range of views in the Labour Advisory Board : some favour a limit of \$2,000, some of \$4,000 and some of \$8,000.

Having considered the views of the two boards, our view is that it would be reasonable to make a start with a \$4,000 limit and review the situation one year after the extension comes into effect.

The Bill therefore seeks to amend the Protection of Wages on Insolvency Ordinance to extend coverage to severance payments up to \$4,000 per employee. It also provides for a new four-month time bar on applications for wages in lieu of notice and severance payments in order to prevent the submission of applications long after employment has ended. It also makes a consequential amendment to the Companies Ordinance.

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

Question on the adjournment proposed, put and agreed to.

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1989

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Road Traffic Ordinance."

He said: Sir, I move the Second Reading of the Road Traffic (Amendment) (No. 2) Bill 1989.

The purpose of the Bill is to relax the present requirements on children cyclists to encourage them to use the cycling facilities which are segregated from normal vehicular traffic.

Section 54 of the Road Traffic Ordinance provides that no person shall hire a bicycle or tricycle to a child under 11 years old or permit such a child to ride a bicycle or tricycle on road without adult supervision. This serves to promote safety.

However, in recent years, Government has provided cycleways and cycle parks which are segregated from vehicular traffic and where young children can safely cycle. The current prohibition against the hiring and riding of cycles should therefore be lifted in the light of these developments.

To encourage children to use such off-street cycling facilities, the Bill replaces section 54 by a new section allowing unaccompanied children under the age of 11 to ride bicycles or tricycles in areas which the Commissioner for Transport considers suitable and sets aside for such purpose. Once identified, these areas will be suitably signposted. The hiring of bicycles or tricycles to children under the age of 11 will also be allowed within such areas and the immediate adjoining land where the driving of motor vehicles is prohibited.

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

Question on the adjournment proposed, put and agreed to.

#### GAMBLING (AMENDMENT) BILL 1989

THE SECRETARY FOR SECURITY moved the Second Reading of: "A Bill to amend the Gambling Ordinance."

He said: Sir, I move that the Gambling (Amendment) Bill 1989 be read a Second time.

The Bill aims to increase the penalties for those convicted of illegal gambling offences, and to tighten up the provisions of the Gambling Ordinance to allow more effective enforcement of the law.

Illegal gambling generates large profits for the syndicates which run such operations. Profits from illegal gambling are thought to be the second major source of income, after drug trafficking, for triad and other organized crime syndicates in Hong Kong. But in general the levels of sentences awarded for offences associated with illegal gambling and bookmaking have been low.

Proposals for increasing the penalties for illegal offences were put forward in the Fight Crime Committee's discussion document "Options for Changes in the Law and in the Administration of the Law to Counter the Triad Problem". The proposals included

mandatory prison sentences and minimum fines for people convicted of running illegal gambling syndicates. However, mandatory sentences deprive the courts of discretion and flexibility to meet the circumstances of individual cases. Therefore, the present Bill proposes instead in clauses 3, 5 and 7 a substantial increase in the maximum fines for operators of illegal gambling enterprises from \$500,000 to \$5 million. This increase will enable the syndicates which run illegal gambling operations to be hit where it hurts them most -- in the pocket.

The Bill also proposes increases in the maximum sentences for other illegal gambling offences so as to deter people from patronizing illegal gambling establishments. Clauses 4, 6, 8 and 9 will provide a scale of maximum sentences for the first, second, and third and subsequent convictions for illegal gambling. Sentences range from \$10,000 and three months' imprisonment (the current maximum penalty) on first conviction, to \$30,000 and nine months' imprisonment on third and subsequent convictions.

Turning to the other amendments which aim to facilitate enforcement of the law, clause 2 broadens the definitions of "bookmaking" and "betting slip" to include the settling of a bet. This is to remove the present anomaly whereby the payment of illegal winnings does not of itself constitute evidence of a bookmaking offence.

Clause 5 removes the requirement for the Attorney General's consent to lay a charge of "assisting" in bookmaking. This will allow prosecutors more flexibility in laying charges against persons involved in the running of bookmaking syndicates.

Clause 11 aims to save the time of the courts, the police and the Attorney General, by allowing the courts of their own motion to order disconnection of telephone services to premises used for illegal gambling or bookmaking purposes. At present applications have to be made by the Attorney General.

Under clause 12 of the Bill a rebuttable presumption is created, that where authorized entry of a police officer is delayed, the delay is for the purpose of obstruction, and constitutes an offence. This provision is intended to combat operators of illegal gambling enterprises who delay the entry of the police in order to destroy evidence and conceal gambling money which would otherwise be liable to forfeiture.

Clause 13 extends the power to order forfeiture of money, illegal gambling

equipment and property from magistrate to all courts. This measure will help save the time of the courts.

Although the main purpose of this Bill is to crack down upon illegal gambling, it will also go a long way to help in the fight against triad and other organized crime syndicates.

