

1 HONG KONG LEGISLATIVE COUNCIL -- 30 January 1991

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 30 January 1991

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, G.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, C.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, O.B.E., J.P.

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

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

THE HONOURABLE POON CHI-FAI, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

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

THE HONOURABLE TAM YIU-CHUNG

DR THE HONOURABLE DANIEL TSE, C.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 DAVID CHEUNG CHI-KONG, J.P.

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

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

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

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

THE HONOURABLE KINGSLEY SIT HO-YIN

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

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

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

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

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

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

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

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

THE HONOURABLE MICHAEL DAVID CARTLAND, J.P.  
SECRETARY FOR HEALTH AND WELFARE

ABSENT

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

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

THE HONOURABLE RONALD CHOW MEI-TAK

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.
Hong Kong Council for Academic Accreditation Ordinance 1990	
Hong Kong Council for Academic Accreditation Ordinance 1990 (Amendment of Schedule 1) Order 1991.....	22/91
Pension Benefits Ordinance	
Pension Benefits (Amendment of Schedule) Order 1991.....	23/91
Registration of Persons Ordinance	
Registration of Persons (Application for New Identity Cards) (No. 2) Order 1991.....	24/91
Agricultural Pesticides (Amendment) Ordinance 1990	
Agricultural Pesticides (Amendment) Ordinance 1990 (Commencement) Notice 1991.....	25/91
Tax Reserve Certificates (Fourth Series) Rules	
Tax Reserve Certificates (Rate of Interest) Notice 1991.....	26/91

Sessional Papers 1990-91

No. 45 -- Revisions of 1990-91 Estimates approved by Urban  
Council during the third quarter of the 1990-91  
Financial Year

Oral answers to questions

Sale of rental public housing flats to sitting tenants

1. MR TAI asked: In connection with the proposal by the Housing Authority to sell some rental public housing flats to sitting tenants, will Government inform this Council whether such land sale will be treated as new land grant and whether it needs to be referred to the Land Commission for consideration under the "50 hectares a year" quota?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the Housing Authority has yet to submit formal proposals to Government on selling selected public rental flats to sitting tenants. If the scheme does proceed on the basis of the ad hoc committee's recommendation, the land on which the concerned housing blocks now stand will be "new land" in the sense of Annex III to the Joint Declaration and will have to be included in the annual land disposal programme, which does, of course, require reference to the Sino-British Land Commission.

MR TAI: Sir, under the circumstances would the Secretary advise whether that would exceed the 50-hectare limit?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I am not quite sure what Mr TAI means. But in practice over the last few years all the programmes agreed by the Sino-British Land Commission have in fact exceeded the 50-hectare limit.

MR TIEN: Sir, will the Government inform this Council whether the Housing Authority will cease to receive government funding after introducing the scheme of selling public housing flats to sitting tenants?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I understand that the Secretary for Home Affairs is prepared to answer this question.

SECRETARY FOR HOME AFFAIRS: Sir, the policy on funding is quite separate from the question of whether or not to sell flats to sitting tenants. These will be separate questions to be considered later on.

Children left unattended at home

2. MR CHEUNG YAN-LUNG asked (in Cantonese): Will the Government inform this Council what measures it will consider to ensure that parents will not leave young children unattended at home?

SECRETARY FOR HEALTH AND WELFARE: Sir, to tackle the problem of parents leaving young children unattended at home, three possible approaches have been identified, namely, legislation, public education and the provision of child care facilities and support services.

Action may be contemplated under existing legislation. Prosecution for wilful neglect may be taken under the Offences Against the Persons Ordinance (Cap. 212) in the case of children left unattended at home if the act is likely to cause unnecessary suffering or injury to health. The Protection of Women and Juveniles Ordinance (Cap. 213) also provides for the care or protection of young children in these circumstances. Whether or not legislation making it a specific offence to leave young children unattended on any occasion should also be introduced is presently being re-examined in conjunction with the Social Welfare Advisory Committee.

Publicity to spread the message of home safety and to warn of the dangers of leaving young children unattended at home is undertaken through television, radio, newspapers, posters and pamphlets. Family life education programmes are provided to focus on parental responsibilities including that of arranging for proper supervision of their children. Home safety programmes are also organized to educate the public, including parents, on the dangers of leaving children unattended at home. These efforts will continue and will be strengthened.

For families who face difficulties in caring, at all times, for their children a wide range of support facilities are provided and will continue to be expanded. Families may make use of day nurseries and creches, and those with special needs may receive help under the Fee Assistance Scheme. A number of nurseries, under the experimental Occasional Child Care Scheme, offer flexible full-day or half-day care

for children whose parents have an urgent or sudden need to be away from home. Additionally, home help and family aide services are available to families in special circumstances. We will also continue to encourage voluntary mutual help programmes whereby neighbours look after each other's children on a temporary basis.

MR CHEUNG YAN-LUNG (in Cantonese): Sir, did the case of locking up young children at home indicate that the nursery service provided by the Social Welfare Department has not been fully utilized by families who need it, or is it because the service itself is inadequate?

SECRETARY FOR HEALTH AND WELFARE: Sir, I am not sure which services precisely Mr CHEUNG is referring to, but the day nurseries are very fully subscribed. However, the occasional child care service, which I mentioned in my main answer, is an experimental service that was introduced at the end of 1989 to address this very specific problem of leaving children unattended. It really provides for parents just to walk in and leave the child for half a day or a full day, but that has not been as fully utilized as we expected. This is probably because of the dispersed location of the facilities; there are at present 15 nurseries around Hong Kong offering that service. Maybe, if the services were available on a more widespread basis, the services would be more fully utilized.

MR DAVID CHEUNG: Sir, the Secretary in his reply mentioned that the question of legislation is now being re-examined by the Social Welfare Advisory Committee. Will the Secretary kindly inform this Council when the committee will come up with some proposals?

SECRETARY FOR HEALTH AND WELFARE: Sir, the issue is being re-examined as a matter of urgency. If it is decided to go ahead with legislation, the further advice of the Social Welfare Advisory Committee will be obtained and we will proceed without delay. But I am not in a position to give a precise date for it at this time.

MR PETER WONG: Sir, will the Secretary please inform this Council what the waiting lists are like for the day care centres and whether the situation is considered satisfactory?



SECRETARY FOR HEALTH AND WELFARE: Sir, I do not have precise figures on the waiting lists because there are a vast number of these institutions around Hong Kong. But to give some idea of the demand, let me say that there are 30 000 places available in day care centres at the moment; we intend to add another 1 600 places a year until we have got to a figure of close to 40 000.

MR POON CHI-FAI (in Cantonese): Sir, can the Government inform this Council when the experimental occasional child care service provided by the Social Welfare Department will be comprehensively reviewed, and whether it will be provided on a wider basis and strengthened, especially in densely-populated housing estates or districts? Will the present over-stringent application criteria be relaxed?

SECRETARY FOR HEALTH AND WELFARE: Sir, the occasional child care service was introduced for a period of 18 months from the end of 1989 and it is currently being reviewed to decide whether it should be continued. Subject to the availability of resources, if it is continued, certainly we would look at the question of expanding it and improving the locations where it is made available.

I think on the matter of criteria, I am satisfied that the criteria are reasonably flexible at the present time. There is a general provision which enables the nursery operators to exercise their discretion when parents turn up. If they have urgent private business, then the nursery operators can admit children under that criterion. However, this will be borne in mind in the examination and we will take account of the concern that has been expressed about the criteria.

MR TAI: Sir, will the Secretary consider a scheme of occasional child care service to be run by, say, the Neighbourhood Assistance, especially in the new towns where the population is densely concentrated?

SECRETARY FOR HEALTH AND WELFARE: Sir, that will certainly be considered. We will take it into account.

MR PETER WONG: Sir, since the Secretary could not supply me with an answer relating

to the extent of the waiting lists and since I think Members are concerned about what the real demand is, can he supply an answer in a written form?

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir. (Annex I)

MR CHEUNG YAN-LUNG (in Cantonese): Sir, as regards the nursery service provided by the Social Welfare Department, is it because of the harsh or complicated application procedures that make it very difficult for applicants to be admitted, and thus giving the wrong impression that the nursery service available is adequate?

SECRETARY FOR HEALTH AND WELFARE: Sir, I must draw a distinction here between the regular day care services which are provided and the occasional child care service. The occasional child care service is intended to be available to a parent or carer who, because of an immediate requirement, has to leave a child alone. It is not intended to be an on-going service; it is not intended to be something that lasts for months or years.

The criteria for admission are where the parent or carer has illness or medical appointment, hospitalization, pregnancy or confinement, or where he/she needs to visit sick relatives or friends, or to escort family members for medical appointments, or where a family member or relative dies. There is one flexible criterion and that is: other urgent personal or family affairs. I am satisfied that that criterion has been interpreted very flexibly by the nursery operators and I am also satisfied that the publicity about this scheme has been working too, because 70% of the users of the scheme have told us that they learnt about it through our publicity efforts.

However, I suspect that after we have reviewed the scheme, and if it is found possible to expand it, subject to resources, then it will be better utilized when the locations of the nurseries offering this service have been expanded.

Legislation on private building management

3. MISS LEUNG asked: In view of the Administration's earlier intention to introduce legislative changes to improve private building management, will the Administration

inform this Council of the progress of its work so far?

SECRETARY FOR HOME AFFAIRS: Sir, a major part of the exercise to streamline the legislation on private building management is to enact a code of clauses to redress certain unfairness in Deeds of Mutual Covenant (DMCs). The intention is to make retrospective amendments to existing DMCs. It would be provided that to the extent that existing DMC provisions contravene the code, they would be superseded, and that to the extent that they omit obligations included in the code, they would be supplemented accordingly.

Drafting of the necessary amendments to the Multi-storey Buildings (Owners Incorporation) Ordinance is now in its final stage. An amendment Bill will be submitted to the Executive Council for consideration very soon.

Certain clauses in the amendment Bill will be controversial, particularly as they will apply to existing DMCs which are binding contracts between developers and flat purchasers. This was reflected in some highly divided comments received during the consultation period from February to May 1989 on those proposed changes. In view of this, it would be advisable that further public consultation be undertaken on the contents of the legislation before it is put before this Council. Subject to the advice of the Executive Council, the amendment Bill would therefore be published in the form of a White Bill for public information and to provide another opportunity to the affected parties to give their comments.

MISS LEUNG (in Cantonese): Given that more than one and a half years have elapsed since the public consultation on the relevant proposals ended, could the Secretary inform this Council why the Government still cannot lay before this Council an amendment Bill or a Bill? Could it be that difficulties have been encountered during the drafting process?

SECRETARY FOR HOME AFFAIRS (in Cantonese): If the views collected had been unanimous, we might have been able to submit the Bill quickly to this Council for consideration; but the views collected are in fact very divided, some are for while some are against retrospective amendments to the provisions in Deeds of Mutual Covenant. So there are certain difficulties in consolidating and collating these views.

MR ARCULLI: Sir, will the Secretary please inform this Council as to the revised timetable for public consultation, and when he would expect the legislation to be put before this Council?

SECRETARY FOR HOME AFFAIRS: Sir, assuming that the Executive Council approves the Bill, it will then be published as a White Bill probably some time in the spring. Because of the need to allow the White Bill to be considered by the public, we would envisage a period of about three months. We will probably overshoot this Session; that is to say we will not be able to lay it before this Council in the current Session. I expect that we shall be putting the Bill to the Council early next Session.

Tobacco advertising

4. MR MCGREGOR asked: Will Government inform this Council of its policy towards all forms of advertising of tobacco and tobacco products and whether it has any plan to ban all such advertising eventually?

SECRETARY FOR HEALTH AND WELFARE: Sir, it has been Government's policy since 1975 to discourage smoking, to educate the public (particularly the young) on the health hazards of smoking and to reduce the influence of tobacco promotion as far as possible.

As regards advertising, it is a legislative requirement that a prescribed health warning should be properly displayed in all cigarette advertisements. Government has also introduced measures progressively to reduce the scope for cigarette advertising, especially those forms to which the young are more susceptible. Advertising on television and radio has been banned since 1 December 1990. We aim to impose a similar ban in cinemas by December 1991. Furthermore, Government has prohibited, by way of licensing conditions, cigarette advertisements on taxi roofs, bus stop shelters, hulls of ferry vessels, and in the Star Ferry concourses. We will be taking every opportunity to review licensing conditions to extend such prohibitions.

The approach has been, and will remain, one of steadily reducing the influence of cigarette promotion. The measures adopted are regularly reviewed in the light

of community reactions. But there is no plan, for the time being, to ban all tobacco advertising eventually.

MR MCGREGOR: Sir, can the Government state its tax earnings from tobacco products for the past three years? Is it the intention to continue to tax tobacco and tobacco products for revenue purposes only and not as a means of reducing consumption of these products?

SECRETARY FOR HEALTH AND WELFARE: Sir, I think, perhaps, this is a question more for the Financial Secretary than for myself.

HIS EXCELLENCY THE PRESIDENT: Financial Secretary, can you help?

FINANCIAL SECRETARY: Sir, I cannot give the exact figures for the revenue that we have received over the last three years. I can give a written answer to that if Mr MCGREGOR wants it. (Annex II) As far as our taxation policy is concerned, I will give my usual answer at this time of the year: Wait until 6 March.

MRS TU: Sir, is there any plan to prohibit tobacco advertising on buildings, especially in areas like To Kwa Wan which is practically a tobacco advertising area?

SECRETARY FOR HEALTH AND WELFARE: Sir, prohibition or restriction on outdoor cigarette advertisements has legal and technical complications, such as the terms and conditions of lease for sites and questions of interference with private owners' rights. However, reviews will be initiated to see whether any action can be taken in the longer term to prohibit or further restrict such cigarette advertisements.

MR PETER WONG: Sir, does the Government derive any advertising revenue from tobacco advertising on government premises?

SECRETARY FOR HEALTH AND WELFARE: Again, Sir, I am unable to answer questions relating to revenue but perhaps this is another one for my colleague -- I see he is shaking

his head. Then I do not have this information, Sir. I will seek to provide it in writing, if it can be obtained.

HIS EXCELLENCY THE PRESIDENT: In those circumstances it would not be fair to pass it to the Financial Secretary.

MR MCGREGOR: Sir, can the Government state why it is so apparently against tobacco advertising when all other products legitimately sold for consumption in Hong Kong can be advertised freely in any medium?

SECRETARY FOR HEALTH AND WELFARE: Sir, the policy is a step-by-step approach. We do have in mind suggestions which have been made concerning other mediums such as printed publications. But for the time being these are not included in the present package of measures which were adopted last year and which we are in the process of implementing. When we have completed the implementation at the end of this year we will then assess the situation, and in the light of our experience with the implementation we will then consider a new package.

MR MARTIN LEE: Sir, does the Government intend ultimately to persuade all our citizens to give up smoking, including some of our honourable colleagues here, or does the Government intend to continue to encourage people to buy cigarettes so as to benefit the public purse, or is the Government's policy neither here nor there?

HIS EXCELLENCY THE PRESIDENT: I have encouraged Members not to ask multi-barrelled questions but those do go together.

SECRETARY FOR HEALTH AND WELFARE: Sir, I think all I can say in answer to that somewhat convoluted question is that the Government is firmly committed to the pursuit and implementation of an anti-smoking policy and the direction of it is clear.

MR ARCULLI: Sir, inasmuch as the direction is clear, would the Secretary for Health

and Welfare clarify whether the Government has any intention of actually making the sale of tobacco illegal and therefore avoiding the "neither here nor there" policy regarding advertising?

SECRETARY FOR HEALTH AND WELFARE: Sir, this is perhaps getting a little bit beyond the scope of the original question which is concerned with advertising. But for the time being the answer is that we do not have a plan to ban tobacco absolutely at this stage.

MR CHEONG: Sir, will the Secretary for Health and Welfare confirm that whatever measures will be taken in future to prohibit advertising or otherwise, they will be in accordance with the spirit of the Bill of Rights that is going to be before this Council?

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir.

Promotion of Hong Kong's international image

5. MR HUI asked (in Cantonese): In order to strengthen and promote Hong Kong's image as an international commercial centre and to provide overseas communities with up-to-date information on Hong Kong affairs, will Government inform this Council:

(i) what measures it will take to encourage government officials and non-government personnel who are on overseas duty, on tour or attending international conferences to help publicize and provide the most updated information on Hong Kong;

(ii) on what conditions will these people concerned be given the status as Hong Kong's representatives when attending international conferences overseas?

CHIEF SECRETARY: Sir, the Government has for several years run a sponsored speakers programme as part of our overall overseas public relations effort. Under the programme, senior officials and leading Hong Kong personalities are encouraged to make time on their overseas trips to talk to influential groups about Hong Kong and the opportunities it offers. The programme is co-ordinated by the Information Wing

of my office and complements the efforts of the many other organizations and individuals who promote Hong Kong's interests overseas.

On the government side, my office keeps track of senior officers' travel plans -- both duty visits and holidays -- and endeavours to match these with invitations and speaking opportunities identified by our overseas offices. My office also liaises closely with the OMELCO Secretariat, the Trade Development Council, the Tourist Association and the various chambers of commerce so that, wherever possible, prominent private sector personalities can be fielded to speak abroad.

The need for a speaker can come about in a number of different ways. Our overseas offices cultivate the more influential platforms. Sometimes organizations come to them, or to their counterparts at the Hong Kong Trade Development Council and Hong Kong Tourist Association. Not infrequently they approach my office, OMELCO's secretariat or the chambers of commerce direct, either for a particular individual to address them, or for a particular expertise. It is not always possible to field the speaker of their choice, but we all do our best to please.

Over the last two years we have made a special effort to encourage more people to help in promoting Hong Kong overseas, and with some success; over the period roughly doubling the number of previous years.

As regards the status of the speakers, it depends largely on the occasion. Officials speaking at meetings of international bodies do so in an official capacity. Often, non-officials have a standing of their own in international organizations. Generally speaking, however, those who speak as part of the Government's sponsored speakers programme have no official representative status. They speak in their own capacity and their audiences accept them in this capacity.

Sir, that being said, all from Hong Kong who speak for Hong Kong are, in the broadest sense of the word, "ambassadors" for Hong Kong and I would like to take this opportunity to thank all of those who have given their time and their energy in promoting Hong Kong overseas.

MR HUI: Sir, most of the representations from Hong Kong in the past were in the areas of trade and tourism. Could the Administration inform this Council if other areas like social welfare and other social sciences could be equally represented and encouraged by Government?



CHIEF SECRETARY: Sir, Mr HUI has a point in that most of the occasions are related to either economic or financial matters, but certainly not exclusively so. There were several occasions last year when the Secretary for Health and Welfare and, indeed, Members of this Council went to conferences overseas and spoke about social welfare subjects. But I will take note of what Mr HUI has to say.

MR PAUL CHENG: Sir, occasionally it may be more effective to have non-government ambassadors to be given an official representative status when speaking abroad. Will Government advise this Council of its views on this issue and how interested volunteers can go about seeking this official capacity?

CHIEF SECRETARY: Sir, I think the question of status is really as I described in my original answer. There are occasions when Members of this Council and, indeed, prominent unofficials outside are affiliated to the organization which they are going to address and they therefore then do have an official status. But it is difficult other than that to provide for an official representation if the person so concerned is an unofficial.

MR MARTIN LEE: Sir, who decides which of the non-government leading Hong Kong personalities should be invited to speak for Hong Kong overseas and does the Government pay for the travelling and hotel expenses of these personalities?

CHIEF SECRETARY: Sir, I think the answer to that is that there is an element of selection and election. Prominent Hong Kong people attract invitations in their own right and successful speakers are sometimes a victim of their own success. Individual organizations frequently seek our help with nominations involving a particular expertise, whether in the private or public sector. We do our best to marry such requests to known travel plans. Not infrequently, everyone is too busy but one person is prevailed upon to go. As to the question of sponsorship, Sir, we try to marry speaking engagements to existing travel plans wherever possible and sponsor land transportation and accommodation. Where the engagement does not fit in with the speaker's travel plan we also sponsor air fares. I do have a breakdown of the cost of the programme over the last two years which I would be happy to provide

Mr Lee in writing at a later date. (Annex III)

MR TIEN: Sir, would the Administration inform this Council what could be done against some "ambassadors" for Hong Kong who consistently sell Hong Kong short whilst speaking overseas in either government or non-government organized events?

CHIEF SECRETARY: Sir, as I have said, our view is that the people who travel overseas do so as ambassadors for Hong Kong in whatever capacity. I think it is normal practice elsewhere -- a convention rather than a rule -- that members of legislatures when they are travelling elsewhere recognize that as ambassadors it is not helpful for them to be highly critical of the place from which they come.

MR MCGREGOR: Sir, certain public speakers are better than others in terms of getting the Hong Kong message across. Can the Government try to initiate overseas tours of highly competent speakers rather than react to their overseas movement?

CHIEF SECRETARY: Sir, I hope I explained that we do both. We do try to solicit overseas speaking engagements, that is, the majority of the engagements of that nature that we promote. Clearly, in responding to requests for speakers, we do try as far as possible to choose people who will be good ambassadors for Hong Kong.

MRS FONG: Sir, when individuals travel overseas and speak on Hong Kong, is there anything the Administration can do to assist individuals so that a more balanced view on Hong Kong can be presented rather than a one-sided view?

CHIEF SECRETARY: Sir, I think I partially answered that in answer to Mr MCGREGOR. But, of course, we are prepared to provide additional material for Members if they so request it. I think non-government speakers by and large write their own speeches, but we do provide factual notes and briefing notes on various aspects of Hong Kong if requested.

MR BARROW: Sir, given that the Information Wing has a very wide range of responsibilities, would the Chief Secretary advise if there might be a need for a full-time professional communicator in that office, who could develop the overseas promotional activities including the speaking engagements?

CHIEF SECRETARY: Sir, we are at this moment looking at the organization of the Information Wing of my office and I will certainly bear in mind Mr BARROW's suggestions.

MR MARTIN LEE: Sir, will the Chief Secretary please confirm that even Members of this Council have the freedom of speech while travelling abroad, particularly when they do not call themselves ambassadors for Hong Kong?

CHIEF SECRETARY: Yes, Sir.

MR PAUL CHENG: Sir, what is Government's assessment of the effectiveness to date of its measures to encourage non-government personnel on overseas duty to promote Hong Kong's interests?

CHIEF SECRETARY: Sir, I think the numbers which have gone up substantially, as I mentioned, over the period of the last few years are evidence that we are being quite successful in encouraging non-official speakers. I have the figures in front of me for non-official speakers and they rose from 15 in 1987, 23 in 1989 and 20 in 1990. So, as far as the figures are concerned, we are very much encouraged by the increasing willingness of non-official Members to speak overseas. If a visit has been in any way sponsored by us, I think we carefully carry out an assessment of it after it has been made, mainly in terms of whether the audience was a worthwhile audience and whether the subsequent press coverage merited the trip. I think this constant effort is the way to try to improve our programme generally to find a better venue for more people to speak at, Sir.

Kidney transplantation

6. MR POON CHI-FAI asked (in Cantonese): Will Government inform this Council:

(1) of the number of renal failure patients who have undergone kidney transplantation in Hong Kong in each of the past three years; the percentage they accounted for amongst the total number of such local patients; and the average waiting time for such operation;

(2) What concrete measures are in hand to shorten the waiting time for kidney transplantation; and

(3) Whether appropriate follow-up medical care and dispensation of drugs in Government or subvented hospitals will be available to those patients who return to the territory after undergoing kidney transplantation in China?

SECRETARY FOR HEALTH AND WELFARE: Sir, my answers to the three parts of this question are as follows:

First, the number of renal failure patients who have undergone kidney transplant in Hong Kong for the years 1988, 1989 and 1990 are 59, 51 and 57 respectively. They constitute about 10% of the total number of local patients considered to be suitable for this operation. The average waiting time for patients who had transplantation from cadaveric kidneys was 3.8 years. For patients who had received kidneys from living-related donors, the average waiting time was 1.4 years.

For the second part of the question, a greater supply of kidneys would help to shorten the waiting time for transplant. To this end, Government is stepping up campaigns to generate public interest and to encourage more organ donations. These measures include announcements in the electronic media, articles in newspapers and medical journals, talks and appearances on television and radio, talks to community groups, display of posters and distribution of organ donation cards and educational pamphlets in medical institutions and public places, as well as installation of a 24-hour telephone hotline in the Department of Health's Central Health Education Unit. In 1988, Government appointed two Transplant Co-ordinators whose mission is to approach the next-of-kin of potential donors and liaise between renal centres and transplant hospitals. These concerted efforts have contributed to an increase in the number of donated cadaveric kidneys from 12 in 1986 to 17 in 1988 and 32 in 1990.

However, the number of kidneys available for transplant still falls far short

of demand and additional measures are being considered, with a view to progressing towards an "opting-out" scheme for organ donation in the long term.

In answer to the third part of the question, Government accepts the advice of the Central Renal Committee not to encourage patients to seek transplantation outside Hong Kong. This is because of possible complications and risks to the health of the patients. Priority treatment is given to those patients who receive transplants locally. Patients awaiting transplant are fully apprised of this.

Any patient who has obtained a transplant outside Hong Kong and who seeks follow-up at a public hospital will not be denied treatment. It is not the policy to "penalize" such patients. However, those that can afford to pay for it will be required to do so.

MR POON CHI-FAI (in Cantonese): Are renal failure patients who have had kidney transplant in Hong Kong and those who receive it elsewhere treated alike in that both are required to be means tested to prove they are in financial difficulties before they can obtain expensive drugs from the Government? If not, why is the Government particularly against those unfortunate patients who have waited in vain in Hong Kong for two or three years and have no alternative but to go at their own expense to places outside Hong Kong where the facilities and hygienic conditions are less favourable for kidney transplant?

SECRETARY FOR HEALTH AND WELFARE: Sir, the alternative for these patients is, in fact, a living-related transplant in Hong Kong and it is an unfortunate feature of this situation that the figures of such transplantation in Hong Kong have gone down rather dramatically just as the numbers of those being conducted overseas are going up. I think I should explain that the arrangements under which these transplantations are conducted are private arrangements when they are conducted outside of Hong Kong. Unexpectedly over the last two or three years, a large number of patients who had had such operations turned up at public hospitals in Hong Kong seeking follow-up treatment. They had been able to pay for the operations outside of Hong Kong and for private treatment which initiated the process and then came to seek follow-up treatment at government expense in the public hospitals. This obviously puts a strain on the budgetary arrangements for the hospitals, but, as I have made clear in my main answer, such treatment was not refused to these patients despite the fact

that they had undergone the operations away from Hong Kong contrary to the advice of the medical authorities here. I should point out that the morbidity rate for these operations conducted outside of Hong Kong is twice as high as it is for those conducted in Hong Kong, and for the preferable method of transplant -- the living-related one -- the acceptance of the transplanted organ is very much higher. There are much greater chances of complications for the patients returning from elsewhere and for all of these reasons the Government is anxious to discourage the practice. Yet this does not go to the extent of refusing the treatment. But it is considered equitable that those people who can afford to pay for the treatment should be encouraged to do so. The numbers who are actually paying are not very great. There are at present 68 patients who are receiving follow-up treatment in our public hospitals after kidney transplants outside of Hong Kong and, of these 68 patients, 56 get the drug at the Government's expense from the hospitals, eight are self-financed and four get financial assistance through other agencies such as the Hong Kong Kidney Foundation.

DR LEONG: Sir, the Secretary mentioned budgetary constraints of hospitals. Could the Administration, therefore, inform this Council whether there are any quotas for the use of Cyclosporin "A" that prevents rejection by the Government, as Cyclosporin "A" is a very expensive drug that my honourable friend, Mr POON, has mentioned?

SECRETARY FOR HEALTH AND WELFARE: Sir, there are no quotas as such, but I confirm that the drug is expensive. The treatment costs about \$5,000 per month at the minimum in the first year after the transplantation. Depending on whether there are complications, the total cost of treatment could be very much higher. Priority is given to those who have had their transplants in Hong Kong and others might be asked to pay for it if they have the means to do so.

MR PETER WONG: Sir, will the Secretary please confirm that there is no difference in the treatment given to ex-China patients as against other patients who have received their kidneys elsewhere?

SECRETARY FOR HEALTH AND WELFARE: Sir, only the differences that I have already mentioned.

MR MCGREGOR: Sir, since it seems to be clear that there is no possibility that Hong Kong donors can be found in sufficient numbers to meet existing cases, is it not possible for Hong Kong to work with China in this medical service to allow the development of high quality kidney transplant co-operation between the two territories, assuming that China possibly may have a better supply of kidneys suitable for transplant?

SECRETARY FOR HEALTH AND WELFARE: Sir, it is important to the successful conduct of these operations for the doctors conducting them to have a very clear understanding of the origin of the kidneys and this is why all of the transplants conducted here are conducted with kidneys donated within Hong Kong or from living-related donations.

DR LEONG: Sir, the third last paragraph of the Secretary's main answer touched on the possibility of progressing towards an opting-out system for organ donation over the long term, which, I think, the medical profession would accept as probably the best way to get more kidney donations. Now, could the Secretary inform this Council what the plans are to move towards this direction?

SECRETARY FOR HEALTH AND WELFARE: Sir, the Administration has accepted the idea of an opting-out system as a long-term goal. I should explain that the present system of opting-in that we operate in Hong Kong is one that requires a positive indication of intention to donate. Opting-out is a system where everyone is deemed to have consented unless they have indicated positively to the contrary. We are aware that such opting-out systems do produce improved results elsewhere in terms of increasing the harvest yield of donor kidneys and the immediate task, having accepted this as a long-term goal in Hong Kong, is to draw up an action plan identifying all of the measures that will be necessary. These include legislation, allocation of resources, training of staff, administrative arrangements and, not least, a lengthy period of public education since community attitudes to the whole concept of transplantation may be quite different from other parts of the world where opting-out has already been adopted. It therefore may take time for the concept to catch on here and we consider that a lengthy preparatory period will be necessary. But all of this, as I say, is now being examined and I would hope that we would have concrete plans to go ahead on these lines quite soon.

## Assessment of damage to pneumoconiotic patients

7. MR TAM asked (in Cantonese): According to the analysis of pneumoconiosis cases assessed by the Pneumoconiosis Medical Board as contained in the 1989 Annual Report of the Pneumoconiosis Compensation Fund Board, the average percentage of permanent incapacity of pneumoconiotic patients is only 24.86%. However, as the pulmonary function of these patients has been severely damaged, they usually cannot take up their original occupations again and their livelihood is seriously affected. Will Government inform this Council:

(1) whether the Administration is satisfied that the above assessment can fully and appropriately reflect the financial loss and psychological pressure suffered by pneumoconiotic patients; and

(2) whether the Administration will give consideration to amending the relevant assessment criteria so that the amount of compensation awarded to these patients may be enhanced?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, Mr TAM has raised a question of a rather technical nature.

As regards the first part, I believe Mr TAM is referring to the existing arrangement under which the Commissioner for Labour makes an offer of compensation to pneumoconiotic patients whose disability has been determined. This offer allows the patient either:

(a) to elect to receive a once-and-for-all payment of compensation based on the assessed loss of earning capacity, which may be and is usually increased by up to 50% to take account of the fact that the condition of pneumoconiotic patients usually deteriorates over time; or

(b) to elect to receive a first payment of compensation on the initially assessed loss of earning capacity, which is then increased having regard to the condition of the patient as assessed a second time seven to eight years later.

Thus the answer to the first part of the question turns on whether a patient who settles for a once-and-for-all payment of compensation plus the 50% supplement would



have lost out, had they elected to go for an initial payment followed several years later by a second assessment.

To date only 67 out of 2 095 patients have opted for two assessments and only 18 have been fully compensated. Amongst these 18, eight have changed their occupations. The average degree of disability determined the second time amounted to 22.5%, which compares with an average degree of expected disability of 16.7% had they settled for the once-and-for-all payment plus the supplement. As regards the remaining 10 patients who continued with their original occupations, the average degree of disability determined the second time amounted to 44.5%, which compares with an average degree of expected disability of 18.5% had they settled for the once-and-for-all payment plus the supplement. On the basis of these comparisons, I am bound to say that having two assessments results in larger amounts of compensation being paid, and to this extent provides a better deal for the patients involved. That said it must be emphasized that patients were and are free to choose either method of computing compensation.

As regards the second part of the question, there is on the face of it a case for the 50% supplement to be reviewed and re-considered. In this connection the Commissioner for Labour has appointed an inter-departmental working party to review this and other aspects of the existing compensation arrangements, with a view to identifying and, if necessary, formulating improvements. I expect that the Commissioner for Labour will be reporting to me with proposals by the middle of this year.

MR TAM (in Cantonese): Sir, according to the reply of the Secretary, pneumoconiosis is characterized by the deteriorating physical strength of the patient. But under the arrangement for two assessments of incapacity, the patient will have to wait seven to eight years before he can receive the second payment. As a result, the number of patients opting for this arrangement has been minimal. Will Government amend the compensation arrangements so that patients, after receiving the first payment, can have a re-assessment and receive compensation payments in a regular interval of two years?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the short answer is yes. This is one of the possibilities now being pursued by the working party. In other words, the working party could be formulating a method by which the patient is given an initial payment

of compensation, followed by arrangements for the patient to be examined and for his or her incapacity to be assessed once every two or three years. But I do not want to pre-empt the findings of the working party. All I can say at this stage is that this and other helpful suggestions will be considered.

DR LEONG: Sir, we are talking about a very progressive, debilitating disease. Are there any specific laws, other than general duty laws, for prevention of this condition?

SECRETARY FOR EDUCATION AND MANPOWER: Yes, Sir, there are other pieces of legislation which seek to reduce the incidence of this disease. For example, under the Factories and Industrial Undertakings Ordinance, employers are required to control dust emission at source and to help workers to prevent inhalation of dust. These measures are effected through engineering controls in the form of, for example, water sprinkling and ventilation. They are also effected by way of protective equipment for workers in the form of safety masks.

MR PANG (in Cantonese): Sir, will the Secretary inform this Council whether the review would consider awarding compensation to workers who have received the once-and-for-all payment and who are now incapacitated for work? And will consideration be given to introducing to this type of compensation an element of retrospectivity in the future?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I cannot confirm now that there will be retrospective compensation. That is a matter of policy for the working party and the relevant boards concerned. But I will ensure that this question is put to the working party and that it will be properly considered.

MRS TAM (in Cantonese): Sir, are workers in the respective occupations currently given regular chest examinations by their employers? If not, will consideration be given to making such a provision for preventive purposes?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am afraid that I do not have the answer

to that question. If I may, I will provide an answer in writing. (Annex IV)

MR MCGREGOR: Sir, if a worker who is suffering from pneumoconiosis wants to carry on with his relevant occupation, what precautions should be taken to prevent the further deterioration of his lung condition, and can an unfortunate worker who has developed pneumoconiosis and had it assessed as such be allowed to carry on with the relevant work? And if so, what special precautions should be taken?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, there is nothing at present which stops a worker who is exposed to the risk of pneumoconiosis from continuing to work in his chosen profession or vocation. But a patient who has been assessed and who has suffered damage is advised that his disease is likely to deteriorate unless he takes proper preventive measures. To date the Labour Department has organized over 300 courses for over 8 000 workers and, of course, these efforts have been supplemented by publicity. But in addition to these efforts, the Labour Department would normally say to patients that there is the alternative of vocational training for other occupations and, where appropriate, patients have been referred to the Vocational Training Council.

DR LEONG: Sir, pneumoconiosis is the result of an unacceptable dust level in the working environment. Is there any specific legislation that specifies the safety dust level in quarries and underground tunnels, and if so, what is the acceptable level?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I do not have the specific answers to those highly technical questions. But to the best of my understanding, the Factories and Industrial Undertaking Regulations provide that, where dust conditions are likely to arise, the employer is required to provide efficient exhaust systems and to use any other practical measures at the point of origin of dust so as to prevent the dust from entering into the air.

MR TAM (in Cantonese): The Pneumoconiosis Compensation Fund has all along been faced with the problem of "colossal surpluses". At the sitting of this Council on 25 May

1988, I suggested that in addition to the compensation payment, workers should be provided with long-term support, so as to subsidize their living and medical expenses. Will there be any commitment on the part of the Government in this direction in the present review?

SECRETARY FOR EDUCATION AND MANPOWER: I cannot say, Sir, at this stage that there will be a commitment; otherwise there would be no point in having a working party. But I can assure Mr TAM that his suggestion will be taken up by the working party and will be considered appropriately.

MR TAI: Sir, in respect of the two modes of compensation which the patient could elect, is there any independent advice given to the patient as to the quantum of compensation before he or she makes an election?

SECRETARY FOR EDUCATION AND MANPOWER: Yes, Sir, the amounts of compensation are based on the incapacity and the loss of earnings computed over time. They therefore have regard to the age of the worker and the earnings of the worker. The full amounts of compensation can be calculated by reference to the Pneumoconiosis Compensation Ordinance; so the workers are advised and they are in a position to know. What they do not know, however, is whether the option for a one-off payment would be adequate to take full account of their final permanent incapacity because that is at present assessed only seven or eight years later.

Written answers to questions

Operation of community service facilities within Home Ownership Scheme estates

8. MRS TAM asked: Will Government inform this Council of the criteria it adopts when considering applications from private or voluntary welfare organizations to operate community service facilities within Home Ownership Scheme estates? Are these criteria different from those adopted when dealing with similar applications in respect of public housing estates? If so, what are the reasons?

SECRETARY FOR HEALTH AND WELFARE: When considering applications from private or voluntary welfare organizations to operate community service facilities in public rental estates and Home Ownership Scheme courts, Government takes into account such factors as: whether the applicant organization is non-profit-making; whether it provides a useful service for the direct benefit of residents; and whether the proposed facility is likely to be objected to by residents. To qualify for concessionary rent, the application itself will also need the support of the relevant government department.

As regards the second part of the question, there is no difference between the criteria for allocating premises for community facilities in public rental estates and those for Home Ownership Scheme courts. The provision of facilities required in both types of housing will have to comply with the Hong Kong Planning Standards and Guidelines. Under the current design, Home Ownership Scheme developments are normally built in the vicinity of or adjacent to public housing estates. As a general practice, the welfare or community facilities to cater for the needs of both public housing and Home Ownership Scheme residents are accommodated in the rental portion. In the case of isolated Home Ownership Scheme projects, only basic facilities such as nurseries and children and youth centres are allowed in accordance with the Hong Kong Planning Standards and Guidelines.

