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# DAILY INFORMATION BULLETIN

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ISSUED BY GOVERNMENT INFORMATION SERVICES  
BEACONSFIELD HOUSE, HONG KONG. TEL.: 2842 8777

Wednesday, June 14, 1995

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Transcript of the Governor's media session

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The following is a transcript of the Governor, the Rt Hon Christopher Patten's media session after visiting Eastern District today (Wednesday):

Question: Mr Patten, what is the Hong Kong Government going to do with Macau authorities to increase the security measures on ferries following yesterday's hijack incident?

Governor: I think we are all extremely concerned about what happened yesterday. It was a very worrying crime and we've put our crack police squad, the Organised Crime and Triad Squad in charge of dealing with it. We've accepted responsibility for co-ordinating the operation and we are working very closely with the authorities in China and in Macau in seeking the criminals who carried out this act. I think it is fair to say that we've had very good co-operation on this and on other matters with the Chinese and Macau authorities as far as the law and order situation is concerned and I am sure that will continue in this case. Clearly we've got to look at issues like security on the vessels. We've got to try to make sure that nothing like this happens again. It was worrying and we are doing everything we can to deal with it.

Question: If once suspects are arrested, which court will they be taken to, the Zhuhai court or the Hong Kong court?

Governor: I think that is a matter which we'll have to consider at the time but I think that it's agreed that we would have the jurisdiction or responsibility. I believe that is the case but I don't want to deal with the matter which is probably the responsibility of the Attorney General.

Question: Some of Legco members on the Court of Final Appeal Bill, what do you feel about this response?

Governor: I think that you know my view. I think the agreement that we reached last week with China was a good one. I think it was profoundly in the interests of the people of Hong Kong. And, the sooner we can pass the Bill in the Legislative Council the better. But obviously it's for Legislative Councillors to consider the position, to consider their responsibilities and their own view of what's in Hong Kong's best interest and then in due course they will have to explain the decisions they come to the community. My hunches of the community is understanding and supportive of the agreement that we've reached. The only poll that has been done so far suggested that support was getting on for three to one in favour of the agreement and I hope that will continue through the summer. I think there was a sigh of relief in the community when this agreement was reached. But obviously there are other problems that we've now got to tackle.

Question: An ATV poll said that the majority of people did not understand or what would like in the agreement ..... the one carried out very recently.

Governor: I haven't seen that poll ....

Question: What is your reaction to the fact that the majority of people did not like or understand the Bill?

Governor: I want to see the poll and study it before I react to it.

Question: Do you think the Chinese side can set up their own ... Without passing the Bill in Legco, do you think the Chinese side can set up their own Court of Final Appeal?

Governor: If there isn't a bill passed in the Legislative Council and we don't secure acceptance for the bill we put forward, then there is inevitably going to be a rupture in Hong Kong's arrangements because we won't be able to move ahead in the smooth way which we were hoping for and there is bound to be some sort of gap in 1997 before a court can be set up. But I hope that won't happen.

Question: Shall we talk about, changing topic now to special education. There is obviously a motion before Legco today accusing the government of not doing enough. What is your reaction to that? Is the government doing enough?

Governor: Yes. We're doing more but I can understand that particularly parents with children with difficulties will always want the government to do more. So it is not an issue on which one can ever be complacent. I've been particularly concerned as you know to ensure that we meet the targets that we set for ourselves in relation to all the handicapped including handicapped children and mentally handicapped children in 1992, when we brought forward the Green Paper on Rehabilitation targets which have previously been for 10 years to 5 years, so we can provide the day care places and the hostel places that are required by 1997. We're now back on course in delivering on those targets and that of course has implications for the educational service and the provision of places for those with particular difficulties in our schools as well. One of the problems that we face which I saw this afternoon is that it's not always just a question of places. It's also a question of providing the services that are required in schools, for example, the occupational therapy and the physiotherapy as well. That's something we need to address in addition to the basic question of places.

Question: Do you agree that with the improved Sino-British relation, the adaptation of law could be solved afterward?

Governor: I very much hope that the CFA agreement will break the logjam and make it easier to reach agreements on other issues. But I don't think that will automatically happen and I also believe that it should give us some new ways of dealing with the adaptation of laws issue. We're getting on with the work of drafting, but there are Chinese concerns about what I think lawyers call the modality, the way in which the trigger mechanism which you actually use for the adaptation of laws. But I hope we can cope with that.

Question: So you hope the CFA agreement can help the implementation of the mid-night legislation?