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

Question on the adjournment proposed, put and agreed to.

OZONE LAYER PROTECTION BILL 1989

Resumption of debate on Second Reading which was moved on 31 May 1989

Question on Second Reading proposed.

PROF. POON: Sir, in view of the potential controversy over this new piece of legislation, an ad hoc group was set up to scrutinize the Ozone Layer Protection Bill 1989. On behalf of the group, I must register our strong disappointment over the late introduction of the Bill into this Council which imposed upon the group a very crash time frame for the examination of the English plus Chinese texts of the Bill. Having full knowledge that the legislation has to be in place by 1 July 1989 for Hong Kong to fulfill her international obligations under the Montreal Protocol, the Bill was not introduced into this Council until 31 May 1989. Nevertheless, the ad hoc group has endeavoured to accomplish this difficult mission by commencing its work even in advance of the First Reading of the Bill. Through the concerted efforts of and unfailing support from Members as well as from supportive staff of OMELCO, I am pleased to report that the ad hoc group and its Chinese Text Sub-committee have held a total of six meetings within the short time available, and have agreed with the Administration on some 11 amendments to the English text and 22 amendments to the Chinese text of the Bill.

There is wide agreement among scientists over the world that the depletion of the ozone layer, caused principally by chlorofluorocarbons (CFCs) and halons, will threaten present and future generations in terms of damage to human health and the environment if proper controls are not adopted in good time. Scientific evidence has shown that increased ultra-violet rays exposure due to ozone depletion could result in increases in the incidence of skin cancer, eye cataract, lower immunity to

infectious diseases, crop yield losses and potential collapse of the marine food chain. Some ozone depleting substances are also powerful greenhouse gases which account for about 15 to 20% of global warming resulted from increased "greenhouse effect". If production and consumption of such substances are not constrained, they can rival carbon dioxide from fossil fuel as a major global warming source. The consequences would be severe disruption to agriculture and ecology.

The main usages of CFCs are in refrigeration, air conditioning, packaging, and as solvent and aerosol propellants. Halons are the most effective fire fighting materials bearing a much higher ozone depleting potential than CFCs (ranging from three to 10 times). Although research work is actively underway, there is as yet no environmentally acceptable substitutes for halons while satisfactory substitutes for CFCs may not be available until three to five years later.

The 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer signify efforts of the international community in setting up an international framework for addressing the ozone depletion problem. Under the provisions of the Vienna Convention, the Montreal Protocol was concluded in September 1987, stipulating specific controls. Hong Kong is party to both agreements.

The Montreal Protocol calls for a freeze, and subsequent reductions, in the production and consumption of CFCs and halons. Signatories to the protocol, numbering some 40 countries at present, are required to freeze production and consumption of CFCs at their 1986 levels with effect from 1 July 1989; to freeze production and consumption of halons at their 1986 levels with effect from 1 January 1992; and, to reduce consumption of CFCs to 80% of 1986 levels in five years and to 50% in 10 years.

The present Bill, which is broadly in line with the provisions of the Montreal Protocol, seeks to prohibit the manufacture of CFCs and halons, and to provide a registration and licensing scheme to control the import and export of CFCs and halons. It also provides regulation making powers for the control or prohibition of the manufacture, import or export of products containing, or made with, the controlled substances which may become necessary at a later stage in accordance with provisions in the Montreal Protocol. It is worthy to note that as Hong Kong has not engaged in the manufacture of CFCs and halons in the past, this Bill has made a positive move beyond the requirements of the protocol by banning the production of such substances.

Just as there are differences in opinion among parties to the protocol on the pace of imposing controls over ozone depleting substances, some members in our group hold a more progressive attitude over the stringency of controls than what was stipulated in the Bill. For example, there was a suggestion that re-export of the controlled substances should be prohibited. As this could create difficulties both for the industries and the end users, it would merit a further round of consultation which would take some time to complete. In order to provide a legislative framework in time for Hong Kong to fulfil her international obligations, members generally accepted that the present Bill, which was in line with the provisions of the Montreal Protocol, should be supported. Such a decision was made on the understanding that the Administration would review the Bill in about one year's time, after the next meeting of the parties to the Montreal Protocol, which was expected to come up with some more stringent controls over ozone depleting substances.

I would now like to briefly highlight some important points deliberated by the group:

Exemption of CFCs and halons manufactured solely for the purpose of research or academic instruction under the definition of "manufacture"

Members were concerned that the prohibition of manufacture of CFCs and halons in Hong Kong would entirely outlaw the production of any such substances, however small the quantity, even for the purpose of research and academic instruction. An offender would face the serious consequence of a possible fine of \$1,000,000 and imprisonment for two years. The Administration has agreed with the group's view that an amendment should be made to exclude CFCs and halons so produced from the definition of "manufacture".

