

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 27 May 1987****The Council met at half-past Two o'clock****PRESENT**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE HONOURABLE THE CHIEF SECRETARY

MR. DAVID ROBERT FORD, L.V.O., O.B.E., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. PIERS JACOBS, O.B.E., J.P.

THE HONOURABLE THE ATTORNEY GENERAL

MR. MICHAEL DAVID THOMAS, C.M.G., Q.C.

THE HONOURABLE LYDIA DUNN, C.B.E., J.P.

THE HONOURABLE CHEN SHOU-LUM, C.B.E., J.P.

THE HONOURABLE PETER C. WONG, C.B.E., J.P.

DR. THE HONOURABLE HO KAM-FAI, O.B.E., J.P.

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

THE HONOURABLE HU FA-KUANG, O.B.E., J.P.

THE HONOURABLE WONG PO-YAN, O.B.E., J.P.

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

SECRETARY FOR DISTRICT ADMINISTRATION

THE HONOURABLE CHAN KAM-CHUEN, O.B.E., J.P.

THE HONOURABLE JOHN JOSEPH SWAINE, O.B.E., Q.C., J.P.

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

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

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

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

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, J.P.

THE HONOURABLE MRS. PAULINE NG CHOW MAY-LIN, J.P.

THE HONOURABLE PETER POON WING-CHEUNG, M.B.E., J.P.

THE HONOURABLE YEUNG PO-KWAN, C.P.M., J.P.

THE HONOURABLE KIM CHAM YAU-SUM, J.P.

THE HONOURABLE JOHN WALTER CHAMBERS, O.B.E., J.P.

SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE JACKIE CHAN CHAI-KEUNG

THE HONOURABLE CHENG HON-KWAN

THE HONOURABLE HILTON CHEONG-LEEN, C.B.E., J.P.

DR. THE HONOURABLE CHIU HIN-KWONG

THE HONOURABLE CHUNG PUI-LAM
THE HONOURABLE THOMAS CLYDESDALE
THE HONOURABLE HO SAI-CHU, M.B.E., J.P.
THE HONOURABLE HUI YIN-FAT
THE HONOURABLE RICHARD LAI SUNG-LUNG
DR. THE HONOURABLE CONRAD LAM KUI-SHING
THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.
THE HONOURABLE LEE YU-TAI
THE HONOURABLE DAVID LI KWOK-PO, J.P.
THE HONOURABLE LIU LIT-FOR, 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
PROF. THE HONOURABLE POON CHUNG-KWONG
THE HONOURABLE HELMUT SOHMEN
THE HONOURABLE SZETO WAH
THE HONOURABLE TAI CHIN-WAH
THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING
THE HONOURABLE TAM YIU-CHUNG
THE HONOURABLE ANDREW WONG WANG-FAT
THE HONOURABLE LAU WONG-FAT, M.B.E., J.P.
THE HONOURABLE GRAHAM BARNES, J.P.
SECRETARY FOR LANDS AND WORKS
THE HONOURABLE DAVID GREGORY JEAFFRESON, C.B.E., J.P.
SECRETARY FOR SECURITY
THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
SECRETARY FOR TRANSPORT
THE HONOURABLE MICHELANGELO PAGLIARI, J.P.
SECRETARY FOR EDUCATION AND MANPOWER (*Acting*)

ABSENT

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.
THE HONOURABLE CHAN YING-LUN, J.P.
DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.
THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, J.P.
SECRETARY FOR TRADE AND INDUSTRY

IN ATTENDANCE

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

THE CHIEF SECRETARY was appointed to preside at the sitting in accordance with Standing Order 3(2).

Papers

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

Subject *L.N. No.*

Subsidiary Legislation:

Public Health and Municipal Services Ordinance Public Health and Municipal Services (Civil Centres) (Amendment of Thirteenth Schedule) Order 1987	139/87
Regional Council Ordinance Regional Council (Amendment of Fourth Schedule) Order 1987	140/87
Shipping and Port Control (Dwelling Vessels) Regulations Shipping and Port Control (Dwelling Vessels) Regulations (Amendment of First Schedule) Order 1987	141/87
Companies Ordinance Companies (Interest on Investments) (No.2) Notice 1987	142/87
Public Health and Municipal Services Ordinance Hawker (Urban Council) (Amendment) (No.2) By-laws 1987	143/87
Public Health and Municipal Services Ordinance Milk (Urban Council) (Amendment) By-laws 1987.....	144/87
Public Health and Municipal Services Ordinance Public Swimming Pools (Urban Council) (Amendment) By-laws 1987	145/87

Sessional Papers 1986-87:

No. 60—Report by the Trustee of the Police Children's Education Trust and Police Education and Welfare Trust for the Period 1 April 1985—31 March 1986.

No. 61—Report of the Police Complaints Committee 1986.

Green Paper

The 1987 Review of Developments in Representative Government—May 1987.

Address by Member presenting paper**Report of the Police Complaints Committee 1986**

MR. CHEN: Sir, among the papers tabled today is the Report of the Police Complaints Committee for 1986. This is the first annual report of the committee which was appointed by the late Governor Sir Edward YOUDE in early 1986 to take over the work previously carried out by the former UMELCO Police Group.

The committee is an independent monitoring group comprising one chairman and two vice-chairmen, all drawn from the OMELCO, and eight Justices of Peace. I am the chairman of the committee, and my hon. Colleague the Attorney General is the only official representative on the committee.

Thanks to the sound foundation laid down by the former UMELCO Police Group, the committee has been able to assume its responsibilities without disruptions and further develop the monitoring system without any difficulty. The committee, with the support of an independent secretariat, is able to vet in detail each and every complaint case processed by the Complaints Against the Police Office of the Royal Hong Kong Police. During the year under report, the committee had vetted a total of 4 536 complaint cases, an increase of 11 per cent over the figure of 4 080 handled by the former UMELCO Police Group in 1985. Arising from its vetting of these over 4 000 cases, which in fact embraced 6 198 separate points of complaint, the committee had also proposed a number of changes to the police practices, procedures and instructions with a view to improving the overall effectiveness of the complaints system and assisting the Commissioner of Police in minimising public complaints.

Although there were over 4 500 complaint cases and various forms of disciplinary/internal actions taken against 1 081 police officers in 1986, these figures should be seen and interpreted in the light of the 3.1 million potential police-public confrontations during the year, comprising 1.8 million persons stopped and checked by policemen, and 1.3 million summonses and tickets issued related to traffic offences. Furthermore the difficult nature of the frontline duties of the police are tasked to perform to protect the community would also need to be borne in mind. Having said this, Sir, the committee would like to pledge its continued determination to safeguard the integrity of the investigations into the complaints against the police and to exert its utmost to be worthy of the trust that the committee has been vested with by the Governor.

Sir, I would like to take this opportunity to thank the Commissioner of Police and all officers in his Complaints and Internal Investigations Branch for their co-operation and assistance to the committee and its secretariat. I would also like to express my appreciation for the contribution and support by all Members of this Council, past and present. Last but not least, I would like to thank all members of the committee and all staff of the committee secretariat for their contribution and support throughout the year.

Oral answers to questions**Establishment of a Court of Final Appeal**

1. MR. LEE YU-TAI asked: *Further to the question raised in this Council on 6 November 1985, has any progress been made in the establishment of a Court of Final Appeal in Hong Kong?*

ATTORNEY GENERAL: Since my answer to the question raised on 6 November 1985, the Chief Justice and his colleagues have begun to set out ideas on the form which a Court of Final Appeal might take. These have been discussed on a preliminary basis within the Administration, and we have sought advice from London on the constitutional implications.

When the Government is ready to consider firm proposals for the establishment of a Court of Final Appeal here, it will then be necessary to consult the Chinese authorities since this would constitute steps towards the implementation of provisions of the Joint Declaration relating to the vesting of power of final adjudication in the Hong Kong Special Administrative Region.

At the same time consultation with the Chinese authorities would serve to ensure that any Court of Final Appeal established before 1997 was capable of surviving 1997 with a minimum of change to its essential structure and procedures.

MR. LEE YU-TAI: *Sir, consultation with China is mentioned in the answer. Since the legislature in China has the authority to interpret laws, may I ask whether such authority would have implications on the independence of the judicial system in Hong Kong?*

ATTORNEY GENERAL: Sir, any consultation with the Chinese will have to be considered at a later stage when the matter has got beyond its preliminary consultation. Consultation will be with the provisions of the Joint Declaration in mind, and it will be against that document that the terms of any proposed legislation will be seen.

MR. MARTIN LEE: *Sir, is it the intention of the Government to establish a Court of Final Appeal in Hong Kong only after the promulgation of the Basic Law in 1990?*

ATTORNEY GENERAL: Sir, no decision has been taken on that and I would not wish to say anything about it.

MR. LI: *Sir, will the Attorney General inform this Council when consultation with China will take place?*

ATTORNEY GENERAL: Sir, it is too early as yet to say when that will be.

Measures to protect eyesight of students

2. MR. CHEONG-LEEN asked: *Will Government inform this Council whether the number of students wearing spectacles for a variety of reasons has been on the increase, whether Government has recently made a study of the problem (including measures being taken in schools in China and other countries to protect the eyesight of students), and will Government take steps to see what more can be done to improve preventive and remedial measures to protect the eyesight of Hong Kong students?*

SECRETARY FOR HEALTH AND WELFARE: Sir, so far as I am aware no specific survey on the number of students wearing spectacles has been conducted in Hong Kong in recent years. The Education Department does however conduct a combined screening programme annually amongst Primary 1 pupils to detect any visual, hearing or speech impediments and students who are found to have eyesight problems are referred to specialist clinics for assessment and remedial action. In 1985-86, out of 84 677 Primary 1 pupils screened to identify possible eyesight problems, 4 803 were referred to specialist clinics and 4.23 per cent of those screened were advised to wear spectacles. In the previous year, 86 400 were screened, 6 300 were referred and 5.91 per cent were advised to wear spectacles; there is no indication that there is any significant change in the situation.

Apart from the screening process, other measures are taken to improve the situation. The health education syllabus for primary schools includes a study of the eyes and their care, and pupils are taught about the importance of suitable lighting conditions for school work and about the correct distance between the eyes and the book when reading. The Education Regulations require classrooms and blackboards to be adequately lit and textbooks to use print of appropriate type and size. An Education Department circular gives detailed advice on these requirements and also on eye care and the prevention of accidents to the eyes.

MR. CHEONG-LEEN: *Sir, will the Administration be open-minded enough and be prepared to study the measures being taken in schools in China, such as eye exercises in the morning before class begins, to protect the eyesight of students?*

SECRETARY FOR HEALTH AND WELFARE: Sir, we will do our best to find out exactly what is going on in China and if it appears to be useful I am sure the Director of Education would consider applying the same measures here.

Green Paper on the 1987 Review of Developments in Representative Government

3. DR. LAM asked (in Cantonese): *Since one of the key questions in the Green Paper on the 1987 Review is whether direct elections should be introduced in 1988, will Government confirm that the public will be encouraged to express their views on the question either way without fear that by doing so they will be infringing the provisions of the Sino-British Joint Declaration?*

SECRETARY FOR DISTRICT ADMINISTRATION: Yes, Sir, the Government will encourage members of the public to express their views on all the issues addressed in the Green Paper. In doing so the public are free to support or oppose any of the options discussed in it. We do not believe that any of them is inconsistent with the Joint Declaration.

DR. LAM (in Cantonese): *Sir, will the Government inform this Council if some members of the public find that their opinions or decisions regarding the 1987 review are against the Joint Declaration, then what legal or official channels can they resort to in order to clarify their doubts?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, apart from the fact that this point will be covered in a statement to be made by the Chief Secretary later on in introducing the Green Paper, I have already covered the point in my reply.

MR. MARTIN LEE: *Sir, will the Attorney General consider bringing prosecution under the new section 27 of the Public Order Ordinance against any person who deliberately spreads false news in the mass media to the effect that if the public should favour any one or more of the options contained in the Green Paper published today, they would be contravening the provisions of the Joint Declaration if the publication of such news should cause alarm to the public or a section thereof?*

ATTORNEY GENERAL: Since I see that Mr. LEE has gone to the trouble to prepare his question and is reading it from the text, may I respectfully submit that under Standing Orders notice should first have been given to you, Sir, of that question.

MR. LEE YU-TAI: *Sir, has the Chinese side been consulted whether or not the belief of the Administration (in the final sentence of the answer) is the same as the thinking of the Chinese authorities?*

SECRETARY FOR DISTRICT ADMINISTRATION: Sir, as I already stated, we do not believe that any of the items are inconsistent with the Joint Declaration.

Sale of cigarettes to persons under 18

4. MR. LIU asked (in Cantonese): *Since the Government has already embarked on a phased programme to ban tobacco advertising on television and radio, will this Council be informed whether there is any plan to gradually introduce legislation banning the sale of cigarettes to persons under 18; and if any statistics are available from overseas countries to show that there is a link between the introduction of such legislation and the reduction in the number of young smokers?*

SECRETARY FOR HEALTH AND WELFARE: Sir, there is at present no plan to introduce legislation to ban the sale of cigarettes to persons under 18 in Hong Kong.

According to information from the World Health Organisation, a number of countries prohibit the sale of cigarettes to children under 16; these include the United Kingdom, South Australia, Iceland and Spain. Uruguay bans cigarette sales to persons under 18.

The British legislation dates back to 1933 and the penalty for this offence was increased last year. However, according to the Department of Health and Social Security, there is evidence to suggest that the law is commonly flouted. It is also possible that such a ban can actually increase the attraction of cigarettes by making them 'forbidden fruit'. It is not possible to establish statistically the effect of such legislation, since so many other factors also affect the numbers of young smokers.

I am personally sceptical about the value of introducing legislation to ban the sale of cigarettes to young people, given the enforcement difficulties. However I understand that this question is on the agenda for the next meeting of the recently established Provisional Council on Smoking and Health and I await their advice with interest.

MR. LIU (in Cantonese): *Sir, people in the education field have noticed that younger and younger students are beginning to smoke. Has the Government considered anti-smoking measures to be introduced in schools to improve the situation?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think that our general view is that the best way to discourage young people, and in fact any other people, from smoking is to put across the message as widely as possible of the well-known dangers of smoking and I think that this sort of measure probably would be much more effective than any particular measures that might be taken in schools.

MR. CHAN KAM-CHUEN: *Sir, are we distancing ourselves from British law in this respect or is the will of enforcement weakened?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I think we have genuine doubts as to whether bringing in a law on the lines of that in the United Kingdom would be effective and our discussions with the Department of Health and Social Security have established that they also have doubts as to whether this law is effective.

PROF. POON: *Sir, are there any statistics on the percentage of smokers aged under 18? Has this percentage been increasing or decreasing in the last few years?*

SECRETARY FOR HEALTH AND WELFARE: Sir, over the past four years the rates of smoking amongst young people aged between 15 and 19 have ranged between 4.2 per cent in 1982, 3.4 per cent in 1983, 2.3 per cent in 1984, and 4 per cent in 1986. These statistics seem to suggest that the number of teenage smokers fluctuates, but owing to the small sample size and the possibility of underreporting I think we must treat these figures with caution. Nevertheless the indications are that the number of teenage smokers in Hong Kong is still low by most international standards.

MR. MARTIN LEE: *Sir, is it the Administration's stance that if a law in Britain is flouted with impunity there, then it is also likely that a similar law will be flouted in Hong Kong although we know that comparatively speaking our people of Hong Kong are a very law-abiding people?*

SECRETARY FOR HEALTH AND WELFARE: Sir, I do not think we necessarily make that assumption but quite clearly there would be enforcement difficulties connected with a provision of this sort, and therefore I think we need to think quite carefully before deciding to introduce it.

Reservation of one cable television channel for educational purposes

5. MRS. FAN ASKED: *Since the Government is at present considering the terms of cable television, will it inform this Council whether there will be one channel reserved for educational purposes and, if so, will this be a condition attached to the tender?*

FINANCIAL SECRETARY: Sir, I am not at present able to give Mrs. FAN a definitive answer to her question. The Government is presently considering the implications for telecommunication policy of the introduction of cable television. When a decision has been taken on this policy issue, consideration will be given to the licensing conditions of cable television.

I am afraid it will take a few months before we are able to settle the telecommunication policy issues.

As to a channel reserved for education purposes, Members will recollect that in its second report, the Education Commission has recommended the formation of an open education consortium and has also recommended the reservation of one cable television channel for post-secondary open education. Should the commission's recommendations on establishing an open learning institute be accepted by the Government, and if and when a decision is reached to introduce a cable television service, careful consideration will be given by the Government to reserving such a channel.

MRS. FAN: *Sir, can the Financial Secretary inform us what are the major implications of the telecommunication policy that are being considered by the Government, and how long has the Government been considering these major factors?*

FINANCIAL SECRETARY: Sir, I do not want to get into too detailed a debate about telecommunication issues because first of all, they are remarkably complicated; and secondly, I do not feel equipped this afternoon to give what I would like to think of as a definitive lecture. Basically, if we introduce a cable television service, the cable that would be installed would be capable of carrying various types of telecommunication services and data information. Whether or not we should have a second network in Hong Kong is, as I have said, a complicated issue. We have been considering these issues for a number of months and we are edging our way towards a submission to the Executive Council. When we reach that point we hope to be able to carry the matter forward to a conclusion. But as I said in my principal answer, it is going to take a few months yet.

MRS. TAM (in Cantonese): *Can the Financial Secretary inform this Council as to how much time Government need to consider the telecommunication policy? And when will Government invite tenders for the cable television?*

FINANCIAL SECRETARY: Sir, I think I have answered this question already. I cannot give a definitive time limit at this stage. It is going to take us a few months yet.

MR. LAI: *Sir, I understand there are at least two or more companies who are very keen in getting the licence of the cable television. Can the Government inform this Council what would be the Government's criteria in awarding such a licence?*

FINANCIAL SECRETARY: Service to the public, Sir.

Review of the floating class system

6. MRS. NG asked (in Cantonese): *Since the introduction of the flotation class system in 1975 to enable the implementation of the nine-year free and compulsory education policy, has the Government reviewed the system, with particular reference to its effect upon the quality of education?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, floating classes are a device to achieve a more efficient use of secondary school premises. As secondary schools are provided with a mixture of standard classrooms and special rooms for certain specialised activities, it is possible to operate more classes than there are actual classrooms.

There have been floating classes in the pre-vocational and technical schools since the 1950s and 1960s, and floating classes are not uncommon in Europe and North America.

The 1974 White Paper on Secondary Education in Hong Kong proposed the extension of the flotation system generally to secondary schools as part of a series of temporary measures to permit the introduction of universal junior secondary education, which we achieved in 1978.

A review of these temporary measures, including flotation, was carried out in 1977 with a view to assessing their effects on the quality of education, and several temporary measures were abandoned or have subsequently been phased out. The review, however, concluded that flotation did not have any adverse effect upon the quality of education and that it should be a permanent feature of all public sector secondary schools. These findings were incorporated in the 1978 White Paper on 'The Development of Senior Secondary and Tertiary Education' which stated that the Government considered that flotation represented an efficient use of school accommodation, without any sacrifice in quality, and that the system would be used in all types of school.

In the current school year 289 secondary schools are operating a total of 1 559 floating classes, representing some 17 per cent of all public sector secondary classes.

Sir, the assessment in the 1978 White Paper, that the use of floating classes did not impair the quality of education, was based on the situation where the standard school consisted of 24 classrooms plus 12 special rooms and would accommodate either 5 or 6 floating classes. This degree of flotation was felt to be acceptable as it would achieve a more intensive use of teaching facilities, with consequential savings in capital expenditure, without loss of quality of education.

Since then, however, additional subjects and other curricular changes have been introduced, such as computer studies and remedial teaching, which require additional special rooms and a review has been made of the design of the standard school to meet this requirement. The opportunity has also been taken to increase the number of standard classrooms to permit a reduction in the number of floating classes in each school.

A new design is being considered for a standard secondary school which will have 26 classrooms, 14 special rooms and three smaller rooms for remedial or split-class teaching. If adopted, this would ease the administrative inconvenience which the flotation system causes to the school management.

MRS. NG (in Cantonese): *Sir, I quite agree that educational facilities should be fully utilised. However, the answer says that flotation class will not be detrimental to education quality and I cannot agree. In Hong Kong, every sector of the community is cultivating a sense of belonging but in each of the 289 secondary schools, five to six classes do not have permanent classrooms. The pupils do not have a sense of belonging to the school. Sometimes, they may take their composition class in the laboratory; and sometimes their mathematics class in the typing room. This will affect their study. What sort of remedial action will Government take?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am aware of claims that the existence of floating classes somehow contributes to the lack of a sense of belonging but I am not aware of any evidence to substantiate these claims. In my view this is probably overstated. Most flotation classes consist of the senior forms in the school, who after some years in the school, will already have developed a sense of belonging to the school, and indeed, will have demonstrated their commitment to their own education by proceeding to those senior forms.

MR. SZETO (in Cantonese): *Sir, can the Government inform this Council how many computer classes and how many remedial classes are there in existing schools? Have these schools, which are of the old design, encounter any administrative problem and inconvenience?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I regret that I do not have in front of me figures for the numbers of computer classes and remedial classes in the secondary school sector, and in particular in the 289 secondary schools in the public sector which operate floating classes. I will, however, make this information available to Mr. SZETO in due course. (See Annex I)

As regards remedying a situation where the lack of special facilities for computer studies and remedial teaching exists, as I said in my main answer, we are at the present moment considering a revision of the design of the standard secondary school to provide just such facilities.

MR. YEUNG: *Sir, as regards easing the administrative inconvenience which the floating system causes to the school management, may I ask the Secretary whether the Government has any intention to reduce the number of floating classes in the existing old schools?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, as I said in my main answer, it is not the view of the Administration that the existence of floating classes in any way impairs the quality of education of the students in those classes. We therefore have no plans for reducing, on any widespread scale, the number of floating classes existing in these schools. However, again as I have said, we are considering a revised design of the basic secondary school which will contain 26 classrooms as opposed to the previous 24 classrooms. This will permit two of the classes which presently float to be in future fixed in their own premises.

MR. HUI: *Sir, could the Government inform this Council what criteria Government uses to measure the effect of floating classes in order to determine that this feature does not sacrifice the quality of education, especially, as the Secretary has just mentioned, Government intends to increase the number of classrooms to reduce the floating classes?*

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am not aware that there is any seriously held viewpoint anywhere in the educational system of Hong Kong which says that floating classes ipso facto cause any reduction in the quality of education. The views which are held, and the conflicting views which have been expressed, have always been over the extent to which floating classes are acceptable in the school system, not on the principle of floating classes.

As to specific criteria adopted, in particular by the Education Department in its survey in 1977—once again, Sir, I regret I do not have these criteria before me at the present time. If the Education Department still retains those papers, I will have them analysed and have the information passed to Mr. HUI. (See Annex II)

MRS. FAN: *Sir, can the Secretary inform us when will a decision be made on whether the new design will be used? And if the decision is favourable when will it be actually implemented, that is, when will a new school of 26 classrooms be actually completed?*

SECRETARY FOR EDUCATION AND MANPOWER: It is always difficult to say when a decision will be reached, Sir. As most Members know, there are many conflicting points of view within the Administration on almost any issue. The present proposal which is being considered has however already passed what I may—for want of a better description—describe as the first hurdle. If it proceeds on any kind of sensible timetable, I would expect a decision to be taken later this year. And with the lead time in the construction of secondary schools I would expect the first schools to the new design to appear in 1991.

Indecent assault within MTR station precincts

7. MRS. TAM asked (in Cantonese): *Will Government inform this Council of the number of complaints received regarding indecent assault within MTR station precincts over the past year and whether effective measures have been taken to tackle the problem?*

SECRETARY FOR SECURITY: Sir, in 1986, 16 women reported that they had been indecently assaulted within the MTR system. Up to the end of April this year, 12 cases were reported.

Although the number of cases has increased, my hon. Friend will be reassured to know that the police are tackling the problem effectively. More often than not, they arrest the assailant. For the 12 cases this year, all the culprits have been caught. Since the beginning of 1983, eight out of 10 assailants have been arrested.

MRS. TAM (in Cantonese): *Can the Secretary for Security inform this Council of the number of indecent assaults within the MTR? When compared with other crime rate within the MTR, is the indecent assault rate serious? And can the Government consider stepping up publicity within the MTR so as to alert MTR commuters?*

SECRETARY FOR SECURITY: No, Sir, among crimes committed in the MTR we do not consider indecent assault to be a serious one. For example, there were only 16 reported cases of indecent assault in 1986 compared with 345 reported crimes within the MTR system.

As regards publicity, that is a possibility that the police will be considering if the incidence of this crime gets any worse.

MR. YEUNG: *Sir, what is the average age of the victims in the 12 cases?*

SECRETARY FOR SECURITY: I am afraid, Sir, I do not have details of the average age of the victims.

MR. HUI: *Sir, could the Secretary for Security inform this Council what is the average penalty for the culprits caught?*

SECRETARY FOR SECURITY: Yes, Sir. Can I give as an example the second half of 1986. Of the 160 offenders convicted, 26 went to imprisonment for up to three years; two got suspended sentences; two were sent to detention centres; and 89 were fined or bound-over.

MR. CHEUNG (in Cantonese): *Sir, can the Secretary for Security inform this Council, after the commissioning of the MTR line, how many crimes are committed within the MTR area each year? How many suspects have been arrested because they are suspected of having committed crimes within the MTR area?*

SECRETARY FOR SECURITY: I think, Sir, with the greatest possible respect, my hon. Friend has gone well beyond the scope of the original question.

DR. HO: *Sir, how long does it take on average to complete an investigation into a reported complaint about indecent assault occurring within MTR station precincts? And, I wonder, whether lengthy investigations would deter reporting.*

SECRETARY FOR SECURITY: No, Sir. In fact the investigations of these cases have been relatively speedy, hence the very successful detection rates. I do not think, honestly, that there is any evidence whatsoever to suppose that there is any lack of reporting of indecent assaults occurring in the MTR system.

MRS. TAM (in Cantonese): *Sir, as regards the MTRC suggesting that female passengers should avoid using MTR during peak hours, does the Government consider this as an effective preventive measure?*

SECRETARY FOR SECURITY: No, Sir, I think it would frankly be unproductive to have measures like that unless we are very sure that there is a high incidence of indecent assault on females during rush hours. And so far, we just do not have any evidence to that end.

MR. JACKIE CHAN (in Cantonese): *Sir, owing to MTR trains being very crowded, many culprits take advantage of the crowded situation to commit indecent assaults. Can the Government consider increasing the frequency of the MTR service so as to reduce the opportunities for this kind of crimes?*

SECRETARY FOR TRANSPORT: Sir, the Government, of course, is always encouraging the MTRC to improve its services—not for this reason of course. I believe the MTRC is making great efforts to increase the frequency and number of trains.

Removal of lifeguard device from trams

8. MR. TAM asked (in Cantonese): *In view of the fact that the Hong Kong Tramways Ltd. (HKTL) is gradually dismantling the lifeguard device at the front chassis of its trams, will Government inform this Council whether it has considered and discussed with HKTL the greater risk of serious injuries to pedestrians knocked down by trams not equipped with the lifeguard device?*

SECRETARY FOR TRANSPORT: Sir, the removal of the lifeguard device from trams is part of the programme recommended by the consultants of the Hong Kong Tramways Ltd. to reduce noise from trams. Because it involved modifications to a tram body, the company sought the advice of the Director of Electrical and Mechanical Services last year before doing so. The director, after consulting various government departments, including the police, Highways and Transport Departments, informed the company that he has no objection to the removal of the lifeguard device. The reasons are threefold:

- first, there is no concrete proof that a lifeguard has been an effective device for saving the life of a person knocked down by a tram;
- second, it is no longer standard practice elsewhere to fit lifeguards on trams; and
- third, this is not a legal requirement under the Tramway Ordinance.

The issue of removing lifeguards was not taken lightly. The fact that the company sought Government's views, even when there was no legal obligation to do so, indicates that it did not wish to act against the public interest.

Government accordingly researched its own records to see if the lifeguards had reduced the risk of injury and fatality amongst the victims of tram accidents, and came to the conclusion that there was no evidence that they had.

MR. TAM (in Cantonese): *The Secretary has pointed out in his reply that all parties had handled the removal of the lifeguard device with care. Could the Government inform this Council whether the Tram Company had consulted the Union of Tramworkers?*

SECRETARY FOR TRANSPORT: Sir, I believe the company has conducted an internal review before doing so, but I will check this point with the company and advise Mr. TAM. (See Annex III)

MR. TAM (in Cantonese): *Sir, I have consulted the Tramways Union and the staff of the Tramways Company have written to me saying that the lifeguard device has a very useful purpose. If a pedestrian is knocked down by a tram, the pedestrian will fall on to the track in front of the tram, and if the tram is still proceeding forward, then the lifeguard device will be able to pick him up so as to alleviate the amount of injury that he would sustain. And also, more importantly, he will not be run over by the tram. Up to now it is unknown how many lives such lifeguard devices have managed to save. Can the Government inform this Council whether the advice of the tram operators is worthy of consideration, and whether that is accurate?*

SECRETARY FOR TRANSPORT: Sir, I will pass the hon. Member's suggestion to the Tramways Company and let him know the reason for the decision, and whether the drivers have been consulted. (See Annex III) But I believe from the records Government has provided, over the last five years there is an average of two fatal cases per year involving pedestrians in accidents involving trams. The number of injuries to pedestrians involving trams averaged 55 per year over the last five years. The Government has researched its records into these accident cases and found no evidence that the lifeguard device has helped to save the life of pedestrians involved in these accidents.

Written answers to questions

Vocational training courses in boys' and girls' homes

9. MRS. TAM asked: *Will Government inform this Council what are the subjects taught in the vocational training courses offered to the boys' and girls' homes of the Social Welfare Department and whether regular reviews of the courses are conducted to check if they are in line with the needs of the society?*

SECRETARY FOR HEALTH AND WELFARE: Sir, the Social Welfare Department at present runs seven homes for young offenders who are subject to probation orders with residential requirements or sentenced by courts to a period of residential training. The broad objective of this residential training in a disciplined and controlled environment is to bring about changes in behaviour and social attitudes so that these young people will be better equipped to live as law-abiding members of the community after their discharge. The training programme includes the teaching of academic subjects, vocational training courses and training in social skills.

The subjects taught in the vocational training courses for boys include carpentry, sewing and tailoring, printing, welding, electrical wiring, radio repairs, motor car maintenance, metal work and leather work; those for girls include sewing and tailoring, knitting and embroidery, cooking and household management. Each person is given a choice of at least three subjects.

Course content and teaching methods are subject to regular reviews, both by the department and by specialist officers from the Education Department. The 1983 review noted that as most of the trainees had very low educational attainment, poor work discipline and were more oriented towards practical subjects, it was recommended that the courses should provide training for semi-skilled jobs. It also recommended that the vocational training courses in these homes should be more intensive so as to better equip the trainees for employment after discharge.

The Social Welfare Department also has plans to improve the educational programme in these residential homes by employing qualified teaching staff, including technical teachers, to take over teaching duties from social workers. The ultimate aim of the programme is to develop the trainees' full potential, both in character formation and vocational skills, so as to enable them to find employment and to re-integrate them into the community.

Foreign domestic helpers

10. MRS. CHOW asked: *Will Government inform this Council:*

- (a) *how many Filipino domestic helpers have been prosecuted for working illegally in areas outside and unrelated to their original contract of employment, and*
- (b) *how many bogus employers have been prosecuted for signing false employment contracts with Filipino domestic helpers so as to extend their stay in Hong Kong*

in the last three years, and what is the percentage of cases prosecuted against cases investigated? Does Government intend to take steps to stamp out such fraudulent practices by either keeping up enforcement or plugging loopholes in the law?

SECRETARY FOR SECURITY: Sir, the statistics my hon. Friend asks for have only been kept since mid-1985. (a) Since then 204 foreign domestic helpers, representing 15.6 per cent of those investigated, have been prosecuted for taking up unapproved employment and furnishing false contracts. (b) During the same period 50 bogus employers, representing 41.3 per cent of those investigated, were prosecuted for signing false employment contracts with foreign domestic helpers.

The Government will continue to take steps to stamp out fraudulent practices connected with the employment of foreign domestic helpers. The Immigration Department has established a task force to investigate such offences. The task force will visit establishments where foreign domestic helpers may be working illegally and will investigate complaints of foreign domestic helpers taking up employment other than domestic service or working as domestic servants for employers other than those in their official contracts. All those domestic helpers successfully prosecuted will be returned to their countries of origin and will not be allowed into Hong Kong again to work. Employers who are successfully prosecuted will not be allowed to employ foreign domestic helpers.

The recently revised conditions of employment limiting the stay of foreign domestic helpers normally to two weeks after a contract is terminated should also help to reduce the opportunities for foreign domestic helpers to work illegally outside their contracts.

Government Business

Motion

STANDING ORDERS OF THE LEGISLATIVE COUNCIL

THE ATTORNEY GENERAL moved the following motion: That Standing Order 11(1)(f) be suspended to enable the Chief Secretary to make a statement after the completion of proceedings on Government motions and bills.

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

I know it is your desire in your capacity as Chief Secretary to make a statement on the Green Paper 'The 1987 Review of Developments in Representative Government' at this sitting of the Council. Standing Order 11 requires that statements be made before motions and Bills are processed. Since the President is expected to be able to preside at this sitting some time later this afternoon, I move that Standing Order 11(1)(f) be suspended. This will enable you to be in your usual place to make the statement after the Bills have been dealt with.

Sir, I beg to move.

Question put and agreed to.

First Reading of Bills**PREVENTION OF BRIBERY (AMENDMENT) BILL 1987****INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL 1987**

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

Second Reading of Bills**PREVENTION OF BRIBERY (AMENDMENT) BILL 1987**

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend the Prevention of Bribery Ordinance'.

He said: Sir, I move the Second Reading of the Prevention of Bribery (Amendment) Bill 1987.

It is seven years since the last comprehensive review of the legislation under which the Independent Commission Against Corruption operates. During this time the commission's efforts to eradicate corruption in Hong Kong have been vigorously sustained, and it has earned an enviable and growing international reputation as a leader in the fight against corruption. However, periodic reviews of the legislation are still necessary to ensure the commission's continued effectiveness.

The latest review has shown the need for a modest number of changes to both the Independent Commission Against Corruption Ordinance which is the commission's charter, and the Prevention of Bribery Ordinance which is, as it were, its main field of operations, and I shall be moving amendments to both Ordinances this afternoon. Many of the proposed amendments are aimed at clarifying or improving present procedures or revising penalties. None are intended to make any significant extension to the commission's existing powers or range of operations.

Sir, I turn now, to the main points in the Prevention of Bribery (Amendment) Bill. Clause 2 of the Bill proposes a new definition of 'public servant' for the purposes of the Ordinance. At present any 'member of a public body' is a public servant for the purposes of the Ordinance, and in particular for the purposes of various offences involving the offering or acceptance of advantages. The term 'member' is extremely wide in the context of clubs, associations and educational institutions, a number of which are 'public bodies' under the Ordinance. A person who has paid a subscription or who has a right to vote, may become a member of a club or association which is a public body; and all undergraduates and graduates of a university or college, may be members of that institution.

Sir, it is contrary to the spirit of the legislation that all such persons should be at risk of committing an offence based upon so tenuous a connection with the public body as membership alone. Accordingly, the new definition provides that only officers and other persons with responsibility for managing the affairs of the body or institution will be public servants for the purposes of this Ordinance.

As an additional safeguard against including members having little connection with the daily affairs of these institutions, there is provision for the Governor, by notice, to exempt specified bodies or persons from the definition. Universities and other listed educational institutions have been consulted and those that have responded are in general agreement with the amendments.

Sir, there has also been judicial criticism that the level of maximum fines for the offence of possession as a Crown servant of unexplained wealth, under section 10 of the Ordinance, is too low in view of the sums often involved. Penalties for this offence were last revised in 1980, and in order to maintain their deterrent effect it is proposed to increase the maximum fine in section 12 from \$500,000 to \$1 million on indictment and from \$100,000 to \$500,000 on a summary charge. The amendment is in clause 3 of the Bill.

I come now to the main new provision in the Bill, that is a proposal for confiscation orders to be made in respect of the property of Crown servants convicted of being in control of unexplained wealth under section 10.

It is an essential deterrent to corruption that neither an offender nor his close relatives and associates should be allowed to enjoy the benefits of his corruption. It was for this reason that provision for additional monetary penalty orders in respect of a section 10 offence were included in the Ordinance in 1974. More than 20 such orders have been made since the provisions were introduced. However, in a significant number of cases, recovery has been only partially successful and then only at the expense of lengthy court proceedings by the Crown. So long as an order remains a personal debt, a convicted person may arrange his affairs so as to put his assets out of reach—while retaining control—and then plead poverty.

The trial of a Crown servant on a section 10 offence always involves a close examination of the assets in his control, and an implicit finding, if he is convicted, that some or all of those assets represent the profits of his corruption. It seems logical that there should be a more direct procedure for taking hold of those assets identified as tainted, whether they are in the hands of an offender or a relative or an associate. This is what the confiscation orders are intended to achieve.

Clause 4 of the Bill contains three new sections. New section 12AA provides for the making by the district court or the High Court of an order for confiscation of property in the control of the convicted person to a value not exceeding the value of assets the acquisition of which has not been satisfactorily explained.

The power is subject to a number of important limitations and safeguards. First, the application for an order must be made by the Attorney General within 28 days after the conviction. Secondly, where the assets are held by a person other than the person convicted, then that other person must be given a reasonable opportunity to show cause why the order should not be made. Thirdly, no order may be made upon assets held by a person other than the person convicted if that other person satisfies the court that an order would be unjust in the circumstances. Fourthly, a confiscation order and a monetary penalty order cannot be imposed in respect of the same assets.

The second new section gives to a third party in possession of confiscated assets a right of appeal to the Court of Appeal against a confiscation order. A convicted person may himself appeal against such an order under the existing provisions of part IV of the Criminal Procedure Ordinance.

The third new section states that a court may award costs to any person in respect of proceedings relating to a confiscation order, if the order is not made or if the order is set aside.

Sir, I wish to emphasise that the power of the court to order confiscation is very narrowly based in that it applies solely to convicted Crown servants or former Crown servants and their close associates; it applies to the one offence; and it applies to assets which have already been the subject of a trial. In every case it is also discretionary in every case.

The provisions were drawn up having regard to guidelines in the Hodgson Committee Report on the Profits of Crime and Their Recovery, which is published in the United Kingdom in 1984. The report recommended that general powers of confiscation should be available to courts in the United Kingdom, subject to proper safeguards. A number of the recommendations have been adopted in the Drug Trafficking Offences Act 1986, which came into force in January of this year.

Sir, clauses 5 and 6 of the Bill make minor changes to remove some uncertainty as to the existing powers of commission officers when investigating an offence.

Clauses 7 and 8 of the Bill amend, in a small way, existing sections of the Ordinance relating to the issue of notices and orders restraining dealings in the property of suspects. The amendments first of all clarify that notices and orders may also apply to income from restrained property, and also ensure that they will remain in force until all proceedings on a prosecution have concluded.

The next amendments, Sir, concern magistrates' powers to order the surrender of a suspect's travel documents. Existing powers in section 17A of the Ordinance have proved a very effective aid to the investigation of corruption offences. However, some aspects of the present provisions have been criticised as unfair to the suspect and lacking in flexibility. So, clauses 9 and 10 of the Bill therefore propose amendments to make the procedure both fairer and more flexible.

First of all, amendments to section 17A will make it clear that no notice need be given to a suspect of an initial application for surrender but that notice must be given of any application for an extension of the surrender period. There is no change to the maximum period for which a document may be detained.

A new section 17B provides that a suspect may apply to the commissioner for return of his travel document at any time. The return may be made subject to conditions as to the future appearance of the holder and further surrender of the document, and the holder may be required to give adequate security. There is provision for appeal against a refusal to return travel documents or the imposition of unreasonable conditions.

New section 17C provides that a person who has failed to comply with conditions upon which a travel document was returned may be arrested and his security may be forfeited.

Sir, still on the subject of travelling abroad, section 18 of the Prevention of Bribery Ordinance provides for the arrest of any suspect who is believed to be arranging his departure from Hong Kong while investigations are proceeding, and for the admission of such a person to bail. Suspects have at times requested that due to the difficulty of raising a large bail at short notice, they should be allowed to deposit property and, in particular, title deeds, instead of part of the cash bail. Clause 11 amends the section to allow for this.

Finally, Sir, another amendment which arises from practical experience. Section 21A of the Ordinance provides that in proceedings on a section 10 offence, a certificate signed by the Chief Secretary may be admitted to prove the status and emoluments of a Crown servant or a former Crown servant. The certificate avoids the production of files and witnesses from various government departments, on matters which are rarely in dispute. The certificate evidence may of course be rebutted by the defendant himself. Such a certificate is also relevant in proceedings for other offences under the Ordinance, and it is proposed to extend its admissibility accordingly. The amendment is to be found in clause 12 of the Bill.

The remaining provisions of the Bill contain minor tidying-up amendments.

Sir, there have been thorough consultations on the measures contained in this Bill and on the Independent Commission Against Corruption (Amendment) Bill, with the Law Society, with the Bar Association and with the OMELCO Standing Panel on Security. All three bodies have contributed valuable suggestions which are now reflected in the form and provisions of the Bills, and I have reason to believe that the Bills now have their general support.

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

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

**INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL
1987**

THE ATTORNEY GENERAL moved the Second Reading of: 'A Bill to amend the Independent Commission Against Corruption Ordinance'.

He said: Sir, I move that the Independent Commission Against Corruption (Amendment) Bill 1987 be read a Second time.

This Bill contains a small number of amendments to the Ordinance made necessary by the passage of time and in the light of practical experience in the work of the commission. With one exception, they are simply intended to bring the Ordinance up-to-date.

The most significant amendments concern the powers of arrest by commission officers. Section 10 of the Ordinance contains a list of offences for which a commission officer may arrest a person if the offence is disclosed in the course of an investigation into an offence under the Prevention of Bribery Ordinance. Included in the list is the offence of obtaining a pecuniary advantage by deception under section 18 of the Theft Ordinance. In 1980 part of that section was repealed and replaced by three separate offences dealing with, respectively, obtaining services by deception, evading liability by deception, and making off without payment. A further related offence, that of procuring false entries in the records of a bank or deposit-taking company, was added to the Theft Ordinance in 1986. Sir, clause 4 of the Bill inserts these four offences into the said list. Three of the new offences simply replace a part of the Theft Ordinance which was considered vague and unsatisfactory and are not intended to extend its ambit. The fourth is both closely related to those offences as well as to other offences in the list, and is closely related to corruption. Its inclusion may be considered as a slight extension of the powers of arrest in section 10, but its omission would not be logical.

Also related to arrests, clause 6 inserts a new section 10AA, giving commission officers the power to arrest suspects who have been previously arrested and granted bail in respect of corruption offences, where there is sound reason for believing that bail may be broken. Police officers have similar general powers under the Criminal Procedure Ordinance. At present police take such action at the request of the commission but experience shows that it makes good, practical sense for commission officers to be able themselves to exercise this power in relation to cases that they are themselves investigating.

The remaining amendments, Sir, are of a very minor nature. Clauses 7 and 8 increase the maximum fines for the offences of obstruction and making false reports to commission officers, in order to maintain their effectiveness. The present fines were set in 1976.

Clause 9 and the Schedule to the Bill provide for minor changes to the Independent Commission Against Corruption (Treatment of Detained Persons) Order. These reflect the establishment of permanent detention facilities in the

Murray Road Carpark Building and the appointment of specialist guarding officers, and also remove several redundant provisions. Other provisions of the Bill contain drafting amendments only.

Sir, I have said earlier, in relation to the previous Bill, the proposals contained in this Bill have been examined by the Bar Association, by the Law Society and by the OMELCO Standing Panel on Security and have, I believe, their general support.

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

Motion made. That the debate on the Second Reading of the Bill be adjourned.

Question put and agreed to.

BUSINESS REGISTRATION (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (6 May 1987)

Question put and agreed to.

Bill read the Second time.

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

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (6 May 1987)

Question put and agreed to.

Bill read the Second time.

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

IMMIGRATION REGULATIONS (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (6 May 1987)

Question put and agreed to.

Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (6 May 1987)

MR. PETER POON: Sir, I rise to support the Inland Revenue (Amendment) Bill 1987. The OMELCO Taxation Panel received one representation from an accounting firm which sought clarification as to whether the words 'deemed to be' in the new section 15A of the Bill would have the effect of including offshore profits. The panel had a meeting with the Administration and is satisfied that there would be no such effect as subsection (4) of section 15A clearly defines the income for the purpose of section 15A to mean 'profits, rent, interest or royalty chargeable to tax under Part IV'. Part IV of the Inland Revenue Ordinance covers income or profits arising in or derived from Hong Kong.

The panel also considered the proposed amendment to section 15A(1) which would make it absolutely certain that the consideration received for the transfer of a right to receive income from property shall be considered as a trading receipt. The panel is satisfied that the proposed amendment is desirable to eliminate any doubt as to the purpose and effectiveness of the new anti-avoidance provision against the so-called Myer scheme.

Sir, with these remarks, I support the Inland Revenue (Amendment) Bill 1987 and the proposed amendment.

Question put and agreed to.

Bill read the Second time.

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

ESTATE DUTY (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (6 May 1987)

Question put and agreed to.

Bill read the Second time.

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

CHINESE PERMANENT CEMETERIES (AMENDMENT) BILL 1987**Resumption of debate on Second Reading (13 May 1987)**

Question put and agreed to.

Bill read the Second time.

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

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1987**Resumption of debate on Second Reading (8 April 1987)**

MR. SWAINE: Sir, section 8(1) of the Immigration Ordinance provides that the following persons shall have the right to land in Hong Kong, that is to say

Hong Kong belongers

Chinese residents

Resident British citizens

Persons who immediately before 1 January 1983 were resident United Kingdom
belongers.

However the right of the last three named persons to land is made expressly subject to section 20(6) which provides that the right to land shall cease while a deportation order is in force against such persons. Otherwise than by deportation, however, they cannot be removed and they are entitled to remain in Hong Kong free from conditions of stay.

So the only person who has the absolute right to land and remain in Hong Kong is the Hong Kong believer, against whom no deportation order can be made. The Hong Kong believer is defined under the present section 2 as meaning British subjects who were born, naturalised or registered in Hong Kong, and their spouses or children if also British subjects.

Under the amendments proposed in the Immigration (Amendment) (No. 2) Bill 1987, the status of Hong Kong believer will be subsumed in the new status of Hong Kong permanent resident. The proposed new section 2A expressly provides that a Hong Kong permanent resident enjoys the right of abode in Hong Kong, that is to say he has the right: (a) to land in Hong Kong; (b) not to have imposed upon him any condition of stay; (c) not to have a deportation order made against him; and (d) not to have a removal order made against him. Thus the new status of Hong Kong permanent resident will carry with it the absolute right to land and remain in Hong Kong.

Who are to be Hong Kong permanent residents? The class is defined in the proposed First Schedule of the Bill. Essentially these are the former Hong Kong belongers plus the former category of Chinese residents, that is those persons who are wholly or partly of Chinese race and who have ordinarily resided in Hong Kong for a continuous period of not less than seven years.

Our immigration law will thus be brought closer to the provisions of the Joint Declaration as section XIV of Annex I thereto specifies that a Chinese national who has ordinarily resided in Hong Kong for a continuous period of seven years or more shall have the right of abode in Hong Kong.

However under the same provisions of the Joint Declaration, a non-Chinese Hong Kong believer will not automatically enjoy right of abode in Hong Kong after 30 June 1997, but must instead try to qualify under the second indent of section XIV as someone who has ordinarily resided in Hong Kong for a continuous period of seven years or more and has taken Hong Kong as his place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region. I note the statement in paragraph 13 of the speech of the Secretary for Security when he moved the Second Reading of the Bill that the British and Chinese Governments have through discussions in the Joint Liaison Group reached a common understanding that the way to establish that such a person has taken Hong Kong as his place of permanent residence will be signing a simple declaration.

Sir, under the Bill, resident British citizens and resident United Kingdom belongers will not have the status of Hong Kong permanent resident and they will still be liable to deportation. However under a new section 8 which I will move at the Committee stage, their rights will be clearly and positively set out, namely: (a) to land in Hong Kong; (b) not to have imposed upon them any conditions of stay; and (c) not to have a removal order made against them. I shall also move Committee stage amendments to delete reference to them as 'immigrants' and to re-instate the more neutral term 'persons'.

The liability to deportation of a resident British citizen or a resident United Kingdom believer is prescribed by section 20(4) and arises only if the Governor in Council deems it conducive to the public good on the ground that the departure of such person from Hong Kong is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country.

It is this liability to deportation in these narrow circumstances which prevents resident British citizens and United Kingdom belongers from enjoying the full benefits of right of abode in Hong Kong. I understand there are many such resident British citizens in Hong Kong who would welcome the opportunity to cross this divide and become Hong Kong permanent residents with right of abode in Hong Kong. I would therefore urge that the Government give consideration to a further change in our immigration law which would make it possible for such persons to become Hong Kong permanent residents by

declaring their intention to make Hong Kong their place of permanent residence, a move which would be consistent with the provisions of the Joint Declaration to which I have earlier referred.

Sir, as the Secretary for Security said in his speech, the present Immigration Bill and the Registration of Persons (Amendment) Bill 1987 are complementary and with your permission, I will therefore speak on the latter Bill as well. The new status of Hong Kong permanent resident will be reflected in the issue of new identity cards which under the amendments proposed in the Registration of Persons (Amendment) Bill will be called permanent identity cards and will contain a statement that the holder has the right of abode in Hong Kong. The possession of the permanent identity card will enable a suitable endorsement to be made in the proposed new British National (Overseas) passports and Hong Kong Certificates of Identity to show the right of abode in Hong Kong. The new section 3A provides specifically for a person to apply for a permanent identity card if this is required by the applicant for a British National (Overseas) passport or Hong Kong Certificate of Identity. The object of this section, I note from the Secretary's speech moving the Second Reading of that Bill is to enable such persons to obtain permanent identity cards ahead of their scheduled turn. In other cases however the issue of the new permanent identity cards will take the form of a phased identity card reissue exercise under the new section 7B.

The principle of entitlement to a permanent identity card is dealt with by an amendment to section 7(2)(h) of the Bill which enables detailed rules to be made for the issue of permanent identity cards to persons with the right of abode in Hong Kong wherever resident. These supporting rules, to be enacted as amendments to the Registration of Persons Regulations, will provide that if a registration officer is satisfied that the applicant (when he applies under section 3A or section 7B) enjoys the right of abode in Hong Kong he shall issue to the applicant a permanent identity card. If a person is aggrieved by a decision of a registration officer not to issue a permanent identity card or to declare such a card invalid, he may appeal to a tribunal specially set up for this purpose under the new section 3C to be known as the Registration of Persons Tribunal. Under section 3D(5) as originally drafted, an appeal to the Registration of Persons Tribunal could not be brought if the Immigration Tribunal had earlier ruled under section 53A of the Immigration Ordinance that the applicant did not have right of abode in Hong Kong. But as appeals to the Immigration Tribunal are capable of being dealt with in a summary way under section 53C, it seemed only just that the applicant should not be precluded from appealing to the Registration of Persons Tribunal if he was relying on fresh facts or evidence. Amendments which I will therefore be moving at the Committee stage to the new section 3D(4) and (5) will incorporate these safeguards. For the sake of consistency, similar safeguards will be introduced to the appeal procedure under section 53(A) of the Immigration Ordinance by amendments which I will move at the Committee stage.

Further, I shall be moving Committee stage amendments to introduce a new section 7D to enable a permanent identity card to be issued to a person who obtains an identity card after 1 July 1987 and after the issue of that card qualifies for right of abode, an omission which a sharp-eyed member of the public brought to notice!

Additionally, as a result of discussion between the ad hoc group and the Administration, regulation 17 of the Registration of Persons Regulations will be deleted. This regulation requires, among other things, any person leaving Hong Kong for more than three months to inform the Commissioner of Registration prior to his departure and upon his return to Hong Kong; it also gives the commissioner the power to require him to surrender his identity card. Since a permanent identity card will be necessary to support the right of abode endorsement in the BN(O) passport, and since the Immigration Department already keeps records of arrivals and departures in its traffic index, these provisions are no longer appropriate.

Finally, although no amendments are necessary, I should place on record that the Administration has agreed to include in the next re-print of the Immigration Ordinance an appendix which will set out the terms of section 8(1)(a) as in force prior to the passing of the present Immigration Bill, so as to facilitate the cross-reference made in paragraph 3 of the First Schedule.

Sir, in addition to being technically complex, these two Bills will effect far-reaching changes to our immigration and related law, touching the status of our citizens, reflecting the transition which Hong Kong is now under-going. There has, however, been little public reaction to these Bills.

Subject to the amendment, Sir, which I shall be moving at the Committee stage, I support the motion.

MISS TAM (in Cantonese): Sir, in 1986, people entering in and out of Hong Kong reach a figure of 43.6 million and most of them are indigenous Hong Kong people who have the right to enter Hong Kong and can unconditionally stay in Hong Kong. However, the concept of right of abode cannot be found in the written laws of Hong Kong.

However, since the signing of the Joint Declaration, we understand that section XIV of Annex I of the document specifies that:

- all Chinese nationals who were born or who have ordinarily resided in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region for a continuous period of seven years or more, and persons of Chinese nationality born outside Hong Kong of such Chinese nationals;
- all other persons who have ordinarily resided in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region for a continuous period of seven years or more and who have taken Hong Kong

- as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region, and persons under 21 years of age who were born of such persons in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- any other persons who had the right of abode only in Hong Kong before the establishment of the Hong Kong Special Administrative Region;

can have the right of abode in Hong Kong. Such right of abode will be stated in the Hong Kong permanent identity card. The BN(O) passport or Hong Kong Certificate of Identity will also state whether the holder of the passport has Hong Kong permanent identity card and hence the right of abode in Hong Kong.

The right of abode, I believe, is very important particularly in understanding the differences between the Hong Kong and Chinese legislations. People who have the right of abode in Hong Kong have the right to enter and stay unconditionally in Hong Kong, and will not be repatriated or deported from Hong Kong. There are at present, 1.73 million Chinese residents who can enjoy these rights. At the same time, the 3.25 million people who have the right to enter Hong Kong can also enjoy these rights. All in all, apart from those who have renounced their British Dependent Territories citizenship after 1 January 1983, all other people who now have the right of abode in Hong Kong may fully retain these rights.

Another important feature regarding the right of abode in Hong Kong is that, in the eyes of the law, if a person with the right of abode in Hong Kong is to be deported by a foreign state, he should be deported to Hong Kong and not to China. This is very important in the written law of Hong Kong. Therefore I think the Hong Kong Government should incorporate the right of abode in our legislation.

Mr. SWAINE has spoken on the two Bills, that is, the Immigration (Amendment) (No. 2) Bill 1987 and the Registration of Persons (Amendment) Bill 1987 which will be passed today. The Registration of Persons (Amendment) Bill 1987 explains how the new permanent identity cards are issued, the ways to appeal and the right of the holder of the permanent identity card. I hope that the Hong Kong Government will widely publicise the new legislation in overseas countries where a lot of Hong Kong people have gathered to enable them to come back and apply for the new identity cards thus preserving their right of using these identity cards in Hong Kong. Another important function of the identity cards is to prove that we have such a right of abode which is endorsed in our passports.

At present, there are 69 countries who accept the BDTC passports but only 17 countries express their intention to accept the BN(O) passports. Fortunately, these countries include some relatively large countries who have very good relationship with Hong Kong, such as United States, France and Italy. But there are many countries which have close relationship with Hong Kong but

have not expressed their willingness to accept the BN(O) passports. These countries include South Korea, the Philippines and Thailand. All of them have very close links, for example, family ties or commercial interests, with the people here. I hope that the Hong Kong Government would lobby with the British Government to make sure that these countries will understand the value of our new passports and recognise their status.

Just now Mr. SWAINE mentioned that these two Bills are rather complex, and that is why I do not intend to go into the details of these two Bills. What I want to say is, today, people who enjoy the right of abode can be grouped into four categories:

- (1) Persons wholly or partly of Chinese race who have been ordinarily resident in Hong Kong for seven years or more;
- (2) British Dependent Territories citizens who have a connection with Hong Kong (by virtue of Article 2 of the Hong Kong (British Nationality) Order 1986);
- (3) British Dependent Territories citizens who have a connection with the British Dependent Territories as set out in Schedule 6 of the British Nationality Act; and
- (4) Commonwealth citizens who had the right to land in Hong Kong before 1 January 1983 by virtue of being a Hong Kong believer.

Concerning Commonwealth citizens, just now Mr. SWAINE mentioned that there are a lot of expatriates who have lived here for more than seven years and have the right of abode. After 1997, what would be the situation? I think that the Government should pay more attention to the interest of this group of people and we should negotiate with the Chinese Government and come up with some arrangements which would be acceptable by the law before and after 1997 so that these expatriates could have a choice to stay in Hong Kong.

Lastly, on 21 January 1985, Mr. Peter C. WONG, Sir S. Y. CHUNG and I went to the United Kingdom to lobby with the Members of the British Parliament regarding the Hong Kong Nationality Law in the hope that the new passport will have the same value as the BDTC passport. We also asked the British Government to ensure that the minority people living in Hong Kong and their off-springs will not become stateless people. As to the result of our lobbying, only history can tell. But we hope that the British Government could live up to its commitment.

With these remarks, Sir, I support the two Bills.

MR. CHEONG-LEEN: Sir, once this Bill is adopted today, 90 per cent of our population—that is about 5 million people—will be given the right of abode in Hong Kong.

As already mentioned by Mr. SWAINE, a person with the right of abode in Hong Kong will have the following rights and freedoms:—

- (a) the right to land in Hong Kong;
- (b) freedom from conditions of stay in Hong Kong;
- (c) freedom from removal from Hong Kong; and
- (d) freedom from deportation from Hong Kong.

These 5 million people include 3.25 million Hong Kong British Dependent Territories Citizens (BDTCs), who at present enjoy the equivalent of a right of abode, and under the new legislation will continue to enjoy the four rights and freedoms without the change.

There are another 1.74 million Chinese residents, who at present enjoy only the first three of the four rights and freedoms, who are persons wholly or partly of Chinese race who have lived in Hong Kong for a continuous period of not less than seven years, they will also be given the right of abode, meaning that they will also enjoy additionally the fourth freedom that is freedom from deportation.

Sir, these 5 million people will henceforth belong to one category termed 'Hong Kong Permanent Residents', and will be issued permanent identity cards as evidence of their right of abode in Hong Kong.

The new permanent identity cards to be issued from 1 July this year will not carry an expiry date, but will continue to be used after 30 June 1997 until such time as they are replaced by identity cards issued by the Hong Kong Special Administrative Region (HKSAR) Government.

As the term 'right of abode' is generally understood to include the right to enter and remain in one's country and to be free from deportation, this Bill should be welcomed by all the 5 million people concerned.

In addition to granting automatically the right of abode in Hong Kong after 1997 to non-Chinese persons who before the establishment of the Special Administrative Region have the right of abode only in Hong Kong, the Joint Declaration will also give the right of abode to non-Chinese persons who have ordinarily resided in Hong Kong before or after the establishment of the SAR for a continuous period of seven years or more and have taken Hong Kong as their place of permanent residence. I am pleased to note from the Secretary for Security's speech at the opening of this debate that all that they will have to do to demonstrate that they have taken Hong Kong as their place of permanent residence is to sign a simple declaration to that effect. This is a practical arrangement, which it is hoped will encourage expatriates who have settled in Hong Kong to continue residing here permanently and contributing to our stability, prosperity and status as a thriving international city.

One matter of importance which will have to be clarified is whether 'Hong Kong permanent residents' of Chinese race who are holding foreign passports (such as a Hong Kong born Chinese who has acquired a Canadian nationality) will be entitled to the right of abode after 1997. I hope that this issue will be discussed within the spirit of the Joint Declaration so that persons in this

category will still be entitled to the right of abode after 1997. I believe that such persons—the total number of which may well be around half a million by 1997—should be given every encouragement to return to Hong Kong and to make a significant contribution towards Hong Kong's economic growth and prosperity. Before I sit down, Sir, I like to support what Miss Maria TAM has just said a little while ago about BN(O) passport. She said that today there are only about 17 countries which have openly declared that they will give full recognition to the BN(O) passport. Now, there are probably a hundred or more countries or territories where Hong Kong has economic relations and to which Hong Kong exports our products. And I think what the Administration should do is to request the British Government to contact each and everyone of these territories which have not signified that they are prepared to recognise the BN(O) passport and to encourage them to express their recognition at an early date.

Sir, with these words, I support the motion.

MR. LEE YU-TAI: Sir, I am concerned about the effect of the Immigration (Amendment) (No. 2) Bill in taking away the right to land of non-Chinese persons who have renounced their BDTC status since 1 January 1983, mainly in order to acquire the citizenship of a country that does not allow dual nationality. Although these persons can resume their BDTC status at any time before 1 July 1997, this has to be done at the expense of giving up their other nationality. Let me state that I sympathise with this group of people of whose number the Administration does not keep a record. My sympathy arises from an understanding of the anxiety of many people in Hong Kong about the uncertain future, about which there can be no dispute. This group of people cannot be blamed for taking out insurance by obtaining for themselves a fallback nationality. This is not pessimism. Those who take out life insurance do not in normal circumstances want to die so as to allow their beneficiaries to collect compensation. People who acquire overseas citizenship do not wish to leave Hong Kong, but they are merely taking a precautionary measure. Responsible people must think not only of themselves but also of their children and descendents.

Sir, I am also concerned that the Immigration (Amendment) (No. 2) Bill uses a racial distinction to determine who will be given the right of abode. The Bill gives the right of abode to 1.74 million ethnic Chinese people who have lived in Hong Kong for more than seven years, but it does not give the same right to non-Chinese persons who have lived in Hong Kong for the same period. I realise that racial distinctions have been used in the definitions in the Immigration Ordinance for some time, and I note from the Secretary for Security's speech at the opening of this debate that non-Chinese persons who have lived in Hong Kong for a continuous period of more than seven years and who have taken Hong Kong as their place of permanent residence will eventually be able to obtain the right of abode in accordance with indent 2 of section XIV of

Annex I of the Joint Declaration, by means of a simple declaration: this is a welcome piece of news, and I hope that the mechanism for the declaration will be introduced as early as possible in order to encourage expatriates who have settled in Hong Kong to remain here. But I must put on record my unease about giving rights according to racial distinctions, when we see around us in the world today so much racial discord. I hope that racial distinction will not be used in future legislation as a basis for granting rights.

Finally, nationality matters are bound by agreements hammered out at the diplomatic negotiating table and there are limits to what the Hong Kong Government can do, bearing in mind that the two sides on the negotiating table may not be of equal strength.

With these words, Sir, I support the motion.

MR. ANDREW WONG (in Cantonese): Sir, I would like to speak in support of the Immigration (Amendment) (No. 2) Bill 1987 and the Registration of Persons (Amendment) Bill 1987. Members are aware that the purposes of these two Amendment Bills are: (1) to legalise a right which is vested in most residents in Hong Kong because of the Joint Declaration, and that is, section XIV of Annex I of the Joint Declaration. This so-called 'right of abode' is actually something which has been enjoyed by indigenous residents for a long time and is four folded: (i) the right of entry; (ii) the right to reside in Hong Kong without any conditions; (iii) exemption from deportation; and (iv) exemption from repatriation. The second purpose of these Amendment Bills is to extend the right of abode presently enjoyed by indigenous residents to those who are not BDTs and yet who are Chinese nationals because of the transfer of sovereignty in 1997.

After the amendment Bills are passed, around 5 million Hong Kong people will have this right and they will be entitled to a Hong Kong Permanent Resident Identity Card and they will henceforth be known as Hong Kong permanent residents. They will also be issued with a BN(O) passport showing that they have a right to reside permanently in Hong Kong or they may have a Certificate of Identity which shows the same status. The validity of such documents extends beyond 1997 and should have our support.

Today, 27 May 1987, is the second anniversary of the rectification of the Joint Declaration. It is the most appropriate time for us to amend and pass these two Bills. Sir, I also know that later on, you will, as the Chief Secretary, make a statement on the 1987 Green Paper and I think it is very timely that the Green Paper should be published today. Changes or amendments to legislation, be they minor or major, perfect or imperfect, will inevitably bring doubt. However, life is not always perfect. The two Amendment Bills in front of us do not intend to take away existing rights from any Hong Kong residents. Nevertheless, they will cause fears and doubts among some residents, say for instance, indigenous Hong Kong people who are working overseas and yet who still consider Hong

Kong as their home, or expatriates who reside in Hong Kong and yet who are affected because the SAR Basic Law has not been drafted and because they do not know how Chinese nationality laws will be applied in Hong Kong, will doubtlessly feel uneasy about the Amendment Bills. We just hope that both the United Kingdom and Chinese Governments will continue to monitor this particular matter and try to work out solutions to this problem before 1997. Political review is but one of the problems.

Sir, it is inevitable that we should have changes and reforms before 1997. It is also inevitable that with reforms and changes, there will come doubts and fears. I would urge the Chinese Government, the United Kingdom Government, hon. Colleagues of this Council and the general public at large to be at ease.

Michael OAKESHOTT, the Professor of Political Philosophy at the University of London, has once said and I quote, 'In political activity then, men sail a boundless and bottomless sea, there is neither harbour for shelter nor floor for anchorage, neither starting place nor appointed destination. The sea is both friend and foe. The task is to keep afloat on an even keel and seamanship consists of using the resources of a traditional manner of behaviour to make a friend out of an enemy.'

Sir, with these remarks, I support the motion.

SECRETARY FOR SECURITY: Sir, I would like to thank my hon. Friend, Mr. SWAINE, and other members of the ad hoc group for their very careful and expeditious consideration of this Bill—a very important Bill—whose subject matter is both complex and technical.

Sir, I will be supporting the amendments my hon. Friend will be moving at the Committee stage of this Bill. They are all based on sound reasons as my hon. Friend himself has explained.

Sir, in speaking on this Bill in this Council on 8 April, I have drawn Members' attention to the transitional nature of the proposed legislation, the immediate objective of which is to enable the British National (Overseas) passports and Certificates of Identity to be endorsed with a right of abode and to be issued with effect from 1 July this year. I described in detail the three categories of people who will have the right of abode in the Hong Kong Special Administrative Region under the terms of the Joint Declaration. I said that there was some way to go before those provisions in the Joint Declaration will be fully implemented. But further legislative proposals will be introduced into this Chamber before 1 July 1997 so that the categories of persons enjoying the right of abode in Hong Kong are on that date completely in line with those set out in the appropriate section of the Joint Declaration.

Sir, I also explained that there may be a very small number of persons among those to be accorded the right of abode in accordance with the legislation now before this Council who will not continue to enjoy the right of abode in the

Hong Kong Special Administrative Region on 1 July 1997 because they do not meet the relevant provisions of the Joint Declaration. Sir, they would be those 'Hong Kong permanent residents' who are non-Chinese nationals and who on 1 July 1997 may not have ordinarily resided in Hong Kong for a continuous period of seven years or more, or who may have so resided but who have not taken Hong Kong as their place of permanent residence; in either case they would have the right of abode elsewhere.

I also said on 8 April in this Chamber that the criterion for a non-Chinese national to have taken Hong Kong as his place of permanent residence in order to qualify for the right of abode under the second category in section XIV of Annex I, will be met by his signing a simple declaration to that effect. This formulation has the advantages of simplicity and clarity, both in terms of public understanding and of practical implementation. I am very pleased to note, Sir, that this approach has been welcomed by the ad hoc group and I agree entirely with my hon. Friend, Mr. Hilton CHEONG-LEEN, that this arrangement should encourage expatriates who have settled here to continue to reside here.

My hon. Friend, Miss TAM, mentioned that further action should be taken to provide an opportunity for alien people who have lived in Hong Kong for seven years to acquire the right of abode under the second category in section XIV by demonstrating that they have taken Hong Kong as their place of permanent residence. My hon. Friend, Mr. LEE, said that this opportunity should be provided as soon as possible so that non-Chinese long-term Hong Kong residents could, like their Chinese counterparts, enjoy the right of abode in Hong Kong and thus we would be removing any distinction on racial grounds. My hon. Friend, Mr. SWAINE, is specifically of the view that the opportunity should be given to 'resident British citizens' and 'resident United Kingdom belongers' by a further change in our immigration law to provide for such persons to become 'Hong Kong permanent residents' by declaring their intention to make Hong Kong their place of permanent residence. I have in my speech moving the Second Reading of this Bill explained the reasons why we excluded such persons from acquiring the right of abode in Hong Kong now, but I stressed, and I stress again, that they will be included in accordance with the relevant provisions of the Joint Declaration following further legislative amendments.

Sir, we fully understand the disappointment among those long-term Hong Kong residents who will not fall within the category of 'Hong Kong permanent residents' but who do have every intention to make Hong Kong their place of permanent residence. And if I may, Sir, at this point I would declare an interest. This feeling is no doubt especially strong on the part of 'resident British citizens' and 'resident United Kingdom belongers' who are now enjoying three of the four components of right of abode as my hon. Friend, Mr. SWAINE, has so clearly described. We are aware of the arguments in favour of an early opportunity for non-Chinese long-term Hong Kong residents to acquire the right of abode in Hong Kong. But to ensure a smooth transition, further

legislative amendments to put into effect provisions relating to right of abode in the Joint Declaration have to be carefully considered and discussed between the British and the Chinese Governments. The views that Members of this Council have expressed today will most certainly be taken into full account in these considerations.

My hon. Friends, Miss TAM and Mr. LEE, referred to a very tiny group of people who had formally renounced their BDT citizenship after 1 January 1983 and hence will not become 'Hong Kong permanent residents'. Sir, renunciation is a deliberate and voluntary act. It is a commonly accepted principle throughout the world that if a person renounces a form of citizenship, he loses the rights that go with that citizenship. It follows that any person who derives his immigration status in Hong Kong from his British Dependent Territories citizenship by virtue of a connection with Hong Kong should cease to enjoy that status when he, by a voluntary act, severed his connection with Hong Kong by renouncing his British Dependent Territories citizenship. But under the British Nationality Act 1981, such a person still retains an absolute entitlement to resume his British Dependent Territories citizenship and this may be done now at any time up to 30 June 1997.

Sir, my hon. Friend, Mr. CHEONG-LEEN, has asked whether ethnic Chinese 'Hong Kong permanent residents' who are holding foreign passports will be entitled to the right of abode after 1997. In accordance with the terms of the Joint Declaration, such persons will have the right of abode in the Hong Kong Special Administrative Region under the first category of the three categories if they are regarded as Chinese nationals. If they are regarded as non-Chinese nationals, they will have to qualify under the second category, that is to say, they would have to have ordinarily resided in Hong Kong for a continuous period of seven years or more and they would have to have taken Hong Kong as their place of permanent residence. This point then raises the question of whether ethnic Chinese holding foreign passports will be regarded as Chinese nationals for the purposes of section XIV of Annex I to the Joint Declaration. Sir, that involves interpreting Chinese nationality law.

Sir, my final point is to answer the urging of my hon. Friend, Miss TAM, that further action should be taken to obtain wider recognition of the BN(O) passport and to secure for BN(O) passport holders the same travelling convenience as that enjoyed by BDTC passport holders. Sir, since last autumn the national status of BN(O) and the passport that goes with it, the various endorsements contained in the passport and the future status of Hong Kong people in terms of their right of abode have been and are being constantly explained to all countries. Specimens of the BN(O) passport are being passed on to them so that from 1 July 1987, immigration officers around the world will expect to see British passports recording the status of British Nationality (Overseas), containing the endorsements I have just mentioned. And these immigration officers will know what these passports and these endorsements are all about. There is no reason whatsoever to believe that the BN(O) passport will

only be good for travelling to those countries which have publicly announced their recognition of the passport. This shows a most important point. This passport is a normal British passport issued under the authority of the Secretary of State and there is no reason why it should not be acceptable universally in practice. The important fact is that no country has so far said it will not recognise the BN(O) passport. We are confident that holders of BN(O) passport will enjoy the same ease and convenience in travelling abroad as do BDTC passport holders. And indeed, there is hope of an improvement for the holders of both passports. Two countries—Spain and Sweden—have both very recently abolished visa requirement for holders of both BN(O) and BDTC passports.

Question put and agreed to.

Bill read the Second time.

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

4.30 pm

CHIEF SECRETARY: At this point, Members may care to take a short break.

4.50 pm

HIS EXCELLENCY THE PRESIDENT: I am grateful to the Chief Secretary for deputising for me when I went to the airport to meet Her Royal Highness Princess Margaret. We now resume.

REGISTRATION OF PERSONS (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (8 April 1987)

MR. SWAINE: Sir, I have spoken on this Bill in my speech on the Immigration (Amendment) (No. 2) Bill 1987 and, subject to the amendments proposed, support the motion.

MR. CHEONG-LEEN: Sir, in supporting the Bill may I say how glad I am that the Administration has decided to delete regulation 17 of the Registration of Persons Regulations, which requires, among other things, any person leaving Hong Kong for more than three months to inform the Commissioner of Registration prior to his departure and upon his return to Hong Kong and gives the commissioner the power to require him to surrender his identity card.

I also welcome the Government's undertaking during its discussions with the Legislative Council ad hoc group that persons renewing their identity cards will not be required to make any declaration about whether they possess foreign passports.

As the number of people emigrating from Hong Kong shows no indication of decreasing within the next few years, I would urge the Administration to make it clear in their overseas public relations programme that such people are welcome to return to Hong Kong at any time to contribute to Hong Kong's economic viability and prosperity, and providing they meet the conditions of the right of abode they will be issued with a permanent identity card with minimum red tape and delay.

Sir, I support the motion.

SECRETARY FOR SECURITY: Sir, I would also like to thank members of the ad hoc group for their support of this Bill. I also wish to add my strong support to the amendments which my hon. Friend, Mr. SWAINE, will be moving at the Committee stage.

The setting up of a Registration of Persons Tribunal is an important proposal in this Bill. I am particularly grateful to my hon. Friend, Mr. SWAINE, for his constructive comments on the provisions related to an appeal to this Tribunal. The amendments he will be moving represent an improvement to the appeal procedure and are to be welcomed. As stipulated in section 3D(2), every person who is refused the issue of a permanent identity card will be informed in writing of his right of appeal. I would like to assure hon. Members that we will certainly ensure that the appeal procedures are fully explained to the individuals concerned.

Subject to the Bill being passed by this Council today, amendments will be made by the Governor in Council to the Registration of Persons Regulations to provide for detailed arrangements in relation to the issue of new identity cards. Amongst these amendments is the proposed deletion of existing regulation 17 which my hon. Friends, Mr. SWAINE and Mr. CHEONG-LEEN have referred to in their speeches. The removal of this provision which requires any person leaving Hong Kong to surrender his identity card if so required by the Commissioner of Registration is a logical consequence of the introduction of a new permanent identity card. As the ad hoc group has rightly pointed out, it would no longer be appropriate from 1 July 1987 to require such persons to surrender their identity cards as in most cases they will be holding a BN(O) passport or Certificate of Identity and their permanent identity card is needed to support the right of abode endorsement in those documents.

Sir, the procedures to be followed by a person applying for a new identity card at one of the identity card re-issue offices will be kept to the simplest possible. There will be no need for persons renewing their identity cards to make any declaration about whether they are in possession of foreign passports.

In most cases, the applicant will be required to show only his current identity card. But in some cases, the applicant may need to produce other documents in order to establish his right of abode in Hong Kong.

As in the previous exercise, the Government Information Services will soon mount an extensive publicity drive on the arrangements for the issue of the new identity cards. There will be adequate publicity throughout the four-and-a-half-year replacement exercise to ensure that people are fully aware of the requirement to obtain a new card when their turn comes. Hong Kong residents living abroad are required to apply for a permanent identity card only when they apply for a BN(O) passport or for a Certificate of Identity so as to enable a right of abode endorsement to be included in these document. Special arrangements will be made for these overseas residents to apply for a permanent identity card at the time when they apply for a BN(O) passport or Certificate of Identity at a British passport issuing post. They will not be required to return to Hong Kong to get their identity card. We will take up the suggestion by hon. Friend, Miss TAM, that the effects of the new legislation should be explained to these overseas residents.

Sir, on my hon. Friend Mr. CHEONG-LEEN's suggestion about our overseas public relations programme, I will certainly pass on his idea to the Director of Information Services.

Question put and agreed to.

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

BUSINESS REGISTRATION (AMENDMENT) BILL 1987

Clauses 1 and 2 were agreed to.

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1987

Clauses 1 to 3 were agreed to.

IMMIGRATION REGULATIONS (AMENDMENT) BILL 1987

Clauses 1 and 2 were agreed to.

INLAND REVENUE (AMENDMENT) BILL 1987

Clauses 1 to 3 and 5 to 11 were agreed to.

Clause 4

FINANCIAL SECRETARY: Sir, I move that clause 4 be amended as set out in the paper circulated to Members.

The new section 15A, contained in clause 4 of the Bill, is intended to counter the so-called 'Myer' type tax avoidance schemes by bringing to charge consideration received for the transfer of the right to a stream of taxable income. However, following the publication of the Bill, the view has been expressed that the proposed section 15A, as presently drafted, may not achieve its desired objective and will lead to disputes over its effect. It has been suggested that because the section does not expressly say that this consideration is an income receipt, it could be argued that such receipt arises from the sale of a capital asset and is therefore not chargeable to profits tax. Whilst the point may be arguable, I agree that we should seek clarity.

The purpose of my present amendment is to make it clear that any consideration received for the transfer of a right to a stream of taxable income is itself chargeable, thus putting beyond doubt that this consideration is taxable in the hands of the transferor, and this is so notwithstanding the exclusion on profits arising from the sale of capital assets contained in the general charging provision of the Ordinance.

Sir, I am grateful to Mr. Peter POON for his support and his helpful remarks made during the Second Reading, and I would like to add that this amendment in no way extends the scope of this anti-avoidance measure from that described in my Budget speech and the Explanatory Memorandum to the Bill. Neither does it seek to render onshore, and therefore assessable, the consideration received for the transfer of a stream of offshore income. I agree with Mr. Peter POON that there is no question of this piece of legislation being in breach of the territorial source principle which is fundamental to our taxation system.

*Proposed amendment***Clause 4**

That clause 4 be amended, in new section 15A(1), by deleting 'be deemed to be a receipt' and substituting the following—

‘, notwithstanding the exclusion relating to the sale of capital assets contained in section 14, be treated as a trading receipt’.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

ESTATE DUTY (AMENDMENT) BILL 1987

Clauses 1 to 6 were agreed to.

CHINESE PERMANENT CEMETERIES (AMENDMENT) BILL 1987

Clauses 1 and 2 were agreed to.

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1987

Clauses 1 to 6, 9, 13 to 15, 18, 19, 21 and 23 to 28 were agreed to.

Clauses 7, 8, 10 to 12, 16, 17, 20 and 22

MR. SWAINE: Sir, I move that the clauses specified be amended as set out in the paper circulated to Members for the reasons given in my speech on this Bill.

Proposed amendments

Clause 7

That clause 7 be amended by deleting clause 7 and substituting the following—

‘Repeal and replacement of section 8.

7. Section 8 of the principal Ordinance is repealed and replaced by the following—

“Resident British citizens and resident United Kingdom belongers have right to land in Hong Kong.

8. (1) Subject to subsection (2), a resident British citizen or a resident United Kingdom belonger has the right—

- (a) to land in Hong Kong;
- (b) not to have imposed upon him any condition of stay in Hong Kong, and any condition of stay that is imposed shall have no effect; and
- (c) not to have a removal order made against him.

(2) If a deportation order is made against a resident British citizen or a resident United Kingdom believer under section 20(4), the right to land under subsection (1) shall cease while the deportation order is in force.”.

Clause 8

That clause 8 be amended by deleting clause 8 and substituting the following—

- ‘8.** Section 9(1) of the principal Ordinance is amended—
- (a) by inserting after “does not” the following—
“enjoy the right of abode in Hong Kong, or does not”; and
- (b) by inserting a comma after “section 8(1)”.

Clause 10

That clause 10 be amended by deleting paragraphs (b) to (h) and substituting the following—

- (b) in subsection (5)—
- (i) by inserting after “who” the following—
“enjoys the right of abode in Hong Kong, or”; and
- (ii) by inserting a comma after “section 8(1)”;
- (c) in subsection (5A), by inserting after “who” the following—
“enjoys the right of abode in Hong Kong, or”; and
- (d) in section (7), by inserting after “who” the following—
“enjoy the right of abode in Hong Kong, or”.

Clause 11

That clause 11 be amended by deleting clause 11 and substituting the following—

- ‘11.** Section 12 of the principal Ordinance is amended—
- (a) by deleting “an immigrant” and substituting the following—
“a person”;
- (b) by inserting after “does not” the following—
“enjoy the right of abode in Hong Kong, or does not”; and
- (c) by inserting a comma after “section 8(1)”.

Clause 12

That clause 12 be amended by deleting paragraph (a).

Clause 16

That clause 16 be amended by deleting paragraph (a) and substituting the following—

- ‘(a) in subsection (1)(b)—
 - (i) by deleting “subject to subsection (2),”; and
 - (ii) in sub-paragraph (iia), by inserting before “has” the following—
“not being a person who enjoys the right of abode in Hong Kong, or has the right to land in Hong Kong by virtue of section 8(1),”.’.

Clause 17

The clause 17 be amended—

- (a) In paragraph (c), by deleting ‘and’.
- (b) In paragraph (d), by deleting the full stop and substituting the following—
‘;and’.
- (c) By inserting after paragraph (d) the following—
‘(e)by deleting subsection (6).’.

Clause 20

That clause 20 be amended by deleting clause 20 and substituting the following—

‘**20.** Section 37B(1) of the principal Ordinance is amended by inserting after “who” the following—

“enjoy the right of abode in Hong Kong, or”.’.

Clause 22

That clause 22 be amended by deleting clause 22 and substituting the following—

‘**22.** Section 53A of the principal Ordinance is amended—

- (a) in subsection (1), by inserting before paragraph (a) the following—
“(aa) he enjoys the right of abode in Hong Kong; or”; and
- (b) by inserting after subsection (2) the following—

- (Cap. 177.)
- “(3) Where the Tribunal upon an examination of—
- (a) the written notice of appeal served under subsection (2) on which a person (“the appellant”) appealing under subsection (1) seeks to rely; and
- (b) the summary or record of the proceedings of the Registration of Persons Tribunal in respect of an unsuccessful appeal by the appellant under section 3D(1) of the Registration of Persons Ordinance,

is satisfied that the facts or matters on which the appellant is seeking to rely are the same or substantially the same facts or matters on which the appellant sought to rely on the appeal to the Registration of Persons Tribunal, it may dismiss the appeal under subsection (1) without a hearing and shall cause written notice of such dismissal to be given or sent by post to the appellant.”.

The amendments were agreed to.

Clauses 7, 8, 10 to 12, 16, 17, 20 and 22, as amended, were agreed to.

Schedule was agreed to.

REGISTRATION OF PERSONS (AMENDMENT) BILL 1987

Clauses 1 to 4, 6 to 10 and 12 were agreed to.

Clauses 5 and 11

MR. SWAINE: Sir, I move that clauses 5 and 11 be amended as set out in the paper circulated to Members for the reasons given in my speech on this Bill.

Proposed amendments

Clause 5

That clause 5 be amended—

- (a) by deleting new section 3D(4) and (5) and substituting the following—

“(4) An appeal under subsection (1) may only be brought by a person on the ground that on the facts of his case he enjoys the right of abode in Hong Kong and shall succeed if, and only if, the Tribunal determines that he has that right.

- (5) Where the Tribunal, upon an examination of—
- (a) the written notice of appeal served under subsection (3) on which a person (“the appellant”) appealing under subsection (1) seeks to rely; and
- (b) the summary or record of the proceedings of the Immigration Tribunal in respect of an unsuccessful appeal by the appellant under section 53A(1)(aa) of the Immigration Ordinance,
- (Cap. 115.)

is satisfied that the facts or matters on which the appellant is seeking to rely are the same or substantially the same facts or matters on which the appellant sought to rely on the appeal to the Immigration Tribunal, it may dismiss the appeal under subsection (1) without a hearing and shall cause written notice of such dismissal to be given or sent by post to the appellant’;

and

- (b) by inserting after new section 3D(6) the following—

‘(7) For the avoidance of doubt, it is declared that the service of a written notice of appeal under subsection (3) does not give the person by whom or on whose behalf it is served any right to remain in Hong Kong pending the decision of the Tribunal.’

Clause 11

That clause 11 be amended by inserting after new section 7C the following—

‘Replacement of identity card issued after 1 July 1987 by a permanent identity card.

7D. Any person—

- (a) who is the holder of a valid identity card (other than a permanent identity card) issued after 1 July 1987; and
- (b) who at any time after the issue of such card becomes a Hong Kong permanent resident enjoying the right of abode in Hong Kong,

may apply in accordance with regulations made under section 7 for a permanent identity card to be issued to him in place of his identity card.’

The amendments were agreed to.

Clauses 5 and 11, as amended, were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

BUSINESS REGISTRATION (AMENDMENT) BILL 1987

ROAD TRAFFIC (DRIVING LICENCES REGULATIONS AND REGISTRATION AND LICENSING OF VEHICLES REGULATIONS) (AMENDMENT) BILL 1987

IMMIGRATION REGULATIONS (AMENDMENT) BILL 1987

ESTATE DUTY (AMENDMENT) BILL 1987 and the

CHINESE PERMANENT CEMETERIES (AMENDMENT) BILL 1987

had passed through Committee without amendment and the

INLAND REVENUE (AMENDMENT) BILL 1987

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1987 and the

REGISTRATION OF PERSONS (AMENDMENT) BILL 1987

had passed through Committee with amendments, and moved the Third Reading of the Bills.

Question put on the Bills and agreed to.

Bills read the Third time and passed.

Statement**The 1987 Review of Developments in Representative Government—May 1987**

CHIEF SECRETARY: Sir, laid on the table today is the Green Paper: 'The 1987 Review of Developments in Representative Government'. Its purpose is to consider whether our systems of representative government should be further developed, if so, in what manner and over what timescale.

This is an unusual Green Paper in at least two respects. First, some of the issues addressed in it have already been the subject of keen debate among sectors of the community in the past year or so. Indeed, much of the content of the Green Paper reflects the views expressed in that debate. Secondly, the Green Paper does not state the Government's policy intentions or contain

specific proposals for action. Instead, it sets out possible options for further development in 1988 and presents the arguments for and against each of those options, as well as the factors that should be borne in mind when considering the choice of options.

There are sound reasons for adopting this approach, which I shall explain, Sir. But before doing so, let me briefly describe the background against which this review is taking place.

The success of any community depends upon the combination of a number of factors. One of the most important is having a stable and consistent government that can operate effectively, and with the support of the majority of the people making up that community. This means a government which is sensitive to the needs and aspirations of the community as a whole, as they change and develop over time, and which is prepared to respond to those needs and aspirations in formulating and carrying out its policies.

Sir, this is the government we have endeavoured to be. For many years we have been committed to developing our government institutions along more representative lines, in step with the growth within the community of a wish for a say, and for direct participation, in the process of government. This commitment is reflected in the wide range of channels which now exist through which the views and concerns of the community can be made known to the Government. They include an extensive network of advisory boards and committees, on which many hundreds of people participate, as well as the more formal institutions of representative government: the district boards; the Municipal Councils and, indeed, this Council itself.

The process of developing a more representative government has been gradual, and the steps taken careful and measured. At each stage, the Government has consulted extensively within the community.

In 1981, the public were consulted on proposals to introduce a more representative system of government at the district level. This led to the establishment of district boards in all the districts of Hong Kong Island, Kowloon and the New Territories, with terms of reference to advise the Government on a wide range of issues of concern to local residents. The first district board elections were held in 1982, on the basis of local constituencies and universal franchise. And in 1985, the proportion of elected members was doubled.

A further outcome of the public consultation in 1981 was the extension of the Urban Council's previously limited franchise to bring it in line with that of the district boards. Elections to the Urban Council were also re-organised on the basis of regional constituencies. In order to provide residents of the New Territories with the same opportunities as their urban counterparts to participate in the planning and management of public health, cultural and recreation services, a second municipal council, namely the Regional Council, was formally established in 1986.

The publication in 1984 of another Green Paper entitled 'The Further Development of Representative Government in Hong Kong' took the development of representative government one stage further, and into the level of central government. In the light of the public response to that Green Paper, decisions were taken to provide for a substantial proportion of Members of the Legislative Council to be elected to represent functional and geographically-based constituencies. The first elections to the Legislative Council were held in September 1985. Twelve Members were elected to represent nine functional constituencies, and another 12 were elected by an electoral college made up of all members of the district boards and the Municipal Councils.

Sir, I have described briefly the prominent role which public consultation has played in shaping the development of our system of government in recent years, for two reasons: firstly, to place in context the review on which we are about to embark; and secondly, to emphasise from the outset the importance which the Government places on obtaining the widest possible public response to the Green Paper published today.

Sir, the public debate which has already been taking place, and to which I referred earlier, might well have given the impression that the 1987 review is concerned solely with the question as to whether there should be direct elections to the Legislative Council in 1988. A quick glance through the contents pages of the Green Paper will readily show that this is not the case. The Green Paper is in fact a comprehensive review of the existing systems of representative government comprising three levels of institutions: the district boards, the Urban and Regional Councils and the Legislative Council. It will discuss a wide range of issues concerning not only the role and composition of these bodies, but also the inter-relationships between them. These issues are:

- firstly: the composition and functions of the district boards and the Urban and Regional Councils, and possible ways of improving the links between them;
- secondly: the composition of the Legislative Council, including possible changes in the numbers and balance of Official, Appointed, and Elected Members and the question whether new forms of election to the Council should be introduced;
- thirdly: the question whether the Governor should continue to be President of the Legislative Council; and
- fourthly: various practical questions such as the sequence and timing of elections, the voting age and electoral arrangements.

In each case the Green Paper considers, in the light of the developments which have taken place so far, the options for further development in 1988. As I have mentioned earlier, it does not recommend any one option in preference to another, but sets out the arguments for and against each of these options. Sir, I would like to emphasise most strongly that all these options are genuine options. The Government has no preconceived ideas. There is no pre-determined outcome.

The Government has decided to adopt this approach after careful thought. Much has happened since the last review of representative government in 1984: the Sino-British Joint Declaration has been signed and ratified; the drafting of the Basic Law is under way; and the people of Hong Kong are thinking, much more deeply than ever before, about the importance of developing a system of government which will meet the needs of our community, help maintain Hong Kong's prosperity and stability and ensure a smooth transfer of government in 1997. The issues before us have far-reaching implications for the future well-being of our community. It is not surprising therefore that there is a range of sincerely held views with regard to the pace and direction of change.

Sir, the Government is not, as some of our critics would have it, trying to abdicate its responsibility for what changes should be introduced to our systems of representative government in 1988. The Government recognises that it has that responsibility, and will discharge it when the time comes for decisions to be taken. But, in the face of the debate now taking place within the community, the Government recognises that it has another, more immediate responsibility: to listen to the views of the people of Hong Kong on how they wish to see these systems develop, and to do so unfettered by preconceived ideas as to the right course to take.

In order to encourage the widest possible public response, in particular, the response of the majority of the population who have so far remained silent, an independent survey office has been established with responsibility for seeking out and recording the views expressed on the issues discussed in the Green Paper. Two independent monitors have been appointed to oversee its work and to ensure that it carries out its duties properly, accurately and impartially.

At the conclusion of the period of public consultation, the survey office will prepare an impartial and accurate report collating and presenting all the views which will have been expressed. The report will be submitted to the Governor in Council no later than 31 October this year. It will then be tabled in this Council and published. The Governor in Council will then form a judgment, in the light of the survey office report, and taking full account of the views reflected in it, as to the right steps to be taken in 1988. The decisions reached at that time, like all other decisions of the Governor in Council, will be corporate decisions taken in the best interests of Hong Kong people as a whole. They will be published in a White Paper, probably early in the new year.

Sir, as I have said earlier, some of the issues addressed in the Green Paper have already been the subject of keen public debate. Various points of view and arguments have been aired publicly, and no doubt will continue to be aired. Some of these may well be aimed at trying to influence public opinion. But every person in Hong Kong is free to form his own views: every person in Hong Kong is free to agree or disagree with any other person's point of view. The Government is anxious to hear the views of the people of Hong Kong, and

I have no doubt that they are quite capable of forming their own judgment. As far as the Government is concerned, we shall keep an open mind until we have listened to those views.

Sir, the publication of the Green Paper today signals the beginning of the period of public consultation which will last until 30 September. During this period the people of Hong Kong—every individual, group and organisation—will have the opportunity to state their views on what they think the Government should do (or should not do) in 1988 by way of further development of our systems of representative government. The issues in the Green Paper should be of interest and concern to the entire community.

I hope that all the people of Hong Kong will study the Green Paper, consider carefully the options which it places before them, and send in their views to the survey office. Sir, I urge and encourage them to do so, and assure them that their views will be listened to with great care.

Private Bill

Second Reading of Bill

FRANCISCAN MISSIONAIRES OF MARY INCORPORATION (AMENDMENT) BILL 1987

Resumption of debate on Second Reading (13 May 1987)

Question put and agreed to.

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee.

FRANCISCAN MISSIONAIRES OF MARY INCORPORATION (AMENDMENT) BILL 1987

Clauses 1 to 4 were agreed to.

Council then resumed.

Third Reading of Bill

MR. PETER C. WONG reported that the

FRANCISCAN MISSIONAIRES OF MARY INCORPORATION (AMENDMENT) BILL
1987

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

Question put on the Bill and agreed to.

Bill read the Third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 3 June 1987.

Adjourned accordingly at twenty-two minutes past Five o'clock.

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

WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Education and Manpower to Mr. SZETO's supplementary question to Question 6**

Altogether 265 public-sector secondary schools out of a total of 330 are equipped with a computer room and offer computer studies to Form IV and Form V students. Since this is an elective subject it is not possible to specify the number of classes involved.

In most schools, an ordinary classroom has to be converted into a computer room for the operation of computer studies. This invariably necessitates the floating of one additional class which undoubtedly adds to the administrative inconvenience of operating floating classes, especially since the nature of the computer room is such that it can seldom be used for other purposes. As I indicated in my main answer, this is one of the principal reasons why we are trying to introduce a new standard design for secondary schools.

A total of 3 272 remedial teaching groups are being operated in the current school year in public-sector secondary schools. These consist of students drawn from one or more ordinary classes for special instruction. Since the groups are usually small (an average of 12 students), they can be accommodated in many parts of the school premises, such as a corner of the assembly hall or covered playground, or part of a special room, without posing too much inconvenience to the school, although timetabling can pose administrative difficulties.

Accommodation arrangements are always planned in advance of the introduction of new courses. If any school encounters practical problems it can approach the Education Department for assistance.

Annex II**Written answer by the Secretary for Education and Manpower to Mr. HUI's supplementary question to Question 6**

In the 1977 review of the temporary measures adopted to permit the introduction of universal junior secondary education, the Government examined the following specific problems caused by floatation to see whether they could be overcome. Its findings were as follows:

WRITTEN ANSWERS—Continued

- (i) *Floating classes can lead to a certain amount of teaching time being wasted*

This can be minimised if teachers finish their lessons on time and if appropriate discipline and good sense on the part of the pupils is promoted in the school. Furthermore, there are only five or six classes floating at any one time and generally these are senior secondary classes who can be expected to be disciplined and diligent and who have in any case to move more frequently because of a greater variety of elective subjects;

- (ii) *Pupils without a permanent form base may lack a sense of belonging to the school*

There has been no evidence to support this claim. Floating classes comprise senior forms whose students have been in the school for some years and will have developed a sense of belonging to the school;

- (iii) *The increased usage rates of laboratories and special rooms may create problems in the setting up and dismantling of apparatus in these rooms*

This problem can be minimised through appropriate timetabling by the school; and

- (iv) *Students of floating classes do not have a permanent classroom in which to store personal belongings*

This has been resolved by providing lockers for students of floating classes.

I wish to emphasise that the above assessments were made in the light of actual experience gained both of operating floating classes and of dealing with the problems encountered. As a result the Government considered that a reasonable degree of floatation need not result in any sacrifice in the quality of education and that the system could be used in all types of school.

Annex III**Written answer by the Secretary for Transport to Mr. TAM's supplementary question to Question 8**

The Hong Kong Tramways Ltd. has now informed me that the decision to remove the lifeguards was made following a general study on reducing the operating noise of trams, which showed that lifeguards rattled while the tram was in motion. Further, although the device stops the tram wheels, which are set back 10 feet from the front of the tram, from passing over a person, it does in

WRITTEN ANSWERS—*Continued*

itself contribute to injuries to a person on impact while it is passing over them and when it drops the wooden tray. Many overseas tram operators have ceased using this device and the Hong Kong Tramways Ltd. saw no great safety factor benefit other than wheel contact. Taking into account its contribution to injuries, the company decided to seek an alternative which would still give the same protection from the wheels but without the noise and at the same time reduce the amount of equipment which could contribute to a person's injuries. A rail scraper is now being installed to give equal protection as the lifeguard without its problems.

As regards consultation with traffic staff, the company has also informed me that it has for many years held regular safety meetings which allow its tram drivers to bring up any matters relating to safety. Of all the subjects raised, the lifeguard device has never been included. Moreover, even on informal occasions, the device has not been mentioned by the drivers as an issue of concern to them.