Governor: I very much hope that the agreement on the CFA will help to secure sensible ways of dealing with the adaptation of laws. We've been doing well on the localisation of laws. The programme on that front has been going ahead pretty successfully. On adaptation, the slowness hasn't been for work that we've been doing on the laws themselves. The difficulty has been, as you suggested, that trigger mechanism at mid-night on the June 30/July 1, 1997 and I hope that perhaps the approach that we've put forward in clause 1 of the bill might be a way in which we can unlock that problem.

Question: On the compulsory provident fund, since the Chinese side still keep silent on that, do you think that you can make the implementation of that scheme which is intended by the Hong Kong government, will be implemented in...

Governor: I hope that we'll be able to see reasonably swift passage of the legislation. It's enabling legislation. There's still a great deal of detailed work to be done on the scheme. Obviously, Chinese officials would quite properly want to be consulted about the details of the legislation. But unless we get the enabling legislation in place, we'll waste a couple of years before we can set up any sort of scheme. My view is that the people of Hong Kong want us to get on with things.

Question: But you hope that it will not be implemented in such a rush way?

Governor: I think that the people of Hong Kong have been observing government discussing this issue for two decades or longer. I don't think they actually regard trying to reach some conclusions at the end of that period as an undue rush.

Question: Governor, do you have any response to the recent American policy about the Vietnam boat people?

Governor: It's not the American administration's policy. It's a proposal which has been made in Congress. I think it's extremely unhelpful. And it's very unfair to the people in the camps because it raises their expectation in a way which can't and won't be fulfilled. So I very much hope that the situation is clarified rapidly and that those in the camps will recognise that their future lies in Vietnam where the economy does better and better rather than in Hong Kong, in camps which have cost the people of this territory about six billion HK dollars over the last years. So I think the sooner we can get on and complete the return of Vietnamese migrants within all the regulations set out and agreed with the UNHCR and all the agreements and arrangements which have been tested in the courts, the sooner we can do that and complete that, the better.

Question: You have promised that you'd .... the government promised to release a full statement after the bill of the CFA. But we have now also not known what happened between May 24 and the time of the agreement. In these two weeks, what happened that made you changed ..... Would you promise to give us a full detail about that ?

Governor: What happened between those two dates was that we had some hard negotiations and reached an agreement and the terms of that agreement have been made absolutely plain.

End/Wednesday, June 14, 1995

#### Governor visits Eastern District

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The Governor, the Rt Hon Christopher Patten, toured Eastern District this (Wednesday) afternoon to familiarise himself with the latest developments in the district.

Mr Patten first visited the residents at the Mr and Mrs Lawrence Wong Lutheran Home for the Elderly in Siu Sai Wan.

This was followed by a call at the Caritas Lok Yi School for the Mentally Handicapped in Lei King Wan where he was briefed on the training and other services being provided for the mentally handicapped children.

The Governor then proceeded to Marble Road in North Point to have a look at the fixed-pitch stalls and shops selling wet and dry goods in the market area.

He met district board members and local community leaders at a reception in a restaurant before concluding his visit.

The Governor was accompanied by the acting Director of Home Affairs, Mr Philip Chok; the acting Eastern District Officer, Miss Shirley Yuen; and the Eastern District Board Chairman, Mr Chan Bing-woon.

End/Wednesday, June 14, 1995

#### New TV API on shark warnings

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Warnings to swimmers to stay out of the sea in the Sai Kung area have been in force since June 2. They are being further reinforced today (Wednesday) with the screening of a new film clip on the shark attacks on television, starting this evening.

The film clip, to be screened on both the English and Chinese channels of ATV and TVB, depicts a shark warning flag with the superimpose "Do not swim when shark warnings are in force".

Through the voiceover, members of the public are advised not to enter the water when the shark warning flag is hoisted. They should avoid swimming alone in the sea at dawn, dusk, at night or in murky water. In addition, they should not swim if they have any open wound or if they are bleeding.

Most important of all, they should follow the advice disseminated by the Government through the media and the instructions of life guards and policemen at the beach.

The Government has already produced a radio announcement of public interest (API) to warn the public against the danger of sharks. This has been in use since last Friday.

The TV and radio APIs will be broadcast throughout the swimming season.

A spokesman for the Recreation and Culture Branch today reaffirmed that the Government was very concerned about the recent shark attacks and would do all it could to promote public safety and help increase public awareness of sharks.

"The public must also take personal responsibility for their own safety, by heeding the advice they are given and exercising due caution, thus avoiding placing either themselves or rescue workers at risk," he said.

"All sightings and incidents this year have occurred in the Sai Kung area and so that is the focus of our attention. But due caution should still be exercised elsewhere when swimming in the sea.

"Vigilance is already high and has been further increased by additional air, sea and land patrols.