Power of detention

Under clause 12(c) of the Bill, an authorized officer was given the power to detain a person found in any place or premises which he was empowered to search until the premises or place had been searched. Members were concerned that there may be possible abuse of such power. They were however reassured by the Administration that the equivalent power in the Import and Export Ordinance (Cap 60) had not given rise to difficulties in the past. I believe the Secretary for Lands and Works would elaborate on this in his speech.

## Forfeiture of things seized

Members had expressed reservation over the provision under clause 14(4) which stipulated that anything seized based on reasonable suspicion that an offence had been committed under the Ordinance was liable to forfeiture. It was considered unacceptable to forfeit thing so seized if there was no breach of the Ordinance. The Administration agreed and an amendment would be made to confine the power of forfeiture to things which were the subject of an offence.

## Procedure for passing regulations

Members noted that the regulations to be made under the Ordinance could, among other things, impose a maximum fine of up to \$1,000,000 and a maximum prison sentence of two years for certain offences. In view of the heavy penalties involved, members considered that the regulations should be subject to an affirmative approval procedure rather than the negative procedure proposed in the Bill. The Administration agreed that regulations made under this Ordinance, other than those which only prescribed fees would be subject to the approval of the Legislative Council.

## Government's efforts to reduce the consumption of CFCs and halons

Although effective replacements for halons and CFCs are not yet available based on existing technology, the Government has been trying to minimize the use of these controlled substances. For example, the Fire Services Department has been substituting halons by carbon dioxide in its fire fighting exercises and for testing new fire prevention systems in buildings. As for CFCs, talks focusing on better housekeeping and recycling of CFCs, and the development and use of substitute chemicals were jointly organized by the Environmental Protection Department and Hong Kong Productivity Council for the industries concerned. Members were pleased to learn of such efforts.

Sir, may I now turn to some of the potential problems associated with the implementation of the registration and licensing scheme which the group has brought to the attention of the Administration.

First of all, we have sought confirmation from the Administration that

flexibility will be adopted in dealing with companies which have problems at the time when the administrative quota system become effective on 1 July 1989, for example, failure to obtain a licence to cover the delayed arrival of a shipment of controlled substance originally scheduled to arrive before that date.

Secondly, to ensure fairness to all applicants, the Administration has agreed that unless under special circumstance, a uniform period of validity would be given to all registrations.

Thirdly, there was a drafting ambiguity in clause 7(1) as to whether an error of the director could also result in a cancellation of a registration or licence. Members strongly felt that this could cause financial losses to the company through no fault of its own, whose decision to import was based on the registration and licence being issued. To this, the Administration has agreed that an error of the director would not be used as a means to place any further restrictions on the applicant's ability to import or export the scheduled substances beyond those restrictions which should have applied. I believe that the Secretary for Lands and Works will reaffirm the agreement reached with the group that this power of the director would not be used to disadvantage applicants.

Lastly, we have sought clarification that the prescribed registration fee under clause 5(1) was only payable after the registration has been approved.

Sir, there has been strong calls in the international community for a tighter timetable for phasing out CFCs and halons, and for controls over other ozone depleting compounds, for example, carbon tetrachloride and methyl chloroform. Indeed, the group has received a submission from Friends of the Earth submitting similar views. I would like to take this opportunity to thank Friends of the Earth for their suggestions, to which the group has given full and careful consideration. However, because of the urgency in the passage of the Bill based on reasons outlined in the earlier part of my speech, members felt that this new area of legislative and quota control should be given a chance to work and be reviewed in a year's time. The scope of the present Bill actually covers any future need to tighten up controls which might be deemed appropriate as a result of technological advancement or arising from future changes to the Montreal Protocol.

This Bill is an important piece of legislation to save our environment from further deterioration. In order that our future generation will not suffer the

consequence of our own destruction, timely actions must be taken.

Sir, with these remarks, I support the Bill.

MR. ANDREW WONG: Sir, I rise in support of the motion that the Ozone Layer Protection Bill 1989 be read a Second time and give notice that I will support the passage of the Bill at the Third Reading later this afternoon. My reasons, probably shared by all, are obvious. Now that all of us in the world know the depleting effects of certain chemical substances, namely chlorofluorocarbons (or CFCs) and halons, on the ozone layer of our atmosphere, and the importance of the ozone layer without which we will all be killed by ultraviolet rays of the sun, prohibitive and control measures must be taken as a matter of dire urgency, a matter of life and death, lest we would all hasten the beginning of the end of the entire human family.

Sir, in supporting the Bill, I must however register my strongest possible protest against the Government for failing to introduce the Bill sooner than this eleventh hour when the Montreal Protocol on substances that deplete the ozone layer is due to be effective on 1 July 1989. The Montreal Protocol was drawn up as early as 16 September 1987. The Executive Council decided nearly a year ago that Hong Kong should participate in the United Kingdom's ratification of the protocol. It was not until the end of May 1989 that the Bill was introduced in this Council. We are therefore in effect presented with a *fait accompli*. If we in this Council wish to improve the Bill, we will be delaying its passage, and in so doing, we will be accused of being the culprits of making it impossible for Hong Kong to honour the protocol. What a grave accusation! So grave that I have been unable to pursue in detail my proposition that we in Hong Kong should lead the world, in however small way, towards the preservation or at least less rapid depletion of the ozone layer.

