

1 HONG KONG LEGISLATIVE COUNCIL -- 18 July 1990

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 18 July 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.

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

THE HONOURABLE CHUNG PUI-LAM, J.P.

THE HONOURABLE HO SAI-CHU, O.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.

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, 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 GRAHAM BARNES, C.B.E., J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

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

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

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. MIRIAM LAU KIN-YEE

DR. THE HONOURABLE LEONG CHE-HUNG

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

ABSENT

THE HONOURABLE POON CHI-FAI, J.P.

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

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

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

THE HONOURABLE LAU WAH-SUM, J.P.

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

IN ATTENDANCE

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

Papers

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

Subject

Subsidiary Legislation

L.N. No.

Supplementary Medical Professions Ordinance Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations 1990.....	
221/90	
Supplementary Medical Professions Ordinance Occupational Therapists (Registration and Disciplinary Procedure) Regulations 1990.....	222/90
Road Traffic Ordinance Road Traffic Ordinance (Amendment of Third Schedule) Order 1990.....	223/90
Births and Deaths Registration Ordinance Births and Deaths Registration Ordinance (Amendment of First Schedule) Order 1990.....	227/90
Public Health and Municipal Services Ordinance Public Health and Municipal Services (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 5) Order 1990.....	228/90
Interpretation and General Clauses Ordinance Rectification of Errors Order 1990.....	229/90

Road Traffic Ordinance	
Road Traffic Ordinance (Amendment of Eighth Schedule) (No. 2) Order 1990.....	230/90
Probate and Administration Ordinance	
Non-contentious Probate (Amendment) Rules 1990.....	231/90
Public Health and Municipal Services Ordinance	
Pleasure Grounds (Regional Council) (Amendment) (No. 2) By-laws 1990.....	232/90
Antiquities and Monuments Ordinance	
Antiquities and Monuments (Declaration of Monument) (No. 3) Notice 1990.....	233/90
Banking Ordinance (Amendment of Third Schedule) Notice 1990 Corrigendum.....	234/90
Animals and Plants (Protection of Endangered Species) Ordinance	
Animals and Plants (Protection of Endangered Species) (Exemption) (Amendment) Order 1990.....	235/90

Sessional Papers 1989-90

- No. 82-- Report on the Administration of the Travel Agents' Reserve Fund for the period 1.4.88 - 31.3.89
- No. 83-- Report of the Public Accounts Committee on Report No. 15 of the Director of Audit on the results of value for money audits June 1990
Public Accounts Committee Report No. 15

- No. 84-- Customs and Excise Service Welfare Fund Income and Expenditure Account with balance sheet and certificate of the Director of Audit for the year ended 31 March 1990
- No. 85-- Sir Robert Black Trust Fund Annual Report for the year 1st April 1989 to 31st March 1990
- No. 86-- Sir David Trench Fund for Recreation Trustee's Report 1989-90
- No. 87-- Pneumoconiosis Compensation Fund Board Annual Report 1989
- No. 88-- Hong Kong Trade Development Council Annual Report and Accounts 89-90

Addresses by Members

Report on the Administration of the Travel Agents' Reserve Fund for the period 1.4.88 - 31.3.89

DR. IP: Sir, as Chairman of the Advisory Committee on Travel Agents and the Travel Industry Council Reserve Fund, I wish to say a few words about the report on the Travel Agents' Reserve Fund just tabled.

Almost two years have elapsed since self-regulation for the outbound tour industry was introduced. In the intervening period, the Travel Industry Council Reserve Fund, a body corporate formed with a view to replacing the Travel Agents' Reserve Fund, has continued to provide a safety net for outbound travellers. By charging a 1% on tour packages, a healthy reserve is gradually being built up. So far the Travel Industry Council Reserve Fund has accumulated a net reserve of \$33 million. Since the introduction of self-regulation, few travel agents have failed, incurring only limited liability on the Fund. The largest failure so far came from Mei Sun Tours Limited which collapsed in Easter, 1990. Fortunately as a result of close supervision and restricted business operations immediately prior to the failure, the amount of loss sustained was less than one-third of \$1 million. As a matter of fact, the former clients of this defunct company are being given ex-gratia payments from the Travel Industry Council Reserve Fund right now. By now, travellers at large

are aware of the significance of receiving receipts for their tours bearing the 1% franking machine mark. With such receipts, they are able to claim up to 70% of their loss in the unhappy event that their travel agent should fail.

For the Travel Agents' Reserve Fund, the main event for the year under report was the continuation of payments of the former clients of Austravel Company Limited and the P.C. Travel Service Limited. By now virtually all former clients who have opted for a one-off 70% payment of amount claimed, this being approximately 2 300 in number, have all been paid, and for those 800 or so former clients who opted for 100% payment, the third and final instalment is expected to be paid by the end of 1990. All in all, HK\$10 million have so far been paid to these former clients, and it is hoped that by the end of this year, we can put behind us the liability of Austravel and P.C. Travel Service Limited and once outstanding claims are settled, the Travel Agents' Reserve Fund will be closed.

When the Travel Agents (Amendment) Ordinance 1988 was enacted in July 1988, the Administration undertook to review the entire package of self-regulation for the outbound tour industry two years thereafter. This review is in hand. Although both the Travel Industry Council and the Travel Industry Council Reserve Fund have gained experience and confidence in their respective roles and reserves are being built up at a healthy rate, there is no room for complacency. In terms of cost-effectiveness and efficiency for the present scheme there are areas worthy of close scrutiny. For instance, could the existing rate of ex-gratia payment pegged at 70% be improved? Could administration for the Reserve Fund be further streamlined? Should the 1% levy on package tours be lowered? All these, I am confident, will be critically examined in the review. The ultimate objective of self-regulation for the industry is to create a sound framework of co-operation for the benefit of travellers and operators alike. I venture to say that we are on target, although the means to achieve the end can no doubt do with some refinement.

Report of the Public Accounts Committee on Report No. 15 of the Director of Audit on the results of value for money audits

June 1990

Public Accounts Committee Report No. 15

MR. PETER POON: Sir, laid on the table today is the 15th report of the Public Accounts Committee. This covers the conclusions reached by the Committee in considering the

Director of Audit's Report on the result of Value for Money studies carried out between October 1989 and February 1990.

Given the ambitious programmes of infrastructural improvements outlined by the Hong Kong Government over recent months, in particular the Port and Airport Development Strategy, and the major expansion planned for Hong Kong's tertiary education sector, the need for cost-efficiency in the management of public funds has never been greater. There is no room for profligacy with the public purse. I believe this is now widely understood and accepted at all levels of Government. The change in attitudes over the past few years was well illustrated at the public hearings we held in early May: the defensive attitudes adopted by some witnesses in the past had been replaced by a refreshing willingness to admit past mistakes and accept that improvements could, and should, be made to improve economy and cost-effectiveness in the future.

Given this heightened awareness of, and attention to, the need for cost-efficiency I trust that the recommendations in our Report No. 15 will be accepted in the spirit in which they are offered; that is, not to punish or rake over past faults, but to look forward, and to identify the scope for future improvements. Given this co-operative approach I believe that the encouraging trends we have charted through our reports in the latter half of the 1980s can be maintained through the 1990s.

Oral answers to questions

Entry point for Taiwan university graduate teachers

1. MR. SZETO asked (in Cantonese): As Point 17 of the Master Pay Scale has been specified by the Civil Service Branch as the starting salary point for graduates of the Taiwanese universities or the National Taiwan Normal University joining the teaching profession, will Government inform this Council what is the rationale behind the long-standing practice of the Education Department to set the entry point for aided-school teachers with such academic qualifications only at Point 15 of the Master Pay Scale?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, before I answer the question, let me say

that no Taiwan university graduate has ever been hired to teach in government schools in Hong Kong. The discrepancy between the entry point specified by the Civil Service Branch and that specified by the Education Department is regrettable but theoretical, in as much as its existence has not affected any teacher.

This discrepancy arose as a result of a lack of co-ordination between the two parties involved, but has now been removed. In January 1989, the Civil Service Branch amended the entry point for graduates from some Taiwan universities from Master Pay Scale (MPS) 17 to MPS 15 so as to bring it into line with the general practice of the Education Department.

Turning to the future, the Education Department is considering whether degree holders from Taiwan universities and holders of other non-standard qualifications should have their entry point revised. The results of this exercise are being finalized and will shortly be forwarded to the relevant policy Branches for consideration.

MR. SZETO (in Cantonese): Sir, will the Government inform this Council, with regard to the teachers I mentioned earlier, why are they awarded only category B teacher's remuneration when teaching in primary school, whereas they are awarded category A teacher's remuneration when teaching in secondary school and even in special primary school?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am afraid I am not aware of the full details of the case. I shall have to answer the question in writing. (Annex I)

PROF. POON: Sir, with reference to the last paragraph of the principal answer, will the Secretary inform this Council what is meant by "non-standard qualifications"? And what are standard qualifications?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the standard qualifications for the purposes of entry into the teaching profession in the public sector are, in the case of graduate teachers, holders of local or Commonwealth university degrees and, in the case of non-graduate teachers, holders of certificates issued by the Colleges

of Education. Everything else is non-standard and this includes the diplomas issued by, for example, the approved post-secondary colleges, universities which are not Commonwealth universities and so on.

MR. DAVID CHEUNG: Sir, in his answer the Secretary mentioned that the discrepancy has now been removed. Will the Secretary inform this Council whether, in matters relating to teachers' qualifications, the Education Department or the Civil Service Branch will have the final say or whether memos will continue to travel between the two parties, causing a lot of confusion?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, we are examining various areas affecting terms and conditions of employment both in the Education Department and in aided schools. I have myself detected several other discrepancies and my branch is in the process of sorting them out. That said, I may perhaps point out that no system is perfect, but we shall try our best to resolve these discrepancies.

MR. SZETO (in Cantonese): Sir, in the second paragraph of his reply, the Secretary mentioned that the Civil Service Branch and the Education Department have reached some kind of co-ordination, that is, lowering the entry point from MPS17 to MPS15. Why is it not raised from MPS15 to MPS17? Is it because this qualification has somewhat depreciated by January 1989?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the reason for bringing the pay point from Point 17 to Point 15 is that Point 15 relates to the entry point for all holders of non-standard qualifications. I have been trying to ascertain the reason why Point 17 was first offered -- this dates back to the 1970s. I have not yet, so far, obtained a satisfactory answer. But I can assure Honourable Members that Point 15 is the point that applies to all non-standard qualification holders.

MRS. FAN: Sir, in the revision of entry points for holders of non-standard qualifications for teaching posts, will consideration be given to the present shortage of supply of teachers, and if so, to what extent?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the short answer to that question is: "yes". We have had regard to the present shortage of teachers. I would not wish to pre-empt or in any way prematurely disclose the outcome of the current review. But the present thinking of those who are reviewing entry points for holders of non-standard qualifications is that they should enter at Point 15 in the case of aided primary schools and Point 16 in the case of aided secondary schools; in the latter case, however, the entrants should be required to undergo a training course, in other words, to go for qualification in teacher training, upon the satisfactory completion of which they will then rise up the salary scale.

PROF. POON: Sir, following on from the Secretary's answer to my last supplementary question, does it mean that any graduate, even from very prestigious non-Commonwealth universities like Harvard and Stanford, will be paid at the scale lower than that for a graduate from a Commonwealth university?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, that is a question that is currently being reviewed. I think Prof. POON is trying to draw me into saying "no". I would not wish to pre-empt the results of the review. I would, however, like to ask him to bear in mind that no two educational systems are the same -- we are talking about teachers and their ability to teach children in Hong Kong.

MR. SZETO (in Cantonese): Sir, currently some teachers with the so-called non-standard qualification, such as graduates of the Baptist, Shue Yan and Lingnan Colleges, may take up teacher's training upon their appointment as teachers and are awarded one point's jump in salary on completion of the training. However, graduates of Taiwan University and Taiwan Normal School are not given the same treatment. What is the reason?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, there is a difference even between holders of non-standard qualifications. For those leavers of approved post-secondary colleges who have obtained teacher training qualifications, the view taken by the Education Department is that they have been trained and that they are capable of teaching. They are therefore awarded an entry point appropriate to the possession of that training. Conversely, holders of Taiwan university degrees may well be qualified in the subjects that they have studied, but they have not been trained to

become teachers and therefore, to reflect that difference, they have not been awarded the appropriate entry point.

Cable and satellite television

2. MR. PETER WONG asked: In view of the current interest concerning cable and satellite television, will the Government inform this Council:

(a) whether a contract has been entered into between Hong Kong Cable Communications Limited and the Government, and if so, whether the Government has agreed to allow installation of Satellite Master Antenna Television (SMATV) or has undertaken not to do so; and

(b) what is the Government policy regarding SMATV?

SECRETARY FOR HOME AFFAIRS: Sir, there has been an exchange of letters between Hong Kong Cable Communications Limited and the Hong Kong Government concerning the establishment of a cable television system and a second telecommunication network.

There is at present no established policy on satellite television. We announced last year a general intention to exempt from licensing satellite television reception and distribution systems which are designed for general reception and restricted to single property developments. In the light of recent developments in cable and satellite television we are currently reviewing our policy in this area.

MR. PETER WONG: Sir, can the Secretary please answer whether the Government has agreed with Hong Kong Cable Communications Limited to allow the installation of SMATV or has undertaken not to allow it?

SECRETARY FOR HOME AFFAIRS: Sir, this point is included in the review that I referred to.

MR. MARTIN LEE: Sir, in conducting the review of policy, will the Administration

undertake to this Council that it will give primary importance to the interests of the consumer?

SECRETARY FOR HOME AFFAIRS: Yes, Sir.

MR. TIEN: Sir, the Secretary said in his reply that satellite television for general reception was without charge and restricted to single property developments. Would the Secretary please elaborate on the term "single property developments"? Would an apartment block of, say, 10 units be considered as such?

SECRETARY FOR HOME AFFAIRS: Sir, the general statement was made earlier last year. We refer to single property developments within a property boundary that is not crossing a public street or Crown Land. I think this matter will also be looked at in the course of the review.

MR. PETER POON: Will the Government inform this Council what the law is regarding the right of the public to receive satellite transmission, and if such a right does not exist, whether the law will be amended, and if yes, when?

SECRETARY FOR HOME AFFAIRS: Sir, the use of satellites is in fact not legal but its presence in Hong Kong is tolerated. As to the future policy, this again is a matter that will be included in the review.

MR. CHEONG: Sir, will the Secretary give an assurance to this Council that in the review of the policy he mentioned the rights of individual Hong Kong citizens will be upheld to receive SMATV without undue hindrance? And also, can the Secretary confirm that the rights of Hong Kong citizens as mentioned above will be enshrined within the provisions of the Bill of Rights soon to be discussed in this Council?

SECRETARY FOR HOME AFFAIRS: Sir, the Government's basic aim is to protect public interest. We recognize that freedom of access to information, such as from a satellite, is in the public interest. But we must also take account of the fact that the provision of cable TV, and indeed other forms of TV, is also in the public interest.

Both these points will have to be considered.

MR. BARROW: Sir, will the Secretary inform this Council whether or not cable and satellite TV systems co-exist elsewhere in countries such as the United States and Canada, and if so, whether they can likewise co-exist in Hong Kong? And if not, why not?

SECRETARY FOR HOME AFFAIRS: Sir, I am afraid I am not briefed on systems elsewhere. Whether or not these two systems can co-exist is a matter that will be looked at in the review.

MRS. FONG: Can the Administration inform this Council how long it will take to complete such a review and whether the results will be published once the policy has been decided on?

SECRETARY FOR HOME AFFAIRS: Sir, the answer to the first question is: it is being dealt with with great urgency. The answer to the second question is: "yes".

MRS. CHOW: Sir, can the Secretary give us an indication of the time frame of the review and an assurance that this review will not be overtaken by events given the development in technology?

SECRETARY FOR HOME AFFAIRS: Sir, the results of the review will be considered by the Governor in Council and as such I cannot at this stage say how long it will take but we are treating it with some urgency. As to whether or not future policies will or will not be overtaken by technological development, that is a question for the future.

MR. TIEN: Sir, will the Secretary please inform this Council whether satellite television is a free or paid service in most countries?

SECRETARY FOR HOME AFFAIRS: Sir, the satellite dishes that have appeared on roof-tops in Hong Kong, I believe, can receive signals free of charge.

Medium of instruction

3. MR. DAVID CHEUNG asked: Will Government inform this Council of the number of secondary schools which use or claim to use English as the medium of instruction, as compared to the number of schools which use Chinese; and whether any study has been conducted to find out the proficiency in the English language of those teachers who teach in the former schools; and if no such study has been conducted, the reasons for this?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, at present 292 secondary schools use or claim to use English as their medium of instruction while 136 use Chinese fully or partly as their medium of instruction.

We do not know precisely to what extent teachers in secondary schools which use or claim to use English as a medium of instruction are proficient in the English language. Nevertheless, the Education Department's Report on Language Improvement Measures, published in May 1989, has suggested that the English of some of these teachers is not up to scratch. This has been considered by the Education Commission in the context of its fourth report, which includes a review of the Government's policy on language in education. Without wishing to make a premature disclosure of the Commission's findings, I think I can say that the way forward might be partly to develop a mechanism by which the language ability of all students is assessed objectively, and partly for schools to make a clear-cut choice as to which medium of instruction they will use. The aim would be to place students in schools using the medium of instruction best suited to their cognitive development.

Thus, rather than deploying scarce resources on research to establish the proficiency of existing teachers using English as a medium of instruction, we would prefer to deploy these resources to set minimum standards for English and to improve teacher training.

MR. DAVID CHEUNG: Sir, will the Secretary inform this Council whether the clear-cut choice that schools have to make as mentioned in the main answer will be a firm policy in the future?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, whether or not we will be asking schools to make a clear-cut choice in the future and whether that will be firmly adhered to are two separate matters. I cannot predict at this stage the Government's decision -- whether or not the Government would accept the Education Commission's recommendation. If such a recommendation were made and the Government accepted it as part of our education policies, the intention is that schools will be given every opportunity to make a clear-cut choice and to stick to it.

MRS. CHOW: Sir, can the Secretary tell us of the 292 secondary schools which use or claim to use English as their medium of instruction exactly how many of them do use, and how many of them only claim to use, English as their medium of instruction?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the number of schools using English in full number 96, representing about 22% of the total number of secondary schools. They include schools run by the English Schools Foundation, a number of international schools, plus those Anglo-Chinese schools which have decided not to use Chinese as the medium of instruction except for the teaching of Chinese. The remaining 196 schools claiming to use English are those which have decided not to use Chinese in full or in part. In other words, many of the 196 schools use a mixture of English and Chinese but the preponderant medium of instruction is English.

MR. TIEN: Sir, in his reply, the Secretary said that the Government's aim would be to place students in schools using the medium of instruction best suited to their cognitive development. Will the Secretary please inform this Council what has been done to convince the end-users, that is, the parents and students that this is the correct way ahead rather than blindly offering English teaching in schools?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think at this stage it would be best if I were to ask Mr. TIEN to be a little patient and to await the outcome of the publication of the Education Commission's fourth report. His question will be fully addressed in a chapter of that report.

MR. ARCULLI: Sir, in his reply the Secretary said that the way forward might be partly to develop a mechanism by which the language ability of all students is assessed objectively. Now can he please tell us what the current mechanism is for such assessment and why he suggests that the current mechanism may not be sufficiently objective?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the current assessment mechanism at the end of Primary VI is called the Hong Kong Aptitude Test. It is a norm-referenced school-based test. Now, as I am sure many Members are aware, norm-referenced assessment systems have the effect of apportioning the population to be tested into those who are doing extremely well, competently, and not well, regardless of the way that children progress individually. What the Commission is currently considering is a criterion-referenced system of testing, by which the performance of individual children is tested against pre-set standards of academic attainment. This means that all children, under a criterion-referenced assessment framework, would know whether or not and to what extent they are individually progressing without having to be marked against, for example, the rest of the class or the rest of the school. Under such a system, the language ability of all students can, we think, be objectively assessed and satisfactorily so.

MR. SZETO asked (in Cantonese): Sir, if the standard of English of both teachers and students in a certain school is too low for English to be used as the medium of instruction but the school still chooses English as the medium of instruction, would the Secretary inform us whether this will seriously affect the effectiveness of education, waste our education resources and render the school liable to the charge of deceiving the parents?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the short answer to that series of questions is "yes". But we are, within the Education Commission, trying to address them in detail. Whilst developing an assessment mechanism we will also be developing a timetable and the means by which schools will in future exercise a sensible choice, and may exercise a further choice if their first choice happened to be wrong.

MR. DAVID CHEUNG: Sir, in paragraphs 2 and 3 of his answer, the Secretary seemed to suggest that he would rather spend the money and the resources on helping the pupils rather than assessing the teachers. And yet in paragraph 2, the stated aim is to put the students in the schools which use the medium best suited to their cognitive development. What will the Government do in cases where schools offer the English medium and find that they cannot deliver what they promise?

SECRETARY FOR EDUCATION AND MANPOWER: Again, Sir, the thrust of Mr. CHEUNG's question and previous questions is to draw me into a premature disclosure of the forthcoming report of the Education Commission. The detailed answer to that question will have to await the publication of the Commission's report. But, as I mentioned earlier in reply to Mr. SZETO, we are now developing a series of measures including ways in which schools could assess the correctness of their choice. We are developing a series of measures in which schools, having chosen a medium of instruction, would work towards a set of attainment goals. If, for example, a school chooses English as the medium of instruction, we envisage that the Government would provide that particular school with training for their teachers and with other forms of assistance that will enable the school to reach its objectives.

MRS. CHOW: Sir, I hope the Secretary is not going to suggest that I am trying to draw him further into a reply into which he does not want to wander. But with reference to the last paragraph of his reply, would the Secretary not agree that it is of primary importance to establish, when schools do opt to use English as the medium of instruction, that such schools do have teachers who have the required proficiency to do so, and therefore research in this regard cannot be dispensed with as he suggested it should be in the last paragraph?

SECRETARY FOR EDUCATION AND MANPOWER: No, Sir, I am afraid I cannot agree with Mrs. CHOW. I agree that it is important that a school, once it has taken a decision to go for a medium of instruction, be given every opportunity and assistance to reach its objective. That is very different from saying that we must first and foremost test the proficiency of the teaching workforce in that school because most secondary schools have a very large graduate workforce to begin with. We believe that it is far more important for a school to make up its mind and then to be assisted towards reaching its chosen medium of instruction. To try at this stage to research the

proficiency in English of the teachers in existing schools would be a long drawn out exercise which I am afraid would not lead to very conclusive results.

Use of loudspeakers in public places

4. MR. HUI asked: Will Government inform this Council whether the use of loudspeakers or megaphones by voluntary welfare agencies and schools, which organize indoor or outdoor activities for their members, clients or students in public places, requires the issue of permits by the Commissioner of Police under section 4(29) of the Summary Offences Ordinance and, if so, will Government inform this Council:

(a) of the criteria for issuing such permits;

(b) of the number of applications for permits from voluntary welfare agencies and schools in 1989 and the number of permits that were issued in the same year; and finally

(c) the annual cost to the police for processing such applications?

SECRETARY FOR SECURITY: Sir, the use of loudspeakers in a public place requires the approval of the Commissioner of Police under the Summary Offences Ordinance, unless the use of such equipment has been separately authorized under the Public Order Ordinance. The Noise Control Ordinance also prohibits the use of loudspeakers which are a source of annoyance to the public.

Each application to use loudspeakers is considered on its own merits. In general, a permit will be issued if the Commissioner is satisfied that the use of such equipment is necessary and will not cause a nuisance to the general public.

Applications are not categorized by the type of person or body making the application, so I regret I cannot provide statistics on applications from voluntary agencies and schools alone. However, the total number of applications received, and permits issued in the past two and a half years is as follows:

Applications	Permits
received	issued

1988	487	481
1989	402	391
1990	285	272 (12 applications
(first six		are still under
months)		process)

In sum, in the last 30 months, nearly 1 200 applications for permits have been received, of which some 97% have been approved.

Since the Police Licensing Office issues many different licences and permits, it is not possible to calculate separately the cost of processing applications to use loudspeakers. However, I believe the total annual cost is small.

MR. HUI: Sir, in view of the widespread use of loudhailers without a permit by welfare agencies and schools for indoor or outdoor activities for their members and the negligible number of prosecutions, if any at all, brought against them, could the Administration inform this Council whether it is cost-effective to safely assume that no prosecution will be initiated against such a user unless he is infringing grossly on public order?

SECRETARY FOR SECURITY: Sir, I do not think I can say in what circumstances a prosecution would or would not be taken. However, I think I can say that the purpose of the legislative controls on loudspeakers is to prevent nuisances and the police administer the law in that spirit.

MRS. TU: Sir, in view of the widespread criticism expressed here and abroad of the restrictions placed upon freedom of expression and demonstration that arise from the application of section 4(29) of the Summary Offences Ordinance, does Government have any plans to introduce amending legislation?

SECRETARY FOR SECURITY: Sir, there will remain a need to have control on the use of loudspeakers, in particular to prevent nuisances. I accept that there is at present some overlap between the provisions relating to loudspeakers in the Summary Offences

Ordinance, the provisions in the Public Order Ordinance, and the provisions in the Noise Control Ordinance. We will look at those provisions.

MR. MARTIN LEE: Sir, given that according to the 1933 Hansard this section was originally enacted to prevent shopkeepers from broadcasting advertisements "to the public in the street" and that the explicit purpose was to provide a simple remedy for indictable nuisances, does the Government consider the use of this statute appropriate in public gatherings where there is no indictable nuisance?

SECRETARY FOR SECURITY: Sir, I think Mr. LEE is trying to get me to comment on a case which is currently before the court and I do not think it is appropriate for me to do so.

MR. MARTIN LEE: Point of order, Sir.

HIS EXCELLENCY THE PRESIDENT : Yes, what is your point of order?

MR. MARTIN LEE: Sir, my question refers to Hansard in 1933 where the then Colonial Secretary, in moving the Bill, said to the legislature at the time in the terms that I quoted. My question is whether or not the prosecution of people under the present section -- not because of any violation of public peace and order in that it does not constitute any indictable offence -- is a departure from the speech then made to the legislature?

HIS EXCELLENCY THE PRESIDENT: That does not sound like a point of order but I will put it back to the Secretary for Security.

SECRETARY FOR SECURITY: Sir, I think I can only repeat what I said in answer to an earlier question; as indeed Mr. LEE has pointed out by reference to the 1933 Hansard, the purpose of the provision is to prevent nuisances and the police administer the law in that spirit.

DR. LEONG: Sir, before 1989, when was the last time a prosecution was instituted under this section in circumstances where the defendant had not actually caused a public nuisance?

SECRETARY FOR SECURITY: Sir, I am afraid that the records of prosecutions under this section are not computerized and it would take a very great deal of time and effort to retrieve details of such prosecutions manually. I am afraid I do not have details of prosecutions with me. However, I believe that there have been a handful of prosecutions per year in recent years.

MISS LEUNG: Sir, in the light of the representation contained in the Third Periodic Report to the United Nations Human Rights Committee where the Government stated the general guidelines under which the use of amplification equipment other than hand-held loudhailers might be banned, thereby clearly implying that the use of hand-held loudhailers will not be banned, has the Government now changed its position and decided that it will ban the use of hand-held loudhailers?

SECRETARY FOR SECURITY: Sir, I do not think there is any question of a ban. Nobody, I think, has suggested that hand-held loudhailers are banned. It is simply that we need to have control over loudhailers and other amplification devices in order to prevent public nuisances.

MR. CHEONG: Sir, the Secretary in his reply mentioned that the Noise Control Ordinance also prohibits the use of loudspeakers which are a source of annoyance to the public. Can the Secretary inform this Council whether this particular Ordinance has ever been used as a guideline in the granting or otherwise of such applications? If not, why not?

SECRETARY FOR SECURITY: Sir, I am not sure that I entirely understand the question but it seems to me that the purpose of the Noise Control Ordinance is to prevent nuisances to the general public and, as I have said in my main reply, the police, in considering applications for permits under both the Summary Offences Ordinance or separately under the Public Order Ordinance, use the same criteria in deciding

whether approval should be given.

MR. CHOW: Sir, has the Government received any representation from any other government or individual that the Government ought to prosecute demonstrators under this long dormant section of the Summary Offences Ordinance?

SECRETARY FOR SECURITY: Sir, I think we have certainly received a number of representations on this subject from members of the public recently. I am certainly not aware of any representations received from other governments.

MR. PETER WONG: Sir, can the Secretary inform us of the 3% that have not been approved how many were withdrawn; in other words, how many were actually rejected? And in respect of the rejected, can the Secretary also analyse the reasons for rejection?

SECRETARY FOR SECURITY: Sir, I would be happy to try and provide that information in a written answer. (Annex II) I do not have the information with me.

MR. SZETO (in Cantonese): Sir, will the Administration inform this Council whether it has recently received any requests from other governments or individuals that the Hong Kong Government should institute prosecutions under this section?

SECRETARY FOR SECURITY: Sir, I think that Mr. Ronald CHOW asked the same question which I have just replied to.

MR. HUI: Sir, could the Administration inform this Council how much time is required for a permit to use loudhailers to be granted? How much more time will be required if there are thousands of applications for such usage in a month?

SECRETARY FOR SECURITY: Sir, I believe that normally an application at present could be processed and a decision taken within a few days. As regards the second part of

the question, I really do think that that is hypothetical and that I could not answer that.

MR. LI: Sir, on 2 May this year the Secretary for Constitutional Affairs listed this statute as being in possible conflict with the proposed Bill of Rights. After further study, has the Government come to a conclusion that if such a conflict does exist, the Government will desist from prosecuting individuals under the Ordinance?

SECRETARY FOR SECURITY: Sir, we are reviewing a number of laws in relation to the Bill of Rights; we have not yet reached a conclusion on those. Clearly, if there is a conflict we will have to bring proposals before this Council to amend the law, but we have not come to any conclusions either in relation to this section or in relation to many other laws.

MR. MARTIN LEE: Sir, with reference to the figures supplied under paragraph 3 of the Secretary's answer, do they include an application for the use of loudhailers only, without at the same time applying for a permit in relation to public meetings or public processions?

SECRETARY FOR SECURITY: Sir, I think that the figures I quoted for applications under the Summary Offences Ordinance relate to applications to use loudhailers independently from any public meetings or gatherings. I believe that normally where a person applies for permission to hold a public meeting or a public procession then an application to use a loudhailer would be dealt with as part of the application and the approval for that meeting or procession.

MRS. CHOW: Sir, looking at the figures over the last 13 months, one finds that only 1 200 applications have been received and one would suspect that there must be many more instances of use of such equipment than the number of applications has indicated. Why is it that the Government is not prepared to waive the application for the permit and thereby simplifying the whole process, while relying on the Public Order Ordinance or the Noise Control Ordinance as the basis for prosecution should a nuisance be established?

SECRETARY FOR SECURITY: Sir, as I said in answer to an earlier question, I do accept that there is an overlap, perhaps an unnecessary overlap -- that remains to be decided -- but certainly there is an overlap between the provisions of the Summary Offences Ordinance, the Public Order Ordinance, and the Noise Control Ordinance relating to the control of loudspeakers, and we will be considering whether any changes are necessary.

DR. LEONG : Sir, does the Government believe that prosecution under section 4(29) of the Summary Offences Ordinance in circumstances where the use of loudhailers is not a nuisance violates the Government's obligation under Article 19 of the International Covenant on Civil and Political Rights which actually states that:

"Freedom of expression shall only be curtailed for the protection of the reputation of others, national security, public order, or public health and morals"?

HIS EXCELLENCY THE PRESIDENT: I will ask the Secretary for Security to answer that as though it was not a question of opinion but of government attitude.

SECRETARY FOR SECURITY: Sir, thank you. I do not think that I can be expected to give a legal opinion. As I have said in answer to previous questions, the police at present administer the law in the spirit in which we believe it was designed, which is to prevent public nuisances.

Fund-raising activities in public places

5. MR. CHOW asked: Will Government inform this Council of the criteria used by the Director of Social Welfare in approving applications by organizations for carrying out fund-raising activities in public places?

SECRETARY FOR HEALTH AND WELFARE: Sir, the statutory power for the Director of Social Welfare to grant permits for fund-raising activities in public places is provided in section 4(17) of the Summary Offences Ordinance, Cap. 228. Before approving applications from organizations, the Director of Social Welfare first needs to

establish that there will be an active solicitation of funds, and that the collection will take place in a public place. When this has been confirmed each application will be considered on its merits, having regard to the following factors:

(a) the status of the organization -- that is to say, whether the applicant is a bona-fide non-profit-making charitable or welfare organization;

(b) the nature of the activity -- whether the organization's activities are charitable or welfare-related; and

(c) the fund-raising objective -- whether the money raised would support charitable or welfare work.

MR. CHOW: Sir, would the Secretary inform this Council whether the original purpose of section 4(17) was to give the Director of Social Welfare control over the public fund-raising activities of non-charitable organizations?

SECRETARY FOR HEALTH AND WELFARE: As far as I can remember, and also as far as I can trace, there was an amendment of the law in 1975. The rationale behind this amendment was, I think, to prevent members of the public being importuned or a nuisance being caused in public places. And also additionally, because the permit requires the submission of audited accounts, I think one of the other objectives must be to ensure that the purpose for which the permit is granted is in fact met.

MR. PETER WONG: Sir, since fund-raising activities for political purposes are unlikely to be either charitable or welfare-related, will this mean that such activities are thereby prohibited?

SECRETARY FOR HEALTH AND WELFARE: The Director of Social Welfare does not categorize applications into political or non-political. Every single application is considered on its own merits.

MR. HUI: Sir, we have been given to understand that some bogus organizations have been making use of solicitation for donations by appeal letters and asking that

donations be sent to a postal address. Could the Administration inform this Council if it is prepared to take action against such fraudulent attempts and/or advise people not to fall into such traps?

SECRETARY FOR HEALTH AND WELFARE: I have heard it said many times that true charity is the ability to turn the other "cheque", so to speak. The Hong Kong people are very, very charitable and very philanthropic on many occasions and in a number of situations. As regards the very important question of domestic, and sometimes postal, solicitation by bogus organizations, I think -- and this view is also shared by the Director of Social Welfare -- that the best protection against such fraudulent practices is to ask questions first and give money later. Trust must be verified. When in doubt, check it out. Ring up the Social Welfare Department; they will be very happy to answer questions. And periodically the Social Welfare Department puts out announcements of public interest, particularly during Chinese New Year time when people not only solicit funds but pretend also to be members of the Social Welfare Department. So I am very glad that this question is asked because it is a very important question and I would like to reiterate the Government's intention to keep the public informed of such practices and to keep them advised of the need to check.

MR. MARTIN LEE: Sir, how many prosecutions have been undertaken in 1989 under section 4(17) of the Summary Offences Ordinance, that is, collecting money in a public place without a permit from the Director of Social Welfare?

SECRETARY FOR HEALTH AND WELFARE: Sir, I think this is outside my remit. It is outside the policy purview of the Health and Welfare Branch. The Director of Social Welfare is a processing agency for applications; he is not the law enforcement agency. I cannot answer that question, Sir.

MR. SZETO (in Cantonese): Sir, in the past, some public light buses and taxis raised funds for charitable organizations by free carriage of people. I do not know whether such activities had the approval of the Government. If neither application had been made nor approval given by the Government, do they constitute a breach of the law?

SECRETARY FOR HEALTH AND WELFARE: In fact it is not possible to answer that question because each case must be considered on its own. For example, raising money in public places would be quite different from actively soliciting. Each case has to be considered on its own. So I cannot answer that question, Sir.

DR. LEONG: Sir, I would like to ask a follow-up question to that of my honourable colleague, Mr. Peter WONG. In relation to guidelines used by the Director of Social Welfare which are all printed in detail in the Secretary's main answer, and which are all geared towards charitable organizations, are these guidelines appropriate for non-charitable organizations such as political groups?

SECRETARY FOR HEALTH AND WELFARE: As I said earlier in answer to Mr. WONG's question, the Director of Social Welfare does not classify applications into political or non-political cases. Each case is considered on its own having regard to the factors I gave in the main reply.

MR. PETER WONG: Sir, as a follow-up to my question could I ask the Secretary what expertise the Social Welfare Department has in deciding whether a political organization is bona fide or that the fund-raising activities are proper?

SECRETARY FOR HEALTH AND WELFARE: I do not think I referred anywhere in my main reply to political organizations. What I did say was that the status of the organization includes the consideration of whether it is a bona fide non-profit-making charitable or welfare organization. It is in that light that I think the Director of Social Welfare and his colleagues are the only real experts in Hong Kong to consider the application and to apply their minds to the merits of each case. It is because guidelines are just guidelines; they do not fetter the mind of the Director of Social Welfare.

MR. ARCULLI: Sir, could I ask the Secretary to review her answer to Mr. Martin LEE in this way. If the Director of Social Welfare is the only licensing authority in terms of fund-raising activities, would any law enforcement agency not make enquiries of the Director before a prosecution? And if so, how many such enquiries

has the Director received?

SECRETARY FOR HEALTH AND WELFARE: It is a very interesting question but totally hypothetical. I cannot answer that question either.

Employment of Chinese illegal immigrants

6. MISS LEUNG asked (in Cantonese): In view of the recent frequent detection by the police of Chinese illegal immigrants working in construction sites, will Government inform this Council whether consideration will be given to amending the existing law to provide effective deterrents against any direct or indirect employment of Chinese illegal immigrants by companies or individuals?

SECRETARY FOR SECURITY: Sir, the sub-contracting system used on construction sites makes it difficult in most cases to identify the employer of illegal immigrants found working on such sites. As a result, it has usually not been possible to bring prosecutions against employers in such cases, despite extensive police enquiries. Illegal immigrants are normally reluctant to identify their employer.

I believe that more effective action against employers is essential to combat the threat of illegal immigration. I therefore intend to seek this Council's approval early next Session of measures to facilitate the prosecution of employers of illegal immigrants, and to provide more stringent penalties for employers convicted of this serious and irresponsible offence.

MISS LEUNG (in Cantonese): Sir, does the Government consider it necessary to introduce legislation to the effect that the sub-contractor or contractor who employs illegal immigrants should be held responsible upon arrest of illegal immigrants? If the employer cannot be identified, will the Government consider that the contractor should eventually be held liable?

SECRETARY FOR SECURITY: Sir, there are a number of options which we are considering and I would not like to commit myself at this stage as to precisely the proposals that we will eventually submit to this Council for approval. But I think some form

of strict liability on behalf of the employer, or on behalf of the person or organization who has control of the workplace, is certainly one of the options we are considering.

MR. CHENG HON-KWAN: Sir, why does the Government consider that action against employers would be more effective in combating the employment of illegal immigrants?

SECRETARY FOR SECURITY: Sir, we have for some two years been prosecuting illegal immigrants. There is no doubt that initially it had a significant deterrent effect on the number of illegal immigrants coming to Hong Kong. The policy was introduced in May 1988 and arrests dropped over two-thirds upon the implementation of the prosecution policy. However, recently and in particular for the whole of this year, the number has risen significantly and it is clear that the prosecution of illegal immigrants is not a sufficient deterrent to prevent a continuing rise in the number of illegal immigrants. It is clear that the pull of employment is the main reason why they are coming to Hong Kong, and it is also clear that many employers are employing them knowingly and in complete defiance of the law. We therefore believe that one of the methods which we must take to try to reduce this problem is more effective action against employers.

MRS. FAN: Sir, in drawing up measures to facilitate prosecution of employers of illegal immigrants, does the Administration intend to consult any organizations, and if so, which organizations?

SECRETARY FOR SECURITY: Sir, we shall be consulting though we have not drawn up firm plans for that at this stage.

MR. MARTIN LEE: Sir, in deciding whether or not to review sentences given by the courts on illegal immigrants from China, will the Attorney General kindly inform this Council whether he will also seek to review sentences imposed on employers of these illegal immigrants, and not only in relation to the employed illegal immigrants?

ATTORNEY GENERAL: I would of course, Sir, take into account all sentences passed in considering whether or not to exercise my statutory powers to review sentences.

MR. TIEN: Sir, will the Secretary please inform this Council whether it is possible to require, say, a construction site management to check every day the identity cards of the workers before letting them in?

SECRETARY FOR SECURITY: Sir, as I said in answer to an earlier question, one of the options that we will be considering will be to place a responsibility on the person in charge of a particular workplace including a construction site. Clearly, if we went for that option it would be incumbent upon the employer and the person having control of the site to take all reasonable steps to ensure that illegal immigrants were not employed on that site. I would imagine that the steps that we would expect a person to take in such circumstances would be a regular check of employees against identity cards.

MR. TAM (in Cantonese): We had a meeting with the representatives of the Hong Kong Construction Association Limited this morning and they agreed that certain problems did exist in the sub-contracting system of the construction industry and that would be a hindrance to combating employment of illegal immigrants. Will the Government consider discussing with the relevant labour unions and construction associations to find a long-term solution to the problems that exist in the present sub-contracting system?

SECRETARY FOR SECURITY: Sir, yes, clearly we will consult about these proposals. We have not drawn up, at this stage, precise plans as to how and whom we will consult, but I will certainly bear that in mind.

MR. PETER WONG: Sir, since we have some thousands of illegal immigrant workers in gaols already, can we really wait for three months until the next Session to enact new laws?

SECRETARY FOR SECURITY: Sir, clearly, I would wish to proceed as quickly as possible but I think it will take us a bit of time to work out precisely what the best form of new legislation to tackle this problem would be. And I think that both the Executive Council and this Council will wish to consider the matter carefully.

MISS LEUNG (in Cantonese): Sir, according to the reports of the media, the police received tip-offs almost every time they made arrests of illegal immigrants at construction sites and the informants' calls usually came on pay-days. Will the Secretary inform this Council whether the police or Labour Inspectors have attempted, on their own initiative, to conduct regular visits to construction sites to inspect and check the identity documents of workers?

SECRETARY FOR SECURITY: Sir, I cannot comment or answer the question, I am afraid, as regards Labour Inspectors. Perhaps the Secretary for Education and Manpower could help. But the police do check building sites and other workplaces for illegal immigrants, both in response to information and on their own initiative.

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I understand that Labour Inspectors regularly inspect records of employment and employees' proof of identity to check whether or not illegal immigrants are being employed. And from time to time, Labour Inspectors also take part in special inspections against employment of illegal immigrants. These exercises are conducted jointly with Immigration Department staff and with the police.

Flooding problems in the New Territories

7. MR. CHEUNG YAN-LUNG asked (in Cantonese): Will Government inform this Council whether there are any long-term strategies and contingency measures to prevent and solve the flooding problems in the New Territories during the rainy season?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, Sir, there are. For the long term, structural measures include the construction of new drainage channels, improving existing channels and providing protective works and flood pumping stations in villages which are at particularly vulnerable locations. The total cost of these works presently under planning is estimated at some \$6 billion. These projects have

been included in the development programmes for the Tuen Mun, North West and North East Development Offices. But these are major and difficult works and can only be implemented over a period of several years. Also because of the terrain, most of these areas are not only affected by rainfall but also by tide and storm surges. So total prevention of flooding is not practical and the long-term strategy is aimed at reducing the frequency and severity of flooding.

Other long-term measures include the drawing up of river basin management plans by the Drainage Services Department, as well as the drafting of legislation to control land use in flood prone areas. The basic management plans will identify the function of main stream courses, the capacity of flow which they must maintain and the works and control necessary to ensure that these capacities are maintained. Drafting instructions for a Land Drainage Ordinance are being prepared and under the proposed Ordinance an assessment of the drainage impact will be required for any development project which is liable to have an effect on the drainage of a basin. Watercourse maintenance, which is currently the responsibility of several departments, will be centralized with the Drainage Services Department over the next three years, ensuring a clear line of responsibility and a more efficient maintenance service.

As for contingency measures, the Drainage Services Department, set up last year, now co-ordinates prevention and remedial action against flooding. Routine inspection of sewers and stormwater drains is carried out and blockages cleared. New flapgates have been installed, particularly in the Yuen Long nullah area, from November 1989 to May 1990, and they will benefit all or part of 125 villages. A total of 197 blackspots has been identified and the total expenditure on maintenance around these blackspots is something like \$35 million per annum.

If it floods, where there are practical measures that can be taken to release the water, villages can ring up the district offices or the Drainage Services Department emergency numbers for help. A maintenance gang is despatched to the area to remove materials from culverts or to clear blocked drains. In a major flood, such as the flooding in Typhoon Brenda, there is very little that can be done during the flooding, but in such an event, the police, ambulance and fire services are deployed to effect rescues and they in turn may have to call in the Royal Hong Kong Auxiliary Air Force and their helicopter teams. The technical circulars on emergency procedures are being reviewed with a view to achieving greater co-ordination amongst departments.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, the Ng Tung Ho (Indus River) Basin is regarded as part of the whole Shenzhen River basin or system, and before the commencement of improvement works to the Shenzhen River, there will only be limited improvement for Pat Heung, Yuen Long and the Ng Tung Ho (Indus River) Basin in the North District. When will the Government negotiate with China over the improvement works to the whole of Shenzhen River so as to thoroughly alleviate, as early as possible, the flooding problem in the Ng Tung Ho (Indus River) ?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this matter has been under discussion for some time and there has been joint planning of major improvement works for the Shenzhen River.

MR. LAU WONG-FAT (in Cantonese): Sir, apart from natural causes, the flooding problem has recently been aggravated by human activities. Can the Government inform this Council what counter measures it will take in the face of this?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, Mr. LAU is very right in saying that a great deal of human activities have aggravated the flooding problem. In fact, it is extremely difficult to keep up with works in the face of the further aggravation to the flooding problem which is caused by human activities such as filling in the flood plain. The control of the flood plain is one of the main purposes of the Land Drainage Ordinance which I mentioned in my main reply, and the Drainage Authority will have the powers to control activities to ensure that existing drains are not blocked up by filling and also to ensure that most of the flood plain does not disappear.

MR. TAI: Sir, the reported flood cases and complaints somehow point to the fact that the frequency and the extent of flooding are most marked in areas where flood protection projects are now being carried out. May I ask whether the Secretary will undertake to look into the management of the construction sites concerned so as to ensure that the situation will not be aggravated and the actual cause of flooding removed?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, it is certainly true -- and I have said this in this Council before -- that one man's flood protection work is sometimes the other person's flood. But I will certainly ensure that the works departments and the Secretary for Works are aware of the observations and I am sure they will take them very seriously.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, the Secretary has mentioned that the Government plans to spend \$6 billion on flood prevention works. When and how will the funds be allocated? When will all the flood prevention projects be completed?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this \$6 billion will certainly be spent over a fairly long period. At present, in the resource allocation system we have approximately \$1.3 billion of works forecast for starting during the current five-year period.

MR. LAU WONG-FAT (in Cantonese): Sir, in the light of the shortage of construction workers, will the Government's flood prevention projects be delayed? If so, what remedial measures will be taken?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I am not aware that the shortage of labour has particularly affected flood prevention work.

Old Age Allowance

8. MR. TAM asked (in Cantonese): Will the Government inform this Council:

(a) of the number of elderly people whose Old Age Allowance has been withheld for absence from Hong Kong for over 90 days in a year in the past five years and, on average, the number of days in a year these elderly persons had been away, and

(b) whether it will consider extending the 90 day grace period in view of the large number of elderly people who have to return to China for temporary stay?

SECRETARY FOR HEALTH AND WELFARE: Sir, Old Age Allowance is a non-contributory welfare payment funded by general revenue, and is intended, amongst other things, to encourage local residents to take care of their elderly family members in the community as well as to meet extra expenses arising from old age. While it is assumed that recipients will be residing in Hong Kong if they are to receive the allowance, at present they are permitted to be absent for up to 90 days a year in recognition of their need to go anywhere overseas for short visits, be these for medical or social reasons.

Over the past five years, Old Age Allowance was withheld from 5 400 recipients on the ground that they had been absent from Hong Kong for more than 90 days in a year. The average period of absence in these cases was 210 days.

At present, when intending to be absent from Hong Kong for over 90 days to go to China or, indeed, elsewhere for medical reasons, the recipient may seek permission to extend his eligibility for continued payment of the Old Age Allowance. In accordance with the merits of the case, such permission may be given for periods of time as required in that particular case.

MR. TAM (in Cantonese): Sir, given that many elderly people need to stay away from the territory for over 90 days, why is the Government so mean as not to consider extending the 90-day grace period to all but would confine that to individual cases based on merits?

SECRETARY FOR HEALTH AND WELFARE: In fact the number of applications in these cases is very small indeed. Of the 368 000 cases, we receive 1 000 applications each year on an average. That small number involves absences from Hong Kong for visits to non-specific places, including Canada, Australia and of course China. The current practice of a grace period of 90 days, coupled with the Director of Social Welfare's discretionary extension on medical grounds, deals with general cases and also special hardship cases. These current methods of dealing with extension would adhere to the principle behind the Old Age Allowance and also provide avenues for treating hardship cases differently. At the moment we feel that the current practice ought to be upheld.

MR. PANG (in Cantonese): Sir, will the Secretary inform this Council of the manpower and public funds involved annually in checking this out against elderly people who are receiving Old Age Allowance? The Secretary has just mentioned that some 360 000 elderly people are receiving the allowance, but over the past five years, the allowance was withheld from only 5 400 recipients on the ground that they had been absent from Hong Kong for over 90 days. Is this practice cost-effective, or will it be relaxed?

SECRETARY FOR HEALTH AND WELFARE: There is hardly any additional involvement either in terms of manpower or funding because we are just paying the allowances and withdrawing the eligibility involves the same processing procedure. There is no trouble at all in the Department for this current practice.

MR. PETER WONG: Sir, can the Secretary please inform us whether there is any particular period beyond which discretion cannot be exercised?

SECRETARY FOR HEALTH AND WELFARE: Indeed not; each case is considered on its own. In fact for some cases, on medical grounds, the extension goes beyond 180 days.

MR. PANG (in Cantonese): Can I put the question to the Secretary again? She said that there is no additional involvement in terms of manpower and public expenditure. Can she say no manpower is required to process the 300 000 or so cases?

SECRETARY FOR HEALTH AND WELFARE: The 368 000 cases involve the normal cases for payment of Old Age Allowance under our eligibility criteria. We are now talking, if I understand the question correctly, about extension for people who are absent from Hong Kong and that number comes within the 368 000.

Written answers to questions

Economic aid to Vietnam

9. MR. BARROW asked: Given that the solution to the migration of people from Vietnam lies in the rehabilitation of that country, will the Government inform this Council as to the steps it is taking, and whether it is aware of the steps Her Majesty's Government is taking, to encourage the United States to establish economic relations with Vietnam and initiate aid programmes?

SECRETARY FOR SECURITY: Sir, this question relates to foreign affairs which are the responsibility of Her Majesty's Government. In preparing this reply, I have therefore consulted the Foreign and Commonwealth Office.

Her Majesty's Government is encouraging the United States to take a constructive approach to developing solutions to the migration of people from Vietnam. For its part, Her Majesty's Government recognizes the need to tackle the root causes of the migration of Vietnamese boat people. On 17 May the Minister of State for Overseas Development announced the setting up of a special scheme to support the activities of non-governmental organizations (NGOs) in those parts of northern Vietnam from which boat people have predominantly come in recent years. Under the special scheme, the Overseas Development Agency (ODA) will meet 80% of the costs of agreed humanitarian and economic projects put forward by British NGOs in the target areas. A sum of 1 million has been set aside to support these projects. In addition, Her Majesty's Government has decided to add Vietnam to the list of countries participating in the general joint funding scheme, under which the ODA meets 50% of the costs of agreed NGO projects. There are no geographical limitations under this scheme.

Smithfield Road joint user building project

10. MR. MARTIN LEE asked: Will the Administration inform this Council:

(1) Why there has been such a great delay in completing the Smithfield Road joint user building project;

(2) What steps are being taken by the Administration to catch up on lost time so that the building can be completed earlier than the new target date; and

(3) What action will be taken to prevent similar delays in the construction of other joint user building projects in the future?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the completion date of December 1993 originally given to the District Officer (Central and Western) for the Smithfield Road joint user building project was very optimistic and was based on the assumptions that funds would be available from the annual allocation exercise from Government and the Urban Council and that preparation of sketch plans would commence in June 1989.

In the event, because of the size of the site, the Government and Urban Council had to look at various options to provide all their facilities on site. The schedule of accommodation for all the users was only approved earlier this month. Sketch plans will now be prepared by the Architectural Services Department. However, this project was not successful in getting allocation of government funds under the 1989 Resource Allocation System. It will have to compete against other priority projects for government funds this year. It is not possible therefore at this stage to indicate a new start or completion date for the project.

Northwest New Territories rail link

11. MR. TAI asked: Will the Government inform this Council of the progress on the deliberations on the alignment of the Northwest New Territories rail link with urban areas and the timing of this rail link?

SECRETARY FOR TRANSPORT: Sir, the transport infrastructure development programme up to the year 2001 recommended by the Second Comprehensive Transport Study (CTS-2) included, among others, a proposed Northwest New Territories rail link to serve the new towns of Tuen Mun, Yuen Long and Tin Shui Wai. Two alternative routes were identified for detailed study, namely, the Tuen Mun-Tsuen Wan Link, and the Yuen Long-Tsuen Wan Link.

Since the completion of CTS-2, Government has announced the construction of a replacement airport at Chek Lap Kok, together with related rail and road links. As these projects and the advancement of Route 3 to tie in with the opening of the new airport have major implications on the timing and alignment of those railways recommended by CTS-2, a further review of the Northwest New Territories rail link

and other rail projects is required.

As priority has to be given to the new airport project, financial and engineering feasibility studies have been commissioned on the airport railway, to be completed by the end of this year. This will then be followed by a Railway Development Study to reassess and update future railway development requirements for both passenger and freight traffic in the territory, taking full account of the airport railway. The study will evaluate a number of potential railway projects within a time frame extending to 2011. These may include, apart from the Northwest New Territories rail link, the extension of Mass Transit Railway to Tseung Kwan O, a third rail harbour crossing and other rail links identified in recent development studies, such as the Metroplan.

The results of the Railway Development Study will enable Government to take an overall view on priorities and timing of future rail projects. The rail projects selected for implementation will then be subject to more detailed investigation to establish their engineering feasibility, financial viability and construction programmes.

Subject to the availability of funds and staff resources, it is proposed to commission the Railway Development Study by early 1991.

Tuen Mun Hospital

12. MR. TAI asked: Will the Government inform this Council whether there has been any delay in putting Tuen Mun Hospital into full operation and, if so, the reason for the delay?

SECRETARY FOR HEALTH AND WELFARE: It is the normal practice for any new major hospital to be constructed and commissioned in phases. The opening date for particular phases is determined once the completion date for the construction and commissioning work is known.

Construction work for Tuen Mun Hospital commenced on 30 August 1984, with a 36-month work period for Phase 1 and a 42-month period for Phase 2. During the course of construction, 506 days' extension of time was given for Phase 1 and 463 days'

extension to Phase 2, mainly due to inclement weather, the outbreak of a fire in the Radiotherapy Block and a requirement to include additional Fire Services installations. These extended the contractual completion dates to 16 January 1989 and 6 June 1989, respectively.

Construction work was contractually considered to be "substantially complete" on 16 January 1989 for Phase 1 (that is on time) and 9 August 1989 for Phase 2 (that is two months late).

A contractual six-month period of defects rectification and completion of any outstanding works commenced on 9 August 1989, in parallel with testing and commissioning of equipment and facilities. In taking over each area, end-users have identified additional works design changes and improvements. These are now being carried out as post-contract variation. The aim of these measures is to ensure equipment reliability and patients' well-being before hospital services are introduced.

Tuen Mun Hospital will be brought into operation in five phases. The first phase was opened between 8 March and 2 April this year. It is planned to open phase two in late 1990/early 1991 and to proceed with successive phases until the hospital is in full operation in late 1992.

Accident and emergency services will also be phased-in to match the build-up of specialty beds to accommodate admission cases and the availability of sufficient ancillary facilities. Services will start on a 9 am to 5 pm basis from 30 July. This will be extended to 12-hour service in January 1991 and 24-hour service in July 1991.

Japanese military currency

13. MRS. TU asked: Will the Government inform this Council how much Hong Kong currency is known to have been extracted under duress from Hong Kong residents in exchange for military currency during the Japanese occupation, and whether consideration would be given to proposing that the military currency still held by residents be redeemed, as a matter of honour, by the Japanese Government?

FINANCIAL SECRETARY: Sir, it is not known how much Hong Kong currency was extracted

under duress from Hong Kong residents in exchange for military currency during the Japanese occupation.

As to the question of redemption, as Hong Kong is a British dependent territory, it would not be appropriate for Hong Kong to raise this matter with the Government of Japan. Questions of this kind concerning the alleged responsibility of a foreign government in relation to citizens of Hong Kong are matters for the Government of the United Kingdom and not the Government of Hong Kong. We are currently in consultation with the Government of the United Kingdom regarding a possible way forward.

Segregated bank accounts for clients' money in travel industry

14. MR. PETER WONG asked: Will the Administration inform this Council whether there are plans to require travel agents to have segregated bank accounts for clients' money along the lines of solicitors' firms?

FINANCIAL SECRETARY: Sir, the Administration has no plans at present to require travel agents to have segregated bank accounts for clients' money.

The concept of such accounts was considered in detail in 1987, when the Administration was searching for remedies to plug the loophole exposed by the Austravel case. Following extensive consultation with the Advisory Committee on Travel Agents, representatives of the travel industry and the Hong Kong Association of Banks, major operational and practical difficulties were identified. These included the need to determine and prescribe in detail the legal and contractual relationships between travel agents, their clients, the "custodians" of the money and the banks with which the accounts are opened. Although these problems were not insurmountable, they were nevertheless complex in nature and would have required much time to resolve. In the end, the Administration decided in favour of the present scheme of self-regulation which includes, inter alia, the provision of some assurance for outbound travellers through the Travel Industry Council Reserve Fund.

Motion

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE

THE SECRETARY FOR HOME AFFAIRS moved the following motion:

"That --

(a) the Landlord and Tenant (Consolidation) Ordinance be amended --

(i) in section 10(1) by repealing "43" and substituting "48";

(ii) in section 58(2) by repealing "65" in both places where it occurs and substituting "70";

(b) the amendment set out in paragraph (a)(i) above shall come into operation on 1 November 1990; and

(c) the amendment set out in paragraph (a)(ii) above shall come into operation on 19 December 1990."

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

Government's long-term objective in respect of rent control is that every effort should be made to accelerate the phasing-out of rent control, provided that social disruption and economic hardship can be avoided. Consequently, amending legislation has been passed by this Council each year since 1981 for pre-war premises, and each year since 1983 for post-war ones, in order to raise the controlled rents progressively so as to bring them closer to prevailing market levels and eventual decontrol.

The first proposal in the resolution seeks to raise the permitted rent of pre-war domestic premises covered by Part I of the Ordinance to a more realistic level. The rent of Part I premises is derived from a "standard rent" payable as at 25 December 1941. The current "permitted rent" is set at 43 times this level, and it is now proposed to increase this to 48 times the standard rent.

This change would bring the average permitted rent of pre-war domestic premises up from 71% to 76% of the prevailing market level. It would result in an increase of about 12%, or \$180 per month, on current permitted rents and would affect about

1 200 domestic premises.

The second proposal in the resolution is to raise the so-called "minimum percentage component" in the rent increase mechanism that applies to post-war domestic premises protected under Part II of the Ordinance.

The amount of increase in rent in respect of tenancies protected under Part II of the Ordinance is limited to the difference between the current rent and the prevailing market rent, but subject to a ceiling of 30% of the current rent. However, if the new rent calculated according to this formula is less than a specified percentage (at present 65%) of the prevailing market rent the permitted rent increase shall be the amount which will bring the new rent up to this minimum percentage. The reason for specifying this minimum percentage, which is known as the minimum percentage component, is to ensure that controlled rents do not fall too far out of line with the prevailing market rents and to enable rent controls to be phased out within the shortest possible time without adverse social consequences.

The average controlled rents for Part II tenancies now stand at 62% of the prevailing market rent. However, for about 54% of these tenancies, the controlled rent is in fact below this overall average. In order to ensure that controlled rents do not fall too far behind the prevailing market rents, the Government proposes to increase the minimum percentage component from 65% to 70% of the prevailing market rent. Assuming that market rents remain relatively stable, this will have a net effect of increasing the number of tenancies affected by the minimum percentage component from about 7 200 to 9 500. The resulting additional increase in the average controlled rent of the affected tenancies will be \$129 per month.

These rent controls will be reviewed again next year, taking account of the state of the property market and the social and economic consequences. If the current property and rental markets continue to be reasonably stable in the next few years, the Administration expects that the minimum percentage component can be revised annually so that, within about two to three years or even earlier, rents will have increased to a level at which Part II controls can be allowed to lapse without causing undue hardship to the tenants. It is also intended to phase out Part I controls at the same time. At that point, the whole Ordinance including Part IV will be looked at to see what changes would be appropriate to bring the provisions up to date.

Sir, I beg to move.

HIS EXCELLENCY THE PRESIDENT: There are a number of Members who have already told the Clerk that they have an interest to declare. I will ask the Clerk to read out the names of those Members. If there are in addition any other Members, they can indicate it after the list has been read out.

CLERK: Mr. Stephen CHEONG as a landord; Mr. CHEUNG Yan-lung as a director and the spouse of a director of a company which is a landlord, a landlord and the spouse of a landlady; Mrs. Selina CHOW as a director of a company which is a landlord; Miss Maria TAM as a landlady; Dr. Henrietta IP as a landlady; Mrs. Rita FAN as a landlady; Mr. Peter POON as a landlord and a director of a company which is a landlord; Mr. CHENG Hon-kwan as a landlord; Mr. CHUNG Pui-lam as a landlord and a tenant; Mr. HO Sai-chu as a director of a company which is a landlord; Mr. NGAI Shiu-kit as a landlord and a director of a company which is a landlord; Mr. LAU Wong-fat as a landlord and a director of a company which is a landlord; Mr. Edward HO as a landlord; Mr. Ronald ARCULLI as a director of a company which is a landlord; Mr. Martin BARROW as a director of a company which is a landlord; Mr. Paul CHENG Ming-fun as a tenant and a director of a company which is a landlord; Mr. Kingsley SIT Ho-yin as a landlord; Mrs. SO CHAU Yim-ping as a director of a company which is a landlord and Mr. James TIEN Pei-chun as a landlord.

HIS EXCELLENCY THE PRESIDENT: That does not leave many. (Laughter) But are there any other Members who wish to indicate an interest?

Question on the motion proposed, put and agreed to.

First Reading of Bills

SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1990

COMMODITIES TRADING (AMENDMENT) BILL 1990

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1990

SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 2) 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

SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1990

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Securities and Futures Commission Ordinance."

He said: Sir, I move that the Securities and Futures Commission (Amendment) Bill 1990 be read the Second time.

During the passage of the Securities and Futures Commission Bill early last year, I stressed the need to strike a balance between controls designed to maintain market integrity and freedom to encourage markets to grow and innovate. The enactment of the principal Ordinance represented a first but important phase of a comprehensive review of securities legislation in Hong Kong. The Securities and Futures Commission, since its establishment on 1 May 1989, has been continuing the review process.

The Securities and Futures Commission (Amendment) Bill, now before this Council, aims to enable the Commission to waive or modify certain requirements in respect of persons applying to be registered and registered persons under the Securities and Futures Commission Ordinance, the Securities Ordinance and the Commodities Trading Ordinance.

In reviewing the system of registration of market intermediaries, the Commission has found that certain statutory requirements imposed on market intermediaries give rise to practical difficulties, not only for such intermediaries but also for the Commission. To avoid unnecessary rigidity in the way the Commission performs its functions, we considered it essential that the Commission is enabled to waive or modify these requirements in response to market needs and developments.

The statutory requirements in question relate to the registration of directors, capital requirements, the maintenance of a register of securities, trust accounts,

financial accounts and record keeping. These are all issues which are under regular review by the Commission. The proposed discretion is required so that the Commission can apply the requirements flexibly.

Sir, we believe the Bill will be of assistance to market intermediaries, especially those who have encountered difficulties in complying with the relevant requirements. I should add, however, that the proposed discretion is not unfettered. The Commission will only be able to exercise its discretion if compliance with the requirements creates an undue burden for the person concerned, and provided that waiver or modification of the requirements does not result in undue risk to the investing public.

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

MR. PETER WONG: Sir, I would like to declare my interest as a director of the Securities and Futures Commission for this and subsequent Bills to be read.

Question on the adjournment proposed, put and agreed to.

COMMODITIES TRADING (AMENDMENT) BILL 1990

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

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

The Securities Review Committee published its report in June 1988. The report pointed out that proper and adequate regulation lay at the heart of its proposals. Both the Securities and Futures Commission and the Exchanges would have responsibilities, and this required the development of a close working relationship between the Commission and the Exchanges.

Since its establishment on 1 May 1989, the Securities and Futures Commission has been working closely with the Exchanges on policy matters relating to trading practices and the functioning and development of markets, as well as in reviewing

rules and procedures with a view to ensuring that risk management and client protection systems are effective, and that the rules are developed in the interests of the market as a whole.

As I indicate in moving the last Bill, in the course of its practical experience over the past 14 months, the Commission has identified some rigidities in existing legislation which impair the effective and efficient exercise of its functions. This Bill aims to remove these rigidities.

At present, the time limit for the Commission to approve rules relating to the Futures Exchange and its clearing house is only two weeks. This has been found to be inadequate. We therefore propose to extend this time limit to six weeks, as is already the case for the Stock Exchange, and to provide additional flexibility by enabling the Financial Secretary to extend the period further in particular circumstances.

There is also no statutory provision allowing extension of time limits by mutual agreement. We propose that the Commission should be allowed to further extend the time limits subject to agreement by the Exchange or clearing house concerned.

Sir, I should add that notwithstanding these proposed amendments, it is the Commission's intention to complete its examination of any proposed rules as quickly as possible so that a ruling may be given. It is just that a little more leeway needs to be given for the exceptional cases. This applies equally to the exercise of the Commission's functions under the Stock Exchanges Unification (Amendment) Bill 1990 that I shall move next.

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

Question on the adjournment proposed, put and agreed to.

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1990

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Stock Exchanges Unification Ordinance."

He said: Sir, I move that the Stock Exchanges Unification (Amendment) Bill 1990 be

read the Second time.

This Bill seeks to extend the time limit for the Securities and Futures Commission to approve rules relating to the Stock Exchange. This provision is similar to the one proposed in the Commodities Trading (Amendment) Bill which I have just moved and the reasons for its introduction are identical.

This Bill also provides for the Commission to recognize a clearing house and to approve its rules and constitution. This ties in with the development of central clearing and settlement arrangements in respect to securities transactions. The provisions in respect to the time limits for approval will be in line with those which are proposed for the clearing house of the Futures Exchange in the Commodities Trading (Amendment) Bill 1990.

In addition, we propose that the Commission should consult me before exercising its power to recognize a clearing house, and that it should take both the public interest and the need for adequate market regulation into account in reaching its decision.

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

Question on the adjournment proposed, put and agreed to.

SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 2) BILL 1990

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Securities and Futures Commission Ordinance."

He said: Sir, I move that the Securities and Futures Commission (Amendment) (No. 2) Bill 1990 be read the Second time.

In the passage of the Securities and Futures Commission Bill through this Council in 1989, Members were concerned that important functions of the Securities and Futures Commission should be reserved for decision by the full Commission. Schedule 1 to the Securities and Futures Commission Ordinance specifies a number of functions the performance of which is not to be delegated by the Commission to its Committees, individual directors or staff. Amendments to this Schedule can only be effected by

a resolution of this Council.

Sir, in view of the importance of the proposed power in the Stock Exchanges Unification (Amendment) Bill 1990 to recognize a clearing house for securities transactions and approve its rules and constitution, the Bill now before this Council seeks to specify that this proposed power cannot be delegated.

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

Question on the adjournment proposed, put and agreed to.

RATING (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 4 July 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).

SUPPLEMENTARY APPROPRIATION (1989-90) BILL 1990

Resumption of debate on Second Reading which was moved on 4 July 1990

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

Bill read the Second time.

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 4 July 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).

SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 4 July 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.

RATING (AMENDMENT) BILL 1990

Clauses 1 to 26 were agreed to.

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1990

Clauses 1 to 16 were agreed to.

SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1990

Clauses 1 to 7 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

RATING (AMENDMENT) BILL 1990

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1990 and

SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1990

had passed through Committee without amendment, and

SUPPLEMENTARY APPROPRIATION (1989-90) BILL 1990

having been read the Second time, is not subject to Committee stage proceedings in accordance with Standing Order 59. He 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.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 25 July 1990.

Adjourned accordingly at fifteen minutes past Four o' clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Supplementary Appropriation (1989-90) Bill 1990, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.