"We are, of course, seeking appropriate longer term measures to mitigate the problem for the future. This involves careful analysis of data and consultation with experts both locally and overseas," the spokesman added.

In the meantime, he called on the public to make full use of the 27 public swimming pool complexes managed by the two municipal councils throughout the territory.

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#### Food Hygiene Campaign launched

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The Department of Health and the Urban and Regional councils today (Wednesday) launched a territory-wide campaign on food hygiene for people in the food business.

Under the campaign entitled "Practise Food Hygiene to Prevent Food Borne Diseases", a total of 24 seminars has been organised for all licensees and staff of licensed food premises, cooked food stalls, canteens and other food catering establishments.

Speaking at the opening ceremony, Chairman of the Urban Council Public Health Select Committee, Mr Joseph Chan Yuek-sut, urged people in the food trade to practise the Hazard Analysis Critical Control Point food safety concept to prevent food borne diseases.

Mr Chan said: "Last year there were 251 cases of food poisoning in which 973 persons were involved. Besides, for food borne diseases, there were 546 cases of Hepatitis A, 341 cases of dysentery and 56 cases of cholera.

"Most of the cases were induced by the intake of contaminated and improperly treated food. However, I believe that these food borne diseases can be avoided and prevented."

Also speaking at the ceremony, Chairman of the Regional Council Environmental Hygiene Select Committee, Mr Ting Yin-wah, pointed out that Hong Kong people were intelligent consumers who cared much about the safety and hygiene of food.

Mr Ting said the adoption of hygienic methods to prepare food was the most effective means for the catering trade to gain confidence from the consumers.

Mr Ting called on seminar participants to take the knowledge they gained back to their workplace and practise food hygiene to prevent food borne diseases.

Apart from the 24 seminars, two further separate seminars has also been organised in collaboration with the Education Department for primary and secondary school teachers.

Through the "training of trainer" method, teachers attending the seminars could later convey health messages to their students.

Each food hygiene seminar consists of a talk by a Chief Health Inspector, a film show and a discussion session on the Hazard Analysis and Critical Control Point concept and its implementation.

In addition, a 24-hour hotline - 2723 0013 - will provide taped messages on food safety during the campaign period which will last until the end of August.

Callers can leave their questions and telephone numbers with the hotline and staff of the Health Education Unit will call them back.

Furthermore, mobile broadcasting teams of the Unit will be deployed to disseminate food hygiene messages throughout the territory.

Printed educational materials such as leaflets and posters can be obtained free from the district offices and the environmental hygiene offices of the Urban Services and Regional Services departments.

End/Wednesday, June 14, 1995

Helicopter incident to be investigated

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The Director of Civil Aviation, who is also the Chief Inspector of Accidents, has announced that an investigation has been launched to look into the cause of the helicopter accident which occurred on June 9 near Yuen Long and is calling for representations from interested persons who should contact the Civil Aviation Department.

Shortly before noon on June 9, an Aerospatiale SA315B Lama helicopter with registration VR-HJH operated by Heliservices (Hong Kong) Limited, was reported to have been involved in an accident near Yuen Long.

The department will put a notice in the local newspapers tomorrow (Thursday) to call for representations on the cause of the mishap.

Any persons interested in making representation as to the circumstances or cause of the incident should write to the Chief Inspector of Accidents c/o The Civil Aviation Department, 46th Floor, Queensway Government Offices, 66 Queensway within 14 days of the notice.

Alternatively, they may telephone the department's Investigation Team on 2769 8896 within the stipulated period.

End/Wednesday, June 14, 1995

VMs depart on orderly repatriation flight

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A group of 100 Vietnamese migrants (VMs) returned to Vietnam today (Wednesday) on the 23rd flight under the Orderly Repatriation Programme (ORP).

The returnees, comprising 40 men, 25 women, 14 boys and 21 girls, were mainly from High Island Detention Centre. The oldest is 61 years old and the youngest, six months.

Most of them arrived in Hong Kong in 1989, with a small number in 1988, 1993 and 1994.

The group brought to 1,371 the total number repatriated on ORP flights since November 1991.

The returnees were transported to the airport early this morning for pre-departure security checks before boarding their flight for Hanoi.

The Refugee Co-ordinator, Mr Brian Bresnihan, stressed that the Government was determined to repatriate all screened-out VMs to Vietnam.

"There is no future for them in Hong Kong and the best option for them is to volunteer to go back to Vietnam," he said.

End/Wednesday, June 14, 1995

Monitors' report submitted to CS

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The monitors appointed to observe the Orderly Repatriation Programme operation this (Wednesday) morning have submitted their report to the Chief Secretary.