Experience in Housing Authority developments has shown that some Home Ownership Scheme owners have resisted the provision of certain types of community facilities within their boundary for fear of intrusion by outsiders and the possible adverse effect on the property value. Therefore, in applying the criteria for allocating premises for welfare or community service, particularly facilities which may not be well received, care has to be taken in striking a balance between community needs and residents' reaction.

Part-time Nurse Scheme

9. MR CHOW asked: Will Government inform this Council :

- (a) how effective the Part-time Nurse Scheme is since its implementation last year;
- (b) when it will be reviewed; and

(c) whether consideration has been given to the impact of the scheme on the quality of medical services?

SECRETARY FOR HEALTH AND WELFARE: The present Part-time Nurse Scheme was introduced in March 1990 as one of a number of measures to help alleviate the acute shortage of nurses in public hospitals and clinics. 231 part-time nurses, all of them fully qualified Registered Nurses, are now employed in government and subvented hospitals and clinics. Together, they provide some 19 000 man-hours of service each month. This is equivalent to 105 full-time nurses. The scheme is working satisfactorily.

The scheme is reviewed monthly by the Department of Health and the Hospital Services Department in terms of both operational efficiency and standard of service. Based on the findings of these reviews, it is clear that the Part-time Nurse Scheme has contributed positively to relieving the pressure on full-time nurses and improving the quality of patient care in public hospitals and clinics.

Unclean potable water

10. MR LAM asked: In view of the recent allegation of unclean potable water in Ma On Shan and the fact that the residents' health may be affected, will Government inform this Council:

(1) of the cause of the unclean potable water in the area; and

(2) of the measures which will be taken in future to improve the situation, so as to safeguard public health?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the background to the recent allegation of unclean potable water in Ma On Shan is as follows:

In September 1990, the housing estate management of Kam Hay Court in Ma On Shan, which is a Home Ownership Scheme project, informed Water Supplies Department that some flat owners were complaining about yellow stained tap water.

Tests showed that the water quality delivered to the property was pure and clear,

that is, there is nothing wrong with the area supply. The problem was defective internal water mains in the building which resulted in iron rust staining the water. Tests of the water coming from the taps showed that the water, although unsightly, posed no health risk.

The responsibility for plumbing within a building is that of the registered consumers, not the Water Supplies Department. The department advised the housing estate management to arrange for a licensed plumber to carry out the necessary investigation and to take necessary remedial measures.

I understand that the water pipes for the worst affected flats have now been replaced, and the situation has improved.

Motion

#### INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR EDUCATION AND MANPOWER moved the following motion:

"That with effect from 1 March 1991 -

(a) the functions exercisable by any officer of the Mines Division, Labour Department, not below the rank of explosives officer and any other officer of the Mines Division, Labour Department, not below the rank of explosives inspector, authorized in writing by the Commissioner of Mines, by virtue of section 12 of the Dangerous Goods Ordinance (Cap. 295) be respectively transferred to any officer of the Mines Division, Civil Engineering Services Department, not below the rank of explosives officer I and to any other officer of the Mines Division, Civil Engineering Services Department, not below the rank of explosives officer II, authorized in writing by the Commissioner of Mines; and

(b) section 12(1) of the Dangerous Goods Ordinance (Cap. 295) be amended by repealing all that appears before paragraph (a) and substituting-

"(1) Any police officer not below the rank of inspector, and any officer of the Fire Services Department not below the rank of station officer and any officer of the Mines Division, Civil Engineering Services Department not below the rank of

explosives officer I and any other officer of the Mines Division, Civil Engineering Services Department, not below the rank of explosives officer II, authorized in writing by the Commissioner of Mines, and any member of the Customs and Excise Service, as defined in the Customs and Excise Service Ordinance (Cap. 342), may -""

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

The Mines Division of the Labour Department and the Geotechnical Control Office of the Civil Engineering Services Department have a close working relationship in the regulation of quarry operations, the extraction of quarry products and the use of explosives in quarrying, site formation and other civil engineering works. A review in 1989 concluded that the Mines Division should be brought under the Geotechnical Control Office of the Civil Engineering Services Department. This would improve the co-ordination of activities, allow better use of resources and render more efficient the delivery of related services. As a result the Mines Division was administratively placed under the Geotechnical Control Office from 1 April 1990.

Amending legislation, however, is required to effect the transfer of statutory powers. The resolution which I now move deals with the transfer of functions, under section 12(1) of the Dangerous Goods Ordinance, from officers of the Mines Division of the Labour Department to officers of the Mines Division of the Civil Engineering Services Department.

References to the Mines Division in the Mines (Safety) Regulations and the Dangerous Goods (General) Regulations will also need to be amended from the Mines Division of the Labour Department to the Mines Division of the Civil Engineering Services Department. These will be effected by amending regulations, to be made by the Governor in Council after this resolution is passed by this Council.

The transfer of statutory powers will take place on 1 March 1991. On that day, the Director of Civil Engineering Services and the Principal Government Geotechnical Engineer will be appointed as the Commissioner of Mines and the Deputy Commissioner of Mines respectively. On the same day, the Commissioner for Labour will also transfer his powers under the Quarries (Safety) Regulations to the Director of Civil Engineering Services and his staff, by way of a delegation under the Interpretation and General Clauses Ordinance.



Sir, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

DANGEROUS DRUGS (AMENDMENT) BILL 1991

SOCIETIES (AMENDMENT) BILL 1991

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

Second Reading of Bills

DANGEROUS DRUGS (AMENDMENT) BILL 1991

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

He said: Sir, I move that the Dangerous Drugs (Amendment) Bill 1991 be read a Second time.

The purpose of the Bill is to replace unreliable and inadequate presumptions relating to the possession of dangerous drugs for the purpose of trafficking.

Section 46 of the Dangerous Drugs Ordinance provides that any person found in possession of more than a specified quantity of a dangerous drug is presumed to have been in possession of the drug for the purpose of trafficking. The quantities specified for various drugs have historically been set on the basis of the amount of the drug forming a single dose; 10 doses for the less addictive drugs, and five doses for the more addictive drugs.

Two of the presumptive levels refer respectively to the number of packets and to the weight of a mixture containing heroin. These levels were set based on the drug situation in the early 1970s, when high purity "No. 4" heroin was virtually

non-existent in Hong Kong, the heroin consumed locally being the "No. 3" mixture, with a stable heroin content of about 30%. "No. 3" heroin was normally sold in single dose packets each weighing between 0.3 and 0.4 of a gram, and the average addict would use about five packets a day. Hence, the presumptive levels were set at "five packets" and "two and a half grams of mixture", both equating to a daily consumption of about half a gram of pure heroin.

The significant decline in the purity of "No. 3" heroin since the early 1980s (to about 3% today), and the emergence of "No. 4" heroin, of about 75% purity, at street level in the last few years, have changed the local drug abuse pattern. Most local addicts now consume either "No. 4" heroin or a mixture of "No. 3" and "No. 4". Those who consume "No. 3" heroin will normally use in one day more than the two and a half grams of mixture required to trigger the presumption that they are in possession of the drug for the purpose of trafficking. There have also been changes in retail practice. In addition to packets, heroin is now often sold in sealed drinking straws or in syringes.

Clause 2(a) of the Bill amends section 46(c) of the Ordinance by raising the presumption of possession for the purpose of trafficking where a person is in possession of more than five containers of dangerous drugs. The reference to "containers" is to recognize the changes in retail practice which I have referred to.

Clause 2(b) amends section 46(d) by raising the presumption where more than one of the dangerous drugs listed are possessed and the total weight of the dangerous drugs is half a gram or more. The section as presently worded would appear not to cover half a gram of a mixture containing, for example, a quarter gram of diacetyl morphine hydrochloride and a quarter gram of monocetyl morphine hydrochloride, both of which are dangerous drugs. In line with the amendment to section 46(d), clauses 2(d) to (h) amend section 46(f), (i), (j), (k) and (l) respectively, to raise the presumption that possession is for the purpose of trafficking on the more reliable basis of specified amounts of dangerous drugs possessed, whether they are alone or in a preparation or other material. In each case, the presumption is also raised where the combined weight of more than one of the dangerous drugs listed reaches the prescribed level.

Finally, clause 2(c) repeals section 46(e), since it is no longer appropriate to use the weight of a mixture to raise the presumption that possession is for the

purpose of trafficking. The weight of the mixture has been found to be a constantly fluctuating factor. This provision has become obsolete since the mixture is often so weak that large quantities are required to support an addict's personal consumption.

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

Question on the adjournment proposed, put and agreed to.

#### SOCIETIES (AMENDMENT) BILL 1991

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

He said: Sir, I move that the Societies (Amendment) Bill 1991 be read a Second time.

The purpose of this Bill is to give the Governor in Council the power to order the suspension and subsequent revival of the Triad Renunciation Scheme. Following the enactment of this Bill, it is the intention that the Triad Renunciation Scheme should be suspended from 1 April this year.

The Triad Renunciation Scheme, which came into operation on 8 December 1988, provided a means whereby a person could renounce his membership of a triad society in return for a stay of prosecution for offences under the Societies Ordinance related to triad membership. Up to the end of last month, a total of 959 applications had been received. Of these, 549 applications had been successful, eight unsuccessful, 92 had been withdrawn and 237 are held in abeyance as it has not been possible to contact the applicants.

The Fight Crime Committee reviewed the scheme last year and recommended that it should be suspended from 1 April 1991. The Committee considered that a period of two years was long enough for those who have the desire to relinquish their triad involvement to make use of the scheme. Furthermore, regular extension of the scheme would run the risk of sending the wrong message to existing and potential triad members that they would always have the opportunity of renouncing at a later stage. Suspension, as opposed to repeal, of the scheme will allow it to be reactivated without the need for new legislation, if this is felt necessary in future. However, I would emphasize

that there are currently no plans at present to reactivate the scheme once it is suspended.

As it is likely that some applications will be submitted close to the date of suspension, the Triad Renunciation Tribunal will need to continue its operations until all outstanding applications have been cleared.

After all applications have been cleared, the Tribunal will be dissolved. A Triad Renunciation Secretariat will be established to take over the custody of records and the issue of certificates to courts, magistrates, the Commissioner of Police and the Commissioner of Correctional Services. All records will be kept in confidence and the Secretariat will be independent of any of the law enforcement departments. Since the workload of the Tribunal Secretariat is expected to be very light, the duties will be assumed by the secretariats of other statutory boards in addition to their current duties. The existing eight posts created to service the Tribunal will be deleted.

Sir, turning to the Bill, clause 3 provides for the establishment of a Triad Renunciation Secretariat to take over the administrative functions and duties of the Tribunal when the latter ceases to exist. Clause 4 enables the Tribunal to terminate further processing of applications which have been abandoned by the applicants. These include applications which are now held in abeyance and which are not reactivated by the applicants before the suspension of the scheme.

Consequential amendments to other provisions in the principal Ordinance to include references to the Triad Renunciation Secretariat are made in clauses 5 to 10.

Clause 11 adds a new section 26N to give the Governor in Council the power to suspend and revive the Triad Renunciation Scheme, and the Governor the power to suspend the provisions establishing the Triad Renunciation Tribunal after all outstanding applications have been determined.

Finally, Sir, I would mention that a special campaign is being launched to publicize the suspension of the scheme with effect from 1 April 1991 and to encourage as many potential renouncers as possible to come forward before that deadline.

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

Question on the adjournment proposed, put and agreed to.

#### LANDS TRIBUNAL (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 9 January 1991  
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).

#### SECURITIES (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 16 January 1991

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).

#### PROTECTION OF INVESTORS (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 16 January 1991

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).

#### COMMODITY EXCHANGES (PROHIBITION) (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 16 January 1991

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).

COMMODITIES TRADING (AMENDMENT) (NO. 2) BILL 1990

Resumption of debate on Second Reading which was moved on 16 January 1991

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.

LANDS TRIBUNAL (AMENDMENT) BILL 1990

Clauses 1 to 3 were agreed to.

SECURITIES (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

PROTECTION OF INVESTORS (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

COMMODITY EXCHANGES (PROHIBITION) (AMENDMENT) BILL 1990

Clauses 1 and 2 were agreed to.

COMMODITIES TRADING (AMENDMENT) (NO. 2) BILL 1990

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

LANDS TRIBUNAL (AMENDMENT) BILL 1990

SECURITIES (AMENDMENT) BILL 1990

PROTECTION OF INVESTORS (AMENDMENT) BILL 1990

COMMODITY EXCHANGES (PROHIBITION) (AMENDMENT) BILL 1990 and

COMMODITIES TRADING (AMENDMENT) (NO. 2) BILL 1990

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

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

Bills read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 6 February.

Adjourned accordingly at thirteen minutes to Four o'clock.

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