Sir, my arguments for Hong Kong performing a leadership role, not by word but by deed, are very simple. The Montreal Protocol, however noble, must of necessity be arrived at as a compromise of various national interests. These national interests in turn must, of necessity, be arrived at as compromises of sectoral interests including manufacturers, traders and users within the various nations. The Montreal Protocol therefore can logically be viewed as measures which fall short of solving the ozone depletion problem or at least fall very short of an early solution to the problem. However, we in Hong Kong do not manufacture CFCs and halons. We only have users, importers and exporters and the trade amounted to a mere \$80 million in 1988 and only \$40 million in 1986. The fact that our situation is less complex and less

severe means that we can, if we choose to, do better than what is required under the terms of the protocol without of course violating the protocol.

Sir, what I have in mind is the banning of exports from Hong Kong. The export of CFCs and halons is not prohibited by the protocol but will be subject to control beginning from 1993. Since Hong Kong does not manufacture such substances, our exports are all re-exports.

I commend the Government's proposal to prohibit the manufacture of such substances in Hong Kong, but hasten to add that re-exports, though permissible under the protocol, are against the spirit of the protocol particularly re-exports to non-signatories of the protocol. Sir, I have been given upon my very specific request detailed figures of the trade on CFCs and halons in Hong Kong for the years 1986 and 1988 by the Lands and Works Branch. I hope, Sir, you will grant me permission to include the four tables as appendices to my speech. Here I only wish to point out that our re-export trade is minuscule. In CFCs, it amounted to some \$17 million and \$26 million in 1986 and 1988 respectively. In halons, it amounted to only some \$1 million for both 1986 and 1988. Of re-exports in both CFCs and halons, some 90% to 100% are destined for non-signatory countries.

Sir, I will not be moving any Committee stage amendments on this issue, since the Bill as drafted, being an enabling legislation, is sufficiently flexible for the imposition of a ban on re-exports. What I seek is a commitment on the part of the Government that when regulations are promulgated under the Ordinance, there will be provisions banning re-exports effective, say, six months later.

Sir, I seek this commitment in the name of humankind and beg to support the motion.

MISS LEUNG (in Cantonese): Sir, I believe that the Ozone Layer Protection Bill 1989 will soon be passed by this Council to become the third Ordinance to be enacted in bilingual form in Hong Kong.

Sir, so far as the debate on this Bill is concerned, the Chinese Text Sub-committee of the ad hoc group to study this Bill still considers it necessary to brief this Council on the problems encountered at the time of examining the Chinese text, since bilingual legislation was only brought into operation some time ago. The Chinese Text Sub-committee also takes this opportunity to put forward relevant opinions in the hope that these views will be conducive to the future process of law enactment

in Chinese.

We have learnt from experience that the time spent on the scrutiny of a Bill for bilingual legislation far exceeds that spent on examining a Bill which is to be enacted in only one official language, that is, English. The Administration should allow the Legislation Council Members ample time so that we can adequately scrutinize the legislation. As Prof. the Honourable C. K. POON, convener of the ad hoc group, said earlier on, the Administration gave the ad hoc group a very tight schedule in considering this Bill.

Sir, in examining the Chinese text the main concern of the Chinese Text Subcommittee is to consider the accuracy in the use of suitable expressions and words so as to ensure that the terms used can accurately convey the legal intent of the Bill. Although Section 10B(3) of the Interpretation and General Clauses Ordinance (Chapter 1 of Laws of Hong Kong) provides for any situation arising from a difference of meaning between the Chinese and the English texts of any Ordinance, we still carefully strive to make both the Chinese and the English texts consistent in meaning in point of law so as to avoid any possible disputes in future.

The sub-committee takes the view that regarding the same English expressions, the use of terms in the Chinese text of this Bill should be as far as possible identical to those used in the Chinese text of the last two Ordinances which have been enacted in bilingual form. If the sub-committee finds the use of terms in the Chinese texts of the last two bilingual Ordinances unsatisfactory and unsuitable for this Bill, suggestions will be made to the law drafters concerned so that improvements can be made.

The sub-committee has tried as far as possible to avoid making amendments to the Chinese text for the sake of the literary style. None the less, whether the Bill is concisely and clearly written can affect the readability of its provisions and also the comprehensibility of the Bill. Therefore, we have to make some proposals in this regard. The opportunity is taken to point out that all along the word "的" has been excessively used in the Chinese texts of various Ordinances and Bills. As an equivalent to "and" in the English text, the word "及", or occasionally the term "以及" have been rigidly used in the Chinese text, without any thought being given to the use of words "和" and "與" with flexibility. However, we have not proposed any textual amendments in this respect, but we hope that in future the law drafters will take this into account.