Mrs Chan Chan Lai-ling, a Justice of the Peace, and Ms Linda Hitchcox, from Oxfam, observed the transfer of 100 Vietnamese migrants to the airport this morning.

The monitors described the operation as being carried out smoothly without major incident.

End/Wednesday, June 14, 1995

New District Officer for Sha Tin

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Miss Wong Mei-lin will take over as the new Sha Tin District Officer of Sha Tin District Office tomorrow (Thursday).

Aged 44, Miss Wong joined the administrative service in 1979. She was made Administration Officer Staff Grade C in 1990.

She has served in the former Administrative Services and Information Branch, Education and Manpower Branch, Civil Service Branch, Transport Branch, the former City and New Territories Administration, Housing Department, Regional Services Department and Urban Services Department.

Her last post was Assistant Director in the Industry Department.

End/Wednesday, June 14, 1995

HK delegation to set out for World Special Olympics

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Mrs Patten today (Wednesday) officiated at a flag presentation ceremony to mark the departure of the Hong Kong Special Olympic delegation for the 1995 World Special Olympics Summer Games to be held in the United States next month.

She said Hong Kong had participated in every Summer Special Olympics since 1979.

"Our athletes did remarkably well in the last one in 1991, bringing home 34 gold, 18 silver and 11 bronze medals.

"This was largely due to the determination and talent of the athletes."

The Hong Kong Sports Association for the Mentally Handicapped offer over 140 competitions and training programmes a year for more than 25,000 mentally disabled people.

Mrs Patten said Hong Kong would be represented by a contingent of 35 athletes and 15 coaches and staff in this year's event.

They will take part in no less than 80 events.

End/Wednesday, June 14, 1995

Three NT lots to let

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The Lands Department is inviting tenders for the short-term tenancies of three pieces of Government land in the New Territories.

To be used as fee-paying public car parks, the lots are located in Area 9 in Tai Po (9,900 square metres in area), area 4B, San Wan Road, Sheung Shui, (11,790 square metres) and Sai Kung Tuk, Sai Kung (2,830 square metres).

The tenancies of the five and second lots will be for one year, and that for the third lot for two years, all renewable quarterly.

Closing date for submission of tenders are at noon on June 30.

Tender forms, tender notice and conditions may be obtained from the District Lands Offices, Tai Po, Sai Kung, and North, the District Lands Offices, Kowloon, 10th floor, Yau Ma Tei Car Park Building, 250 Shanghai Street, Kowloon, and the Lands Department, 14th floor, Murray Building, Garden Road.

Tender Plans can also be inspected at these offices.

End/Wednesday, June 14, 1995

Bilingual Monthly Statistical Bulletin

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The Hong Kong Monetary Authority today (Wednesday) launches the bilingual edition of the Monthly Statistical Bulletin.

The latest issue of the Bulletin provides in both Chinese and English a glossary and explanation of economic terms and concepts used in financial and banking sectors. The headings of tables and the footnotes in the Bulletin are also available in both languages.

The English edition of the Bulletin, which provides comprehensive statistical tables on Hong Kong's monetary and banking activities, was launched in September last year. The bilingual edition was created to widen readership and establish a unified standard in the use of Chinese terms.

End/Wednesday, June 14, 1995

Hong Kong Monetary Authority money market operations

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	<u>\$ million</u>	<u>Time (hours)</u>	<u>Cumulative change (\$million)</u>
Opening balance in the account	1,916	0930	+580
Closing balance in the account	2,057	1000	+580
Change attributable to :		1100	+588
Money market activity	+589	1200	+589
LAF today	-448	1500	+589
		1600	+589

LAF rate 4.25% bid/6.25% offer TWI 118.5 \*+0.2\* 14.6.95

Hong Kong Monetary Authority

EF bills		EF notes				
Terms	Yield	Term	Issue	Coupon	Price	Yield
1 week	5.17	2 years	2705	6.40	101.24	5.79
1 month	5.35	3 years	3804	6.90	102.44	6.05
3 months	5.42	5 years	5006	6.60	100.05	6.70
6 months	5.48	5 years	M501	7.90	103.21	7.24
12 months	5.59					

Total turnover of EF bills and notes - \$24,788 million

Closed June 14, 1995

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Motion debate on special education

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Following is the speech by the acting Secretary for Education and Manpower, Miss Jacqueline Willis, in the motion debate on special education in the Legislative Council today (Wednesday):

Mr President,

I am grateful to Members who have spoken this evening about special education services. Let me reassure Members that Government is just as concerned as Members that special education services should continue to develop and improve. This commitment is clearly re-affirmed in the White Paper on Rehabilitation tabled at the Legislative Council on 7 June 1995. But first of all, I would like to spend a few minutes on the premise of this debate, which provides the broad parameters within which Members have put forward their views and suggestions. The premise is that the Government has paid insufficient attention to special education services for more than thirty years. Is this true? What are the facts? A brief review will be helpful.

In the sixties, special education services comprised no more than two special schools, one each for the mentally and physically handicapped and a handful of special classes in primary schools for slow-learning children - special education was at its infancy.

During the seventies, special education services began to develop. By 1976, the number of special schools grew to 35, that of special and resource classes to 287 and these catered not only slow-learning children but also children with other disabilities such as maladjustment. The first Special Education Services Centre under the Education Department was established in Kowloon to provide assessments, diagnosis and intervention programmes for children with special education needs.

The publication of the White Paper "Integrating the Disabled into the Community : A United Effort" in 1977 set out for the first time Government's comprehensive objectives in services for the disabled.

In line with other service areas, this White Paper announced an ambitious programme of expansion in the next decade of special education services - a rapid increase in special school places and a much enhanced standard of provision of support services in special and resource classes in ordinary schools.

The policy enshrined in the 1977 White Paper that as many disabled children as possible should be enabled with appropriate support services to receive education in ordinary schools has been a cardinal principle guiding the development of special education services.

In accordance with the ambitious targets set in the White Paper, the number of special schools was increased by mid 1980s to 61 offering a total of 8,092 places. Special and resource classes expanded in parallel - there were 426 such class giving a total of 9,265 places. To improve the quality of special education, the teacher to classes ratio was increased from 1.3 for primary or 1.4 for secondary to 1.5 for both. The reduction of class size which had already started in the seventies was extended to other categories of disability including the maladjusted. Other provisions in the Code of Aid for Special Schools were revised to include enhanced provisions of para-medical and ancillary staff such as physiotherapists, social workers etc. As an integral part of development, teacher training in the education of children with special education needs was improved.

Two other important developments also took place around the same time. The first related to the introduction of a combined screening programme for children at Primary one level to facilitate the early identification of hearing, vision, speech or learning problems so that children identified could receive early remedial services. This service has since become an exceptionally useful tool in planning our special educational services.

The second related to the introduction of an Intensive Remedial Support Service for children being educated in special or resource classes in ordinary schools. This service was subsequently developed to include peripatetic service, school-based remedial service and non-school-based support services at resource centres. This comprehensive range of remedial and support services enabled more and more handicapped children, in particular, those who were visually or hearing-impaired, physically or mildly mentally handicapped children to receive school education alongside their peers, thereby laying the ground for further development in integration.

Developments in the late 80's and early 90's was characterised by further improvements in teacher education, a new approach in meeting the special needs of junior secondary students through curriculum restructuring and extending the concept of special education to gifted children.

To raise the quality of teacher education, the part-time in-service course of training in special education was upgraded to a one-year full-time course in 1993. In the same year, following the recommendations of the Education Commission, Government decided that a programme of new practical schools and skill opportunities schools with emphasis on practical subjects or vocational skills should be established in the mainstream education to cater for junior secondary students who are unmotivated by the normal school curriculum or who experience learning difficulties. As Members may recall, a sum of \$340 million was subsequently earmarked for the construction of three new practical schools and seven skill opportunities schools in the next four years. Similarly, efforts were re-inforced to assist low achievers in our secondary schools through the provision of school-based curriculum, specially tailored to the needs of these students and the provision of extra graduate teachers. As Members know, the scheme has proved so successful that it is being extended to 70 schools in September 1995.

In striving to assist students at the lower end of the ability spectrum, it is important that we do not overlook the special needs of those at the upper end of that ability spectrum. In 1994, a pilot project started in our primary schools where academically gifted children were identified and given special assistance in terms of curriculum and learning materials. A special training programme for teachers of these children was also started. A site for a new resource centre to help both teachers and children alike was identified. Construction work started in late 1994 and has just been completed. The Centre will be opened for use shortly.

Given these encouraging integrative developments in our mainstream schools and given that today we have enough special school places for all children with a disability - 63 special schools with a total provision of 8,638 places - I believe Members will agree that we have taken major steps in the development of our special education services and have achieved concrete results of which all of us can be proud.

This does not mean that we should rest on our laurels - in our Hong Kong style, we never do. As with the development and expansion of any of our services, we must be on the constant alert to problems that may arise and tackle them robustly so that we can move forward to the next stage of development. In this regard, I agree fully with Members that the current difficulties in recruiting and retaