

1 HONG KONG LEGISLATIVE COUNCIL -- 21 February 1990

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 21 February 1990

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

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

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

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

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

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

THE HONOURABLE CHUNG PUI-LAM, J.P.

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

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

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

THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI, J.P.

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

THE HONOURABLE TAI CHIN-WAH, J.P.

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

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

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

THE HONOURABLE RONALD CHOW MEI-TAK

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

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

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

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE 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 YEUNG KAI-YIN, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE MRS. ANSON CHAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE PETER TSAO KWANG-YUNG, C.B.E., C.P.M., J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MRS. ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE CLIVE WILLIAM BAKER OXLEY, E.D., J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

ABSENT

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

THE HONOURABLE SZETO WAH

THE HONOURABLE PAUL CHENG MING-FUN

IN ATTENDANCE

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

Papers

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

Subject

Subsidiary Legislation

L.N. No.

Fire Services Ordinance

Fire Service (Installation Contractors)

(Amendment) Regulations 1990.....

47/90

Shipping and Port Control Ordinance

(Launches and Ferry Vessels)

1990..... 48/90

Merchant Shipping

(Amendment) Regulations

Shipping and Port Control Ordinance

Merchant Shipping (Miscellaneous Craft)

(Amendment) Regulations 1990.....

49/90

Sailors Home and Missions to Seamen Incorporation Ordinance

Sailors Home and Missions to Seamen

(Amendment) Regulations 1989.....

51/90

Public Health and Municipal Services Ordinance

Public Health and Municipal Services

(Public Markets) (Designation and Amendment

of Tenth Schedule) Order 1990.....

52/90

Registration of Persons Ordinance

Registration of Persons

(Application for
New Identity Cards) (No. 4) Order 1990..... 53/90

Public Health and Municipal Services Ordinance
Declaration of Markets in the Regional
Council Area
1990..... 54/90

The Chinese University of Hong Kong Ordinance
Statutes of the Chinese University of Hong Kong
(Amendment) Statutes 1990.....
55/90

Sessional Papers 1989-90

No. 54 -- Trustee's Report on the Administration of the Education Scholarships Fund
for the year ended 31 August 1989

Oral answers to questions

Development of computer applications

1. PROF. POON asked: In view of the rapid development of information technology and the movement towards networking, will Government inform this Council whether it will develop a strategic plan to ensure the wider applications of computer systems in the Government (ranging from micro to mainframe computers); and to provide adequate and up-to-date computer training to the end-users within the Government?

FINANCIAL SECRETARY: Sir, the short answer to Prof. POON's question is yes. Previously we have assessed departments' or branches' requests for computers on a project by project basis. We are now moving towards assessing requests in the context of the long-term plans of the department or branch involved. In order to achieve this long-term objective, we are strengthening the Information Technology Services Department so that it may assist the rest of the Administration in its computer planning.

The overall aim is to set specific standards that will be of general application, and when we go to tender, we will restrict tenders to configurations complying with those standards. I would emphasize the long-term nature of this approach. We have to move in this way in order to achieve the objectives implicit in Prof. POON's question.

As to training, the Information Technology Services Department is reviewing all information technology training needs and how best to meet them. On completion of the review, proposals will be put to the Secretary for the Civil Service, who is responsible for providing training to end-users, for implementation.

PROF. POON: Sir, will the Secretary inform this Council if there is any plan to move towards networking within the Government? If yes, what is the time frame for such a move?

FINANCIAL SECRETARY: Sir, certainly, our thinking is to make increased use of networking, but I cannot answer the question as to what time frame we are moving in. We will get on with it progressively.

MR. LI: Sir, would the Government inform this Council what measures it is taking to remedy the existing computer compatibility problems, both within and across the various government departments?

FINANCIAL SECRETARY: Sir, I think I have partially answered that question in my principal answer when I spoke about restricting tenders to configurations complying with certain specific standards. As those standards are improved, the questions of incompatibility will gradually disappear.

Noise induced hearing loss compensation scheme

2. MR. TAM asked (in Cantonese): Will Government inform this Council of the progress achieved thus far in formulating the noise induced hearing loss compensation scheme which has been under preparation for quite some time, and whether, during the formulating process, relevant trade unions and labour organizations will be

consulted?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, substantial progress has been made in devising a scheme to compensate employees whose hearing ability has been impaired by occupational noise. The essential features of the scheme, including criteria of eligibility for compensation, have now been finalized and accepted in principle by the Labour Advisory Board. The way in which compensation is to be funded has yet to be decided, however, but I understand that the Labour Department will shortly be consulting the Labour Advisory Board on this matter.

To the extent that all trade unions are represented on the Labour Advisory Board, the answer to the second part of the question is in the affirmative. I can confirm that the Labour Advisory Board has also taken due account of the representations made by various labour organizations on the proposed compensation scheme.

MR. TAM (in Cantonese): Sir, although the establishment of the compensation scheme has been accepted in principle by the Labour Advisory Board, the labour representatives on the board together with various trade unions and labour organizations are still dissatisfied with some aspects of the scheme, for example, the gap between the proposed scale of compensation and that provided under the Employees' Compensation Ordinance, and the definition of "noisy" industries. Would the Administration consult the labour organizations and trade unions so as to facilitate legislation?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think the best course of action for the labour organizations and unions who have an interest in the scheme is to ensure that their views are put, through their representatives, to the Labour Advisory Board. As I am sure all Members are aware, the Labour Advisory Board includes five members representing all registered trade unions.

MR. PANG (in Cantonese): Sir, would the Government consider establishing a compensation authority, similar to that which administers the Protection of Wages on Insolvency Fund, charged with the overall responsibility of managing compensation payments for various occupational diseases because this would make the compensation process easier to administer and cut down administrative costs?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, since the Employees' Compensation Ordinance and the Pneumoconiosis Compensation Ordinance compensate workers for death and disabilities arising from occupational diseases, except for those caused by prolonged exposure to occupational noise, I would not have thought it necessary to take the extra step of considering the creation of a central compensation fund.

Unauthorized conversions of domestic units for purpose of conveyancing

3. MR. CHUNG asked (in Cantonese): As it has been reported that some 200 complaint cases involving the sale and conversion of a large domestic unit into two or more smaller units ("sub-divided units") have been lodged with the Buildings Ordinance Office since 1985, will Government inform this Council:

(1) whether such conversions involved structural alterations to a building;

(2) what remedial steps are being taken in respect of any of such illegal conversions; and

(3) whether in the Government's view legislative controls are required to prohibit sale and purchase of the subdivided units?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the majority of cases investigated by the Buildings Ordinance Office as a result of complaints received since 1985 concerning the unauthorized sub-division of flats into smaller units proved not to involve alterations which might affect the structural safety of the buildings concerned. In those cases where the alteration works were considered to pose either a threat to the structural safety of the building or a hazard to health, enforcement action was taken under the Buildings Ordinance.

In cases where the unit had already been sub-divided and occupied, the situation is more complicated. Occupiers of such sub-divided units would be likely to face hardship if the illegal conversions were demolished, and the Buildings Ordinance Office does take individual circumstances into account when considering enforcement action. Nevertheless, where a threat to safety or a health hazard is established, enforcement action is taken.

The Government does not consider legislation to prohibit the sale and purchase of sub-divided units to be either appropriate or practicable. It would be inconsistent with the basic rights of ownership, including the right of an owner to dispose of his own property as he saw fit. Such legislation would be objectionable in principle inasmuch as it would introduce into property conveyancing and ownership a highly undesirable element of uncertainty. It would also be difficult for Government to police the sale and purchase of sub-divided units to establish in every case whether the sub-division had been approved by the Building Authority. In Hong Kong, purchasers of property are generally represented by their own solicitors who have a responsibility to protect the interests of their clients, and I understand that the Law Society has recently issued a Practice Direction to remind solicitors of their obligations particularly in respect of the Sale and Purchase of Partitioned Residential Flats.

MR. CHUNG (in Cantonese): Sir, in paragraph 3 of his reply the Secretary mentioned that the Law Society has issued a practice direction to remind solicitors of their obligations in the sale and purchase of partitioned residential flats. However, as far as I know, the practice direction does not prohibit the sale and purchase of such flats; it just specifies that if the buyer, knowing well that the flat has undergone illegal conversion, insists on buying, the solicitor should merely ask him to indicate in writing that he is aware of such situation and the deal can proceed. Could the Secretary ask the Law Society to squarely address this matter and advise solicitors not to handle cases involving illegally converted flats even if the buyer is willing to take the risk?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I am aware of the particular issue which has been raised and I would be more than content to address the Law Society, as suggested.

MR. MARTIN LEE: Sir, is the Administration aware of the extent of abuse on consumers arising from the sale of partitioned residential flats, particularly when an unscrupulous solicitor is involved; and if so, what does the Administration propose to control such abuse?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, one important element which the Buildings Ordinance Office is concerned about is the need to educate the public; at least make the public aware of the situation before they enter into any contract. I understand also that the Consumer Council has from time to time issued publications and given media interviews warning of the risks involved. As I said in my principal answer, I do not think that legislation is the right course, but I do think that people must be given all the information necessary for them to take the final decision.

MRS. LAU: Sir, can the Administration inform this Council of the number of sub-divided units which have been approved by the Building Authority over the past few years?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I have some statistics but I regret to say that those particularly relating to sub-division, which is suggested here, are not readily available. The number of 200 complaints which is referred to in the question is about right. The number of sub-divided units about which action has been taken is about 30. But as to the precise number requested in the question, I will follow up in writing, Sir. (Annex I)

MR. CHUNG (in Cantonese): Sir, in paragraph 3 of his reply the Secretary also mentioned that in Hong Kong, purchasers of property are generally represented by their own solicitors. I would like to point out that although the relevant Ordinance has recently been amended to the effect that buyers and sellers should be separately represented, there is a provision which states that if the purchase price is below \$250,000, the same solicitor can represent both parties. Could the Secretary initiate an amendment to the Ordinance to provide that when sub-divided units are involved, the parties should be separately represented by solicitors irrespective of the price, even when it is below \$250,000?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I think this is a matter involving legal practice which I would need to take advice on.

MR. ARCULLI: Sir, would the Secretary inform this Council what steps are being

taken by the Administration to actually inform the public that a flat or flats within a building have been sub-divided once it has been discovered that they are in fact sub-divided units?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, where unauthorized building works are brought to the attention of the Buildings Ordinance Office and where these are regarded as posing a threat to the structural stability of the building, then an entry is made within the Land Registry and the solicitor will, of course, have a responsibility to check that particular entry.

MR. CHENG HON-KWAN: Sir, in respect of the enforcement action taken by the Buildings Ordinance Office, does the Government have any opportunity of successful prosecution against the party concerned for such illegal alteration works, including owners, contractors or the solicitor?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I do not have figures to indicate how successful we might be. But under the Buildings Ordinance, the Building Authority has a range of options, one of which is that prosecution action can be taken against the offenders. It would be a matter for the individual case to determine precisely who the offender was.

MR. MARTIN LEE: Sir, does the Administration, in particular the Financial Secretary, appreciate that if the Consumer Council were to be asked to educate the public on every matter that the Government is reluctant to legislate on, then the Consumer Council would need much more funds than this Administration is prepared to give it?

HIS EXCELLENCY THE PRESIDENT: That is slightly wide of the original question, although not wide of the supplementary.

FINANCIAL SECRETARY: I did not expect, Sir, that I would be called upon to be so bountiful this afternoon because we consider all applications for funds within the context of our resource allocation system. The problem is, Sir, in these days everyone wants everything. (Laughter)

MISS LEUNG (in Cantonese): Sir, as a large unit is sub-divided into several smaller units, the number of occupants might exceed the original estimate of the town planning authority and might to some extent bring pressure on community facilities. So would the Administration prohibit any unauthorized sub-division of domestic units on town planning grounds?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, that is an interesting proposal. The Town Planning Ordinance does indeed set guidelines but at the moment it confers no powers of enforcement.

Payment of civil service pensions after 1997

4. MR. MCGREGOR asked: Sir, I declare an interest as an old government pensioner. Will the Government inform this Council what measures will be taken to safeguard the pensions to be paid to retired civil servants after 1997, bearing in mind that many of them may be located in other countries; and what will be done to obtain a guarantee from the Chinese Government that pension for civil servants will continue to be paid and calculated on a basis comparable to that before 1997?

CHIEF SECRETARY: Sir, I will do my best to provide some comfort to Mr. MCGREGOR in his old age (laughter). The pensions legislation provides for the payment of pension benefits to retired civil servants as of right, and pensions are a statutory charge on the general revenue.

There is also provision under the Joint Declaration for safeguarding the continued payment of pensions after 1997. Section IV of Annex A to the Joint Declaration specifically provides that the Hong Kong Special Administrative Region Government shall pay all pensions and benefits due to pensioners on terms no less favourable than before, and irrespective of the pensioners' nationality or place of residence. The same guarantee is embodied in Article 101 of the draft Basic Law.

Sir, that said, as I mentioned in this Council on 7 February, we are aware that there is still some concern amongst civil servants about the security of their pensions. The option of funding pensions which has been suggested is simply not feasible. Such a fund would have to be in the region of HK\$120 billion to generate

sufficient income to meet pension commitments up to 1997. But we are exploring other options to see if existing arrangements can be made more flexible to reassure staff. We have received a wide range of proposals from staff and we are currently examining the implications of each of them. At this stage, Sir, it is premature to say which of these proposals, if any, will be found to be practicable or acceptable.

MR. MCGREGOR: Sir, I would like to offer the Chief Secretary a very attractive proposal: will the Government consider providing an alternative retirement option under which retiring civil servants may commute, if they so wish, their entire pension into a lump sum, even at some potential loss to themselves? And could such a scheme be offered to existing pensioners?

CHIEF SECRETARY: Sir, I mentioned that we are considering various proposals. Without giving too many secrets away, I think I could say that one of the proposals we are considering is along the lines suggested by Mr. MCGREGOR, namely, that there would be a higher level of commutation for pensioners. Another is that we are considering whether it is possible to introduce a provident fund rather than a pension scheme. But these are in very early stages of consideration.

MR. PETER WONG: Sir, if the Administration has tacitly agreed that there is a case for funding government pensions, would it not now be prudent for the pensions for new entrants to be separately funded?

CHIEF SECRETARY: Sir, I do not accept that we have accepted that there is a case for funding pensions. We believe that the provisions in the Joint Declaration provide a high degree of security for the future. We are now looking at ways of making the system more flexible. But I do not believe, Sir, that to set aside large sums of public funds to fund pensions now or in the future would be very acceptable to the community as a whole.

MR. CHOW: Sir, I would like to declare my interest too, as I have opted for the new pension scheme. It is now no more than seven years to 1997. Could the Administration inform this Council of the timetable for the flexible arrangements mentioned in the

Chief Secretary's reply to be finalized in order to give assurance to civil servants as early as possible?

CHIEF SECRETARY: Sir, we are aware, as I have said, that there is considerable interest in this subject. We are working on the problem. I cannot, however, at this stage give an indication as to when we might come up with a reply.

MR. MCGREGOR: Sir, when can the Chief Secretary enter into discussions on these important matters with the various civil service unions?

CHIEF SECRETARY: Sir, there have already been a large number of discussions on this subject with civil service unions, and as a result of that, these proposals have been put forward. Clearly, if we were to make any changes, they would be the subject of consultation.

Hong Kong as an international financial centre

5. MR. BARROW asked: Would the Government inform this Council as to its plans to promote and develop further Hong Kong as an international financial centre and whether it would consider setting up a development board, which would include a representative cross section of people from the private sector, to further this aim in the same way as other bodies, such as the Industrial Development Board, perform useful functions in their sectors?

FINANCIAL SECRETARY: Sir, in order to promote and develop Hong Kong as an international financial centre, the Government will continue to maintain and improve the environment that is essential for the healthy evolution of our markets, and for the development of the range of financial services needed. There are many factors or aspects that are relevant. For example, an educated population, an attractive tax structure, good communications and a sound regulatory framework, all have their place.

As to the establishment of a development board, having regard to the varied and

disparate interests involved in the development of Hong Kong as a financial centre, I do not consider that it would be practicable to have a single board to represent them all. The present arrangements through which we consult and seek advice are working well, and we have achieved considerable success in building Hong Kong as a financial centre without having such a development board.

MR. BARROW: Sir, whilst I accept the desirability of a sound regulatory environment, would the Financial Secretary inform this Council if he is aware of the widespread concern amongst market practitioners and the professions that the way in which the regulations are being interpreted and administered at present may stifle the growth of financial markets rather than promote them?

FINANCIAL SECRETARY: Sir, I am aware that some people in the marketplace do take the view that there is over-regulation. I am also aware of the fact that when one is imposing new systems of regulation, however reasonable, there will always be those who say there is over-regulation. All of us involved in the regulatory side of the Government are acutely conscious of the need to avoid over-regulation, because we are aware that excessive interference will only stifle innovation and inhibit market forces. But equally, under-regulation will drive away reputable investment.

MR. ARCULLI: Sir, will the Financial Secretary explain to this Council what steps can be taken to actually promote Hong Kong as a major international financial centre? I am emphasizing the word "promote" here because it is the very word used in Mr. BARROW's question but the answer from the Financial Secretary seems to put emphasis on development as such.

FINANCIAL SECRETARY: Sir, I think it is worthwhile putting Mr. ARCULLI's question in the context of the facts as we know them. We have represented here in Hong Kong over 400 foreign-owned banks from 50 countries. Among them are 85 of the top 100 banks in the world in terms of total assets. Hong Kong already ranks third in the world in terms of overseas bank representation. We have 165 licensed banks, of which 134 are overseas incorporated. We have 208 deposit-taking companies, also incorporated overseas. Over 50% of aggregate assets and liabilities are external, involving transactions with more than 120 countries. Over 80% of total business is

denominated in foreign currencies. Sir, I could go on because I do have further statistics here, but I do not wish to take up Members' time unduly. But over the years, those in business in Hong Kong have done a great deal to develop Hong Kong as a financial centre. Our task in the Government is to remove impediments to further development, and that we do all the time.

Dumping of used cars

6. MR. CHEUNG YAN-LUNG asked (in Cantonese): Is Government aware that many used cars are dumped in the New Territories resulting in environmental pollution by the rusting scrap, engine oil and so on; if so, what measures will it take to alleviate such pollution while not adversely affecting the interests of the landlords concerned, and will Government provide guidelines and assistance to these landlords?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the Government is aware of the general problem of used cars being abandoned in the New Territories. As an environmental pollution problem, it is principally one of aesthetics: abandoned cars are eye sores. However, I am advised that there is no significant evidence of stream course or drainage pollution caused by rusting scrap or engine oil.

In our view, abandoned cars are less an environmental pollution problem and more a land-use control problem. Indeed, Sir, in respect of government land the Director of Buildings and Lands as part of his function as the Land Authority keeps a regular check on vulnerable government sites and the figures of cars removed of about 750 in 1987-88 and about 500 in 1988-89 confirm the effectiveness of the enforcement action. In cases where used cars have been abandoned on private land without the landowner's permission, Government is normally unable to act because the mere presence of a vehicle on private land is not in itself a breach of lease conditions. The responsibility must, I am afraid, rest with the landowner.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, according to the first paragraph of the Secretary's reply, is Government so satisfied with the present situation that it has no intention to make any further improvement?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: No, Sir, we are not satisfied with the situation, but we are legally constrained. As I pointed out in the principal answer, Crown land is already reasonably well covered. The problem lies with private land where it is the landowner's responsibility. I think it might be of interest to Members to note that we are in the course of drafting a new Land Drainage and Flood Protection Bill which it is intended should be processed in the 1990-91 Legislative Session. Although the principal object of that Bill is, as its title implies, to reduce the danger to the public and damage to property from flooding, it could be used in cases where there is pollution to stream courses.

MR. LAU WONG-FAT (in Cantonese): Sir, could Government inform this Council whether it is due to shortage of public and private abandoned vehicle surrender centers that there are a lot of abandoned vehicles in the New Territories? If so, what measures will Government introduce to resolve this problem?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I feel that this is actually a matter of transport policy, rather than of land control policy. Perhaps my colleague, the Secretary for Transport, might care to take up the response.

SECRETARY FOR TRANSPORT: Yes, Sir, I think at the present time there are three of these abandoned vehicle surrender centres run by the Transport Department with a capacity of 75 cars at any one time. However, I have been informed that these centres have been very much under-used despite the availability of the facilities. The main reason is that car owners prefer to sell their vehicles to private scrapyards in return for some money.

MRS. LAM (in Cantonese): Sir, could Government inform this Council of the costs of removing vehicles abandoned in government sites each year or last year? What does Government do with the vehicles so removed?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I am afraid I do not have those statistics available. I will write to Mrs. LAM in due course. (Annex II)

MRS. LAU: Sir, can the Secretary inform this Council whether any prosecution has resulted from the car removal exercise between 1987 and 1989 referred to in his answer, and if so, what is the number of prosecutions?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, again I do not have figures to underline the enforcement action which has been taken. The Crown Land Ordinance does give the authority concerned the responsibility to remove the cars. Bearing in mind that many of these are abandoned and that the ownership cannot be traced, then clearly no prosecution can follow.

MR. MARTIN LEE: Sir, is the policy of "let polluters pay" applied to abandoned motor cars so that the registered car owners are required to pay to the Government the cost of the removal of their abandoned cars, and if so, how successful has the Government been in recovering such costs?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, again I think this is a matter which I would need to research.

MR. EDWARD HO: Sir, in view of the objectionable visual environmental pollution caused by abandoned vehicles on private land, and it seems that there is no legal power to remove that pollution, would the Secretary inform this Council whether the Administration considers that town planning controls should be extended to the rural areas?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this touches upon a major issue. The questions so far have been concerned with cars which have been randomly abandoned. The present question now touches upon car dumping and the use of agricultural land for non-agricultural pursuits. I have to say that the Government is looking very seriously at this very important form of land control, or rather lack of land control. We are looking at the possibility of revising the Town Planning Ordinance to extend statutory land use planning to the non-urban areas.

MR. ARCULLI: Sir, will the Secretary please inform this Council whether, other than lease conditions, there is in fact any law in the statute book which permits Government to act in terms of removing these abandoned cars? If there is none, would it be desirable in fact to consider new legislation to enable the Government to act?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, there is limited recourse to the Road Traffic Ordinance which has recently been extended to cover private roads and which would, I think, as a matter of interpretation, cover those areas of private land immediately contiguous with a private road. For the rest of private land, then certainly we would be prepared to look at it.

MR. MCGREGOR: Sir, would the Secretary consider having the Government remove abandoned cars from those private plots of land where the landowner asks them to do so?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: That is certainly something worth considering, Sir.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, what measures does Government have at present to discourage owners from abandoning vehicles at will, such as requiring owners to submit evidence on how they have disposed of their vehicles when they decide not to renew the registration of the vehicles in question?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, again I fear that this touches more on transport policy than it does on land control.

SECRETARY FOR TRANSPORT: I think, Sir, there is a possibility of this being looked into when the licence of a car is due for renewal. I will have to take up this with the department concerned and find out whether the suggested course of action is feasible.

MR. ANDREW WONG: Sir, how does one define an abandoned car? Can it be defined in

legal terms? If I leave my car somewhere, say, in my garden for a month, because I am away on leave, would it be considered to be abandoned?

HIS EXCELLENCY THE PRESIDENT: That is more of a general question than is allowed, but I shall direct it where the other questions went.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I understand that, as with all abandoned property, proper notice has to be served to give the owner an opportunity to recover that property. If he does not do so within a certain time, then I suggest that it would be perfectly legitimate for it to be removed.

MR. TAI: Sir, would the Secretary advise whether storage of abandoned cars on private land would constitute a public nuisance and whether the Administration would take legal action against it?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this is one of those rather difficult areas that we are looking into. There is much agricultural land used in the New Territories for non-agricultural purposes, and I might say, quite legitimately. We are looking at ways in which that may be properly controlled, and this is certainly one of the areas that we will be examining.

Monitoring of statutory bodies

7. MISS LEUNG asked: In view of strong public concern about the proper monitoring of statutory bodies which have executive functions and implications on public resources, and noting that the review of the Kowloon-Canton Railway Corporation (KCRC) has been completed and the recommendations released, will Government inform this Council of the latest position and the objectives regarding the review of the relationship between the Government and other statutory bodies?

CHIEF SECRETARY: Sir, the Administration is reviewing the statutory bodies as part of its public sector reform programme. Recommendations have been made that the

statutory bodies should be reviewed periodically by policy Secretaries. This is no small task, given the number of statutory bodies involved but we are making good progress.

Statutory bodies vary widely in their functions and responsibilities. Some have a very long history and their operational objectives have been blurred over time. Our current reviews will focus on those statutory bodies which provide an important public service on behalf of the Government and have delegated authority to spend considerable public funds. Initially 15 such statutory bodies, including those new bodies to be set up in the near future, such as the Hospital Authority, have been selected for review. We expect to complete this exercise in the six months' time.

The KCRC is the first of these 15 statutory bodies to be reviewed. The objective of our review is to ensure that, whatever the nature of those bodies, their remits, as distinguished from the role and responsibility of the Government, are clearly defined, and that formalized arrangements exist for the Government to agree objectives and accountability with the statutory bodies. The review will include a detailed examination of the basic justification for the body; its functions and policy objective; its structure; its relationship with the policy Secretary; and what, if any, improvements should be introduced to strengthen the ability of the Government to monitor the general performance of these bodies and the achievement of their objectives.

MISS LEUNG: Sir, will the Secretary inform this Council what the other 13 statutory bodies are that have been selected for review and what the criteria for selection were?

CHIEF SECRETARY: Sir, I think I mentioned the criteria in my main reply. Rather than read out a list of 15 of these authorities, I will let Miss LEUNG have a list, Sir. (Annex III) But just to give a flavour of some of them, much of our time at the moment is spent on new authorities which are coming into being in the near future. They include the proposed Hospital Authority, which I have mentioned, the proposed Airport Authority, and the proposed Radio Television Hong Kong Corporation. As to others, they fit into the criteria of having large amounts of funds to spend, and in that category, I would put the Consumer Council, which is high on our list, and also the Hong Kong Tourist Association and the Hong Kong Industrial Estate Corporation.

MR. PETER WONG: Sir, I can understand how one can review the relationship of a body which is in existence, but I am intrigued as to how one can review the relationship of a body which is not yet in existence, like the Hospital Authority. Would the Secretary care to explain?

CHIEF SECRETARY: Sir, in the context of establishing new bodies, we are clearly reviewing our experience in dealing with existing bodies and translating that into practice with our new bodies. To that extent, it is a review.

MR. MARTIN LEE: Sir, in conducting the review of statutory bodies, in particular the KCRC, does the Administration accept that the consumer's interests must be adequately protected, as recently suggested by the Consumer Council?

CHIEF SECRETARY: Yes, Sir, clearly one of the factors that we are concerned with is consumer interest.

MR. BARROW: Sir, will the Chief Secretary confirm that these concerns will not deter the Government from pursuing further privatization given that monitoring mechanisms can be put in place to protect the consumer?

CHIEF SECRETARY: Yes, Sir, I can confirm that.

MR. CHEONG: Sir, would the review include the option that responsibilities of the statutory bodies revert back to Government?

CHIEF SECRETARY: Sir, the review is a wide-ranging one. But the original decision to set up statutory authorities was intended to ensure that operations which could very well be taken outside the Government were done so, in that such authorities provide a statutory framework, a flexible system of management and a flexible system of manning and staffing. We think these advantages are important provided the

statutory authorities can meet the objectives and be adequately monitored. Within those criteria, Sir, we are open minded.

MISS LEUNG (in Cantonese): Could the Secretary inform this Council, under the envisaged new relationship between the Government and the statutory bodies, what powers and avenues the Government will have to adequately monitor statutory bodies and their day-to-day operation, particularly those that are fully independent of the Government; and what powers and avenues the public will have to ensure adequate monitoring of these bodies?

CHIEF SECRETARY: Sir, I think that falls into two parts. As far as the Government is concerned, it is a question of maintaining a balance between monitoring and allowing the corporations concerned to enjoy the freedoms under which they were set up. Certainly, the current reviews of these bodies will include an examination of the organization and management process within the statutory body to ensure, first, that aims and priorities are clearly defined which will help us in future monitoring; secondly, that arrangements for delegating authority and responsibility are also clearly specified; and thirdly, that proper systems exist for planning and managing resources and for assessing the results achieved. What we are aiming for, Sir, is to encourage statutory bodies to continue to look for improvements, whilst at the same time maintaining a close relationship with the Government and the policy Secretary. Miss LEUNG also asked about the public interest, and I think it is worth spelling out the responsibility that the Legislative Council has in monitoring. Members, of course, have the opportunity to comment on legislation establishing the authorities when they are set up, and indeed on any amending legislation. When the organizations require allocations of public funds, these are subject to the scrutiny of the Finance Committee, or to the budgetary process. Questions may also be raised in this Council and in the Public Accounts Committee about the operations of any statutory body. Sir, in any event, the ultimate policy and financial control of statutory bodies will rest with the Government and appropriate officials will continue to be available in this Council to answer questions concerning the activities of these organizations.

Renewal of driving licences

8. MR. PETER WONG asked: Will Government inform this Council of the reasons for requiring renewal of driving licences every one year or three years and the costs involved in processing such renewals?

SECRETARY FOR TRANSPORT: Sir, the main reason for requiring renewal of driving licences every one or three years is to maintain an up-to-date record of drivers' addresses to facilitate correspondence and the serving of summons. It also helps to ensure the payment of fines for traffic offences.

In 1988-89, the total cost incurred in processing such renewals was about \$18 million.

MR. PETER WONG: Sir, if updating of addresses is indeed the primary objective of licence renewal, would it not be more logical to require immediate notification of change? And what was the revenue derived from licence renewals that cost \$18 million to process in 1988-89?

SECRETARY FOR TRANSPORT: Sir, the main reason for requiring this renewal is to facilitate enforcement of the relevant regulations. This involves not only the updating of addresses as to which licence holders are required to report change within 72 hours, but also the question of serving of summonses relating to outstanding court cases and of the payment of fines, particularly parking tickets which last year totalled \$126 million in value. If updating were not done in time, there would be a huge accumulation of debt due to Government and hence a loss of revenue for Government. As regards the \$18 million, it breaks down to a unit cost of \$50 per case, and there were about 300 000 or so cases last year.

MR. MCGREGOR: Sir, would the Government consider extending the validity of new licences and those being renewed to seven years, or nine years, both being lucky numbers?

SECRETARY FOR TRANSPORT: Sir, as I said, there are difficulties in allowing a longer extension because under the existing arrangements when a licence expires the licence

holder is given three years within which to renew the licence. So it is three years on top of the period of validity of the licence. It would be too long if the period is further extended to five or eight or nine years. In fact in most neighbouring cities, such as Singapore, and countries such as Japan and Malaysia, and in most states of Australia and Canada, there is a similar arrangement of a one or three-year licensing system.

MRS. CHOW: Sir, I do not know if the Secretary has already answered Mr. WONG's question. I happen to have the same question. What in fact is the total revenue derived from the renewal exercise annually? Does the revenue exceed or fall short of the cost incurred? Could the Secretary elaborate a little bit further as to why the simplification of the administrative processes of this system cannot be effected by relying on notification of up-to-date information, rather than having all motorists go through the renewal process every year or three years? In the United Kingdom, all licences are in fact effective until a motorist reaches the age of 65.

SECRETARY FOR TRANSPORT: Sir, I think I have already answered the last part of MR. WONG's question. The cost involved was \$18 million for the full year last year and the corresponding revenue from this renewal was \$136 million. The reason for this big difference is obvious: it was on budgetary, not transport, grounds that the scale of renewal fees was introduced by the Financial Secretary in 1983, not by me, Sir.

Written answer to question

Disturbances in Vietnamese boat people detention centres

9. MR. POON CHI-FAI asked: In view of the frequent outbreaks of large-scale disturbance and armed gang fightings as well as seizures of large quantities of self-made offensive weapons from various Vietnamese boat people detention centres in recent months, will Government inform this Council of the types and number of weapons seized from these centres in the past; of the number of Vietnamese boat people who have been charged with unlawful possession of offensive weapons; whether investigation has been conducted on the motives for the massive production of weapons and the presence of any instigators behind the scenes; what effective measures are in hand to prevent the boat people from making illegal weapons at the centres and

what safeguards are available to ensure the safety of Correctional Services, Civil Aid Services and police officers in managing these centres and in carrying out their duties under the mandatory repatriation scheme?

SECRETARY FOR SECURITY: Sir, the question has five components and I will answer them in turn:

(A) Number and types of weapons seized from Vietnamese boat people detention centres

It is estimated that about 6 500 weapons have been seized from Vietnamese boat people detention centres since June 1988. The weapons seized have in the main been knives, iron bars, daggers, swords and spears.

(B) The number of Vietnamese boat people who have been charged with the unlawful possession of an offensive weapon

A provisional analysis of court and police records indicates that, during 1989, 53 Vietnamese boat people were charged with possession of offensive weapons under section 17 of the Summary Offences Ordinance (Cap. 228), whilst 17 were charged with possession of an offensive weapon in a public place under section 33 of the Public Order Ordinance (Cap. 245). Sentences imposed ranged from 14 days to nine months.

The Government's policy is to bring charges against offenders whenever there is sufficient evidence to support a prosecution.

(C) Whether investigation has been conducted on the motives for the massive production of weapons and the presence of any instigators behind the scenes

Investigations have been conducted on the motives and methods of those people producing weapons in the detention centres. The most common reason given by those Vietnamese boat people involved is self-defence. Based on information from different sources we believe that the production of weapons is related to factional rivalries in the detention centres.

(D) What effective measures are in hand to prevent the boat people from making illegal weapons

We shall continue to make it clear to the inmates of the detention centres that the production and possession of offensive weapons is punishable both under the general Laws of Hong Kong, as well as the Immigration (Vietnamese Boat People) (Detention Centre) Rules 1989 made under section 13H of the Immigration Ordinance (Cap. 115).

Searches for weapons and regular patrols of the centres will continue. Those who are found to have committed an offence will be disciplined under the Detention Centre Rules or charged with offences under the Public Order Ordinance (Cap. 245) or the Summary Offences Ordinance (Cap. 228). In order to reinforce our ability to deal with troublemakers in the detention centres, we are considering the establishment of a separate segregation camp. This should bring about a general improvement in security within the detention centres.

Most weapons are made from metallic and other hard materials taken from the fabric of the buildings or from furniture. It is obviously impossible to eliminate all such hard materials from the centres. Efforts are being made to make such materials less accessible, for example, by phasing out the present design of bunks and replacing them with new beds which have fewer metallic components.

(E) What safeguards are available to ensure the safety of Correctional Services Department, Civil Aid Services and police staff in managing these centres and in carrying out their duties under mandatory repatriation scheme

Contingency plans have been prepared to deal with serious disturbances in the detention centres. The safety of the camp staff is a major element in these plans. The camp management teams themselves are not expected to deal with serious disorder. They are expected to retreat to areas of safety, leaving the restoration of order to specially trained police and Correctional Services Department units. Similarly, in implementing the mandatory repatriation programme staff with the appropriate skills and training will be deployed in sufficient numbers to ensure the safety of all concerned.

First Reading of Bills

URBAN COUNCIL (AMENDMENT) BILL 1990

REGIONAL COUNCIL (AMENDMENT) BILL 1990

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

Second Reading of Bills

URBAN COUNCIL (AMENDMENT) BILL 1990

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

He said: Sir, I move that the Urban Council (Amendment) Bill 1990 be read the Second time.

This Bill amends section 39(1) of the Urban Council Ordinance to enable the estimates of the revenue and expenditure of the Urban Council to be submitted to the Governor in January rather than in December. The preparation of the Urban Council's estimates will then coincide with the Administration's Annual Budget exercise. This will streamline overall co-ordination. The amendment has the support of the Urban Council.

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

Question on the adjournment proposed, put and agreed to.

REGIONAL COUNCIL (AMENDMENT) BILL 1990

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

He said: Sir, I move that the Regional Council (Amendment) Bill 1990 be read the Second time.

For the same reasons as given in moving the Second Reading of the Urban Council (Amendment) Bill, the Regional Council (Amendment) Bill seeks to amend a similar provision in section 41(1) of the Regional Council Ordinance. The amendment has the

support of the Regional Council.

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

Question on the adjournment proposed, put and agreed to.

INLAND REVENUE (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 7 February 1990

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

Bill read the Second time.

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

STAMP DUTY (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 7 February 1990

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

Bill read the Second time.

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

PUBLIC FINANCE (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 7 February 1990

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

INLAND REVENUE (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

STAMP DUTY (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

PUBLIC FINANCE (AMENDMENT) BILL 1990

Clauses 1 to 3 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

INLAND REVENUE (AMENDMENT) BILL 1990

STAMP DUTY (AMENDMENT) BILL 1990 and

PUBLIC FINANCE (AMENDMENT) BILL 1990

had passed through Committee without amendment and moved the Third Reading of the Bills.

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

Bills read the Third time and passed.

Valedictory

HIS EXCELLENCY THE PRESIDENT: Before I adjourn the Council, I should like to take this opportunity to pay tribute to Mr. Geoffrey BARNES who will soon be retiring from the Civil Service and leaving this Council, of which he has been a Member for the past two years. This will be the last occasion on which he will be attending the Council.

Mr. BARNES joined the Hong Kong Government in May 1970. He is one of those happy imports from elsewhere from which Hong Kong has benefitted so much. During the past 20 years he has held senior positions in a number of departments including the Royal Hong Kong Police Force, the previous Commerce and Industry Department, and the Health and Welfare and Security Branches. And he was also Commissioner of the Independent Commission Against Corruption for over three years.

In the present post which he holds as Secretary for Security, Mr. BARNES has had to grapple with a great many controversial and sensitive issues. The most time consuming and most difficult, I am sure, has been the problem of Vietnamese boat people which must have dominated his life for the past two years. This has involved him not only in a great task of making practical arrangements for looking after boat people here, but also in a great deal of travelling abroad to Geneva, Kuala Lumpur and Hanoi. He has carried out those tasks with vigour, determination and even tempo. I would not like, in speaking about his work on Vietnamese boat people, to let pass the fact that he has also been very active and successful in dealing with problems relating to the maintenance of law and order and in tackling the drug problem.

Mr. BARNES has also been a very popular Member of the Council. So popular indeed that everybody wants to ask him questions. (Laughter) Statistics show that during the last Session he had more questions to answer than any other Official Member.

Mr. BARNES' wise counsel, experience and hard work in serving Hong Kong will be greatly missed by all of us. I am sure Members will wish to join me in thanking Mr. BARNES for his contribution to the work of this Council and to Hong Kong, and to wish him and Mrs. BARNES many years of happy retirement.

MR. ALLEN LEE: Sir, my colleagues and I would wish to join you in the warm tribute you have paid to Mr. BARNES.

For two years now as Secretary for Security, Mr. BARNES has, I think, one of the most difficult jobs on the Legislative Council. The problem of dealing with Vietnamese boat people and Vietnamese refugees has been of such serious concern to the community that Mr. BARNES is often put in the hot seat in the Council for answering the apparently never-ending questions and supplementary questions. The problems he deals with of course include other varied and complicated issues such as immigration and law and order. The realities of the problems are such that Members and the Administration are seemingly at odds with each other, but I am sure my colleagues and I appreciate how hard Mr. BARNES works. I would therefore take the opportunity to express our appreciation of his willingness to listen and his unflinching patience.

As Mr. BARNES will be retiring from this Council, we will remember his contribution, and wish him and his wife a happy retirement in the many years to come.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 28 February 1990.

Adjourned accordingly at twenty-seven minutes to Four o'clock.

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