Sir, I would like to give some examples of our amendment proposals in respect of the Chinese text of the Bill now. Those proposals have been accepted by the Administration and the parties concerned.

Firstly, examples of amendment proposals concerning consistencies in the legal intent and the semantic aspect of the Chinese and the English texts:

In clause 13(d) the term "reckless" in the English text has been rendered as "輕率". However, the sub-committee considers that "輕率" only expresses a very low degree of criminal intent in committing the offence, and fails to accurately reflect the actual purpose of this provision. The meaning conveyed by the term "reckless" in the English text is relatively more appropriate as it indicates the lack of regard to consequences in a criminal offence. After in-depth study and discussion at great length, we suggest that "輕率" be replaced by the phrase "罔顧真偽" to reflect the criminal intent which this provision seeks to prohibit.

In clause 12(a) (b), the phrase "reasonably necessary" in the English text has been rendered as "按理是必要". As the phrase "reasonably necessary" has its basis on the traditional legal concept of common law, there is no doubt about its use and precise meaning in the English text. The sub-committee considers that "按理是必要" does not adequately convey the legal concept involved. We note that the term "按理" in the foregoing phrase is not totally equivalent to "合理" whereas "合理" is relatively more appropriate in reflecting the actual meaning of this legal concept. Moreover, according to the government department concerned, as far as the legal intent of this provision is concerned, the term "必要" is not too appropriate, whereas "需要" is a better term. After intensive study, the sub-committee suggests that the phrase "按理是必要" be replaced by "合理需要". Although the latter phrase is somewhat less commonly used, it can express the objective of the provision.

In clause 5(2) there is a difference of meaning between the original phrase "註冊維持有效" and the phrase "continued registration" in the English text. On basis of the original legal intent of the provision, the sub-committee proposes that this phrase in the Chinese text should be replaced by "繼續註冊".

In clause 10(1)(b)(ii) the phrase "to be evidence of an offence under this ordinance" has been rendered as "與本條例下的罪行有關". The sub-committee considers that there is a difference of meaning between these two phrases and suggests

to replace this phrase in the Chinese text with "屬本條例下罪行証據".

Secondly, examples of amendment proposals to improve the readability and comprehensibility of the Chinese text:

The sub-committee considers that part of clause 8(1) which reads "因署長根據規例條文所作而指明在本條下可上訴的決定而感受委屈" has been abstrusely written and thus suggests that the aforesaid text be amended to read " 因署長根據規例條文所作的決定而感受委屈(1) 而該規例指明該決定是可在本條下上訴的".

The sub-committee opines that the provision of clause 11(3) which reads "特准人員可進入及搜查任何與生產⑩加工⑩貯存⑩分銷或售賣已根據本條例發出許可証的物品有關的房產 ④住宅除外③或地方" has the same drafting problem, and therefore proposes that it should be amended to read " 如許可証已根據本條例就某物品發出(1) 特准人員可進入及搜查任何與該物品的生產⑩加工⑩貯存⑩分銷或售賣有關的房產④住宅除外③或地方".

Sir, the sub-committee thinks that as far as bilingual legislation is concerned, we should, as far as possible, avoid coining new terms, especially in cases where their meaning is not easily comprehensible at first sight, or where there may be double meaning in such new terms. I notice that two new terms have been coined by the Legal Department in this Bill. The first one is "信納" which is rendered to mean "satisfied" in the English text. Though the term "信納" has been used in the Chinese text of the Securities and Futures Commission Bill 1989, the sub-committee considers that there is still room for further deliberation. The meaning of "信納" cannot be easily understood. As it is rendered as an equivalent to the English term "satisfied", we believe that such term is the abbreviated form of the phrase "相信和接納" or "相信而接納". As such, why should we not use a readily intelligible expression "相信接納" or use another term or phrase to express the idea? The sub-committee has spelt out this view to the law drafters. Owing to the tight time schedule, we did not have the chance to carry out in-depth discussion with the law drafters on this particular term. Now that it has already been used in the new Securities Commission Bill, we have to sidestep this point and we do not intend to make amendment proposals, but we hope that the law drafters concerned as well as our fellow colleagues in this Council will take our views into consideration in future.

Another newly coined term is "抑留" which is used in parallel with the term

"withhold" in the English text. Again, such term is considered extremely obscure and not easily comprehensible. We therefore raise our strong objection to the use of such a new expression. After lengthy discussion, we accept the new amendment proposed by the drafters concerned and to replace "將資料抑留" in clause 13(d) by "掌握該資料而不提供".

Sir, the group is still not quite satisfied with a great number of terms and expressions in the Chinese text. However, owing to various reasons, we do not intend to propose further amendments to this Bill, but merely convey our comments to the drafters concerned in the hope that they will take them into account in future. One of the noticeable examples is the term "房產" which is rendered from the English term "premises". The sub-committee is of the view that the meaning of "房產" definitely fails to reflect clearly the meaning of the term "premises"; however, in the context of this Bill, "premises" is an appropriate term.

Sir, apart from amendment proposals on the Chinese text, the Chinese Text Sub-committee has also proposed amendments to the English text in order that the legal intent be adequately reflected in this Bill. Thus we propose that the penalties stipulated in clause 16(2)(a) and (b) in both the Chinese and English texts of the Bill be amended to mean maximum penalties in accordance with the original purpose of these provisions.

Sir, as I pointed out in my speech on 24 May 1989 during the debate on the Second Reading of The Open Learning Institute of Hong Kong Bill 1989, bilingual legislation is a formidable and onerous job; and we are now faced with the very urgent need of training a considerable number of proficient experts in facilitating the carrying out of the task.

Sir, with these remarks, I support the motion.

MR. PETER WONG: Sir, it goes without saying that we must support the aims of this Ozone Layer Protection Bill. To oppose it would allow the depletion of the ozone layer and permit more and more ultra-violet radiation to penetrate the atmosphere and effect all living organisms on earth. We have all heard of the ozone holes over the poles and these will only be magnified if we do not call a halt now.

No one could have foreseen the effects that CFC and the halons would have on the ozone in the upper atmosphere. It is only fair to say that once the problem was identified, the two major international manufacturers have made great efforts to find less harmful replacements. This will take time and will result in higher costs.

Even the greenest of us all in Hong Kong have considered it unrealistic to totally ban these two groups of chemicals. We would not like to do without our refrigerators or air-conditioners. In 1987 the world's nations decided in Montreal to hold down the usage to 1986 levels and then to gradually eliminate them.

There are two criticisms that one can level at this Bill with some justification.

First, it arrived in our hands in May and we were told that we must have it enacted by 30 June in order to fulfil our obligations under the Montreal Protocol. That protocol was signed in 1987 and it has taken the Administration all this time to get the Bill to us and impose such a tight deadline.

Secondly, I have lingering doubts whether the controls are tight enough and whether the list of substances to be controlled are comprehensive enough. We are given to understand that only the CFC will be restricted straight away whilst the halons will only be restricted from 1992 onwards. The controls on CFC, however, are on the level of imports and not the actual rate of consumption; in other words not at the rate at which they are discharged into the atmosphere. The recent Helsinki Declaration warned that the Montreal Protocol is already outdated and at too slow a pace and other substances, like methyl chloroform and carbon tetrachloride, should be added to the schedule substances. (Carbon tetrachloride is a common solvent for dry cleaning).

Our ad hoc group would have liked to spend more time looking at the merits of these claims to arrive at the best solution. However, time constraints have imposed a deadline which is unsatisfactory. We did conclude that it was better to have a modicum of control than to wait and get the controls absolutely right whilst most of these substances are discharged into the air. We were also informed that CFC in aerosols accounted for only about 1% of CFC usage in Hong Kong and their control would not result in any significant improvement at this stage.

What has been gratifying was the lack of any opposition from industry for these proposals will result in maximum fines of \$1 million plus custodial sentences. This Bill, when enacted, will mean inconvenience and higher costs. Satisfactory

substitutes have yet to be found and the manufacturers are spending a great deal of money in research. I wish them well. This lack of opposition has been the result of positive co-operation by industry which has fully appreciated the havoc that these chemicals can play. But more work has to be done to educate all the users so that they use these chemicals sparingly and ensure that the absolute minimum gets discharged into the atmosphere.

It is to be noted that the quota system is estimated to have staff costs of \$2.6 million per annum whilst the fees to be recovered are only \$390,000. This hardly fits into the Government's criteria of full cost recovery. I would prefer to have had more time to consider whether a high tax may be more appropriate to minimize their use and to spur the development of substitutes.

I am prepared to support this Bill on the condition that there will be a comprehensive review of all aspects of the controls in one year's time with the view that we step up to the best practice in the world. In the meantime, I will be watching with interest the regulations governing the quota system and how they work out in practice. I will also look to the Administration to set a good example for all to emulate in the reduction in use of halons for fire-drill exercises. The proposed standards are to be seen as minimum standards and we must do better in practice.

With a phaseout of CFC, it has been estimated that chlorine in the atmosphere will still rise because of usage of other chlorine containing compounds. Even if the world follows the Montreal Protocol, it would still be 2100 before chlorine levels are stabilized. This legislation should be the first small hesitant step in a very long march to keep our atmosphere fit for living.

Sir, with these words I support the Ozone Layer Protection Bill 1989.

SECRETARY FOR LANDS AND WORKS: Sir, I would like to thank the OMELCO ad hoc working group, and in particular its chairman, Professor POON, for their co-operation in the face of an exceedingly tight time schedule. This is a brand new area of legislation, and we have been very hard pressed to meet our deadlines.

Sir, I stand ready to support Professor POON's suggestions for amending the Bill as well as the other suggestions for amending the Chinese text. And in response to the urge to go faster and further, we may be able to do so in future, but for the present, I feel that we should legislate, as far as possible, in accordance with the

provisions of the Montreal Protocol, and amend our strategies as and when the protocol is updated. I can assure Members that we will re-examine the provisions of this Bill in about a year's time, or earlier if and when the Montreal Protocol is updated. At that time we will also re-assess the points that Members have raised today.

In addition, and arising from discussions with the ad hoc working group, I want particularly to give the assurances here that registration fees will be refunded if the application for registration is unsuccessful, and that with regard to clause 7, an error of the director should not be used as a means to place any further restrictions on the applicant's ability to import or export scheduled substances beyond the restrictions which should have been applied; and indeed that the level of fines in Cap. 60 will be reviewed in the course of making other amendments to the Ordinance.

Sir, I thank Members for their support of this Bill, and for their hard work, which enables Hong Kong to meet its international obligations. And I am happy to accept the request made by Mr. Andrew WONG.

Question on the Second Reading of the Bill put and agreed to.

Bill read the Second time.

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

Committee stage of Bill

Council went into committee.

OZONE LAYER PROTECTION BILL 1989

Clauses 1, 9, 15 and 17 to 19 were agreed to.

Clauses 2 and 3

PROF. POON: Sir, I move that clauses 2 and 3 be amended as set out in the paper circulated to Members.

Proposed amendments

Clause 2

That clause 2 be amended, by adding after the definition of "Director" (署長) --

"domestic premises" (住宅) means a premises or place used exclusively for residential purposes and constituting a separate household unit;".

Clause 3

That clause 3 be amended, by renumbering clause 3 as clause 3(1) and by adding --

"(2) Subsection (1) does not apply where the scheduled substance is manufactured solely for the purpose of research or academic instruction and the person manufactures no more than 1 kg of the substance in any 12 month period.".

Question on the amendment proposed, put and agreed to.

Question on clauses 2 and 3, as amended, proposed, put and agreed to.

Clause 4

MRS. LAM (in Cantonese): Sir, I move that clause 4 be amended as set out in the paper circulated to Members.

In the Chinese text of the Bill, the object which should have followed "輸入及輸出" in the heading of clause 4 has been omitted. This means less clarity of expression and a measure of divergence from the English text. The Chinese Text Sub-committee proposes to add "受管制物質" after "輸入或輸出" to ensure consistency of the Chinese and English versions.

Sir, with these remarks, I beg to move.

Proposed amendment

Clause 4

That clause 4 be amended --

(a) in the section heading, by deleting "而輸入或輸出" and substituting "輸入或輸出受 管制物質"; and

(b) by deleting "而" in the provision.

Question on the amendment proposed, put and agreed to.

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

Clause 5

MISS LEUNG : Sir, I move that clause 5 be amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 5

Clause 5 be amended, in subclause (2), by deleting "註冊維持有效" and substituting "繼續註冊".

Question on the amendment proposed, put and agreed to.

PROF. POON: Sir, I move that clause 5 be further amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 5

That clause 5(7) be further amended, by deleting "post or by personal service" and

substituting "personal service or by post".

Question on the amendment proposed, put and agreed to.

Question on clause 5, as amended, proposed, put and agreed to.

Clauses 6, 7, 14 and 16

MRS. LAM (in Cantonese): Sir, I move that the specified clauses be amended as set out under my name in the paper circulated to Members.

The Chinese Text Sub-committee is of the view that clause 6 subclause (1) of the Chinese text of the Bill fails to connote the discretion of the Director to impose conditions, which connotation is abundantly clear from "Subject to any conditions that the Director may impose" in the English subclause. It is therefore proposed that the subclause be amended by deleting "在由他施加的條件下" and adding "並可為此施加條件" after "物質的許可證".

Corresponding amendments to clauses 7, 14 and 16 are also proposed.

Sir, with these remarks, I beg to move.

Proposed amendments

Clause 6

That clause 6 be amended, in subclause (1) --

(a) by deleting "在由他施加的條件下"; and

(b) by adding "(1)並可為此施加條件" after "物質的許可證".

Clause 7

That clause 7 be amended, in subclause (4) --

(a) by deleting "在他施加的條件下"; and

(b) by adding "(1)並可爲此施加條件" after "許可證" where it secondly occurs.

#### Clause 14

That clause 14 be amended, in subclause (2) --

(a) by deleting "在他以書面指明的條件下⑧"; and

(b) by adding "(1)並可爲此以書面指明條件" after "代理人".

#### Clause 16

That clause 16(1) be amended --

(a) in paragraph (c), by deleting "工廠及其設備" and substituting "工廠設備";  
and

(b) in paragraph (d), by deleting "工廠及其設備" and substituting "工廠設備".

Question on the amendment proposed, put and agreed to.

PROF. POON: Sir, I move that the clauses specified be further amended as set out under my name in the paper circulated to Members.

Proposed amendments

#### Clause 6

That clause 6(5) be further amended, by deleting "post or by personal service" and substituting "personal service or by post".

#### Clause 7

That clause 7 be further amended --

(a) in subclause (2), by deleting "post or by personal service" and

(b) in subclause (3), by deleting "5 days" and substituting "10 days".

#### Clause 14

That clause 14(4) be further amended, by deleting "the thing is liable to forfeiture" and substituting "an offence was committed in respect of the thing".

#### Clause 16

That clause 16 be further amended,

(a) in subclause (2) --

(i) in paragraph (a), by deleting "a fine of" in both places where it occurs and substituting "a fine not exceeding";

(ii) in paragraph (b), by deleting "for" and substituting "not exceeding";

(b) by adding after subclause (2) --

"(3) Regulations made under this section, other than regulations that only prescribe fees, are subject to the approval of the Legislative Council."

Question on the amendments proposed, put and agreed to.

Question on clauses 6, 7, 14 and 16, as amended, proposed, put and agreed to.

Clauses 8 and 10 to 13

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

Proposed amendments

Clause 8

That clause 8 be amended, in subclause (1), by deleting "(1)或因署長根據規例條文所作而指明在本條下可上訴的決定而感受委屈(1)" and substituting --

(2) "而感受委屈(1)或因署長根據規例條文所作的決定而感受委屈(1)而該規例指明該決定是可在本條下  
上訴的".

Clause 10

That clause 10 be amended, in subclause (1)(b) --

(a) in subparagraph (ii), by deleting "與本條例下的罪行有關" and substituting "屬本條 (2) 例下罪行證據"; and

(b) by adding after subparagraph (iii) --

"供特准人員查閱⑧"

Clause 11

That clause 11 in the Chinese version be amended, by deleting subclause (3) and substituting --

"(2)如許可證已根據本條例就某物品發出(1)特准人員可進入及搜查任何與該物品的生產⑩加工⑩  
貯存⑩分銷或售賣有關的房產④住宅除外③或地方".

Clause 12

That clause 12 be amended --

(a) in paragraph (a), by deleting "按理是必要" and substituting "合理需要"; and

(b) in paragraph (b), by deleting "按理是必要" and substituting "合理需要".

Clause 13

That clause 13 be amended, in paragraph (d) --

(a) by deleting "輕率" and substituting "罔顧真偽"; and

(b) by deleting "將資料扣留" and substituting "掌握該資料而不提供".

Question on the amendments proposed, put and agreed to.

Question on clauses 8 and 10 to 13, as amended, proposed, put and agreed to.

Schedule

MRS. LAM (in Cantonese): Sir, I move that the Schedule be amended as set out under my name in the paper circulated to Members.

Proposed amendment

Schedule

That the schedule be amended --

(a) by deleting "一" from the chemical name for "CFC115"; and

(b) by deleting "代" from the chemical name for "哈龍 1301".

Question on the amendment proposed, put and agreed to.

Question on schedule, as amended, proposed, put and agreed to.

Long title

MRS. LAM (in Cantonese): Sir, I move that the Long Title be amended as set out under my name in the paper circulated to Members.

"To provide for related matters" in the long title of the Bill is given as "對有關連的事宜作出規定" in the Chinese text thereof. The same English wording

appeared in the Securities and Futures Commission Ordinance 1989 and The Open Learning Institute of Hong Kong Ordinance 1989. In the former case, the Chinese text adopted "對有關連的事宜作出規定" whereas in the latter case, "對有關事宜作出規定" was adopted. The sub-committee proposes to follow the latter case and takes the opportunity to suggest that to ensure consistency "對有關事宜作出規定" be hereafter adopted for "to provide for related matters".

Sir, with these remarks, I beg to move.

Proposed amendment

Long title

That the long title be amended --

(a) by deleting "大氣層";

(b) by deleting "管制含有" and substituting "含有"; and

(c) by deleting "有關連的事宜" and substituting "有關事宜".

Question on the amendment proposed, put and agreed to.

Question on the long title, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

OZONE LAYER PROTECTION BILL 1989

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

Question on the Third Reading of Bill proposed, put and agreed to.

Bill read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 28 June 1989.

Adjourned accordingly at two minutes to Five o'clock.

Note: The short titles of the motions/Bills, with the exception of the Electricity Bill 1989, Merchant Shipping (Prevention and Control of Pollution) Bill 1989, Merchant Shipping (Liability and Compensation for Oil Pollution) Bill 1989, Law Reform (Legal Effects of Age) Bill 1989, and the Ozone Layer Protection Bill 1989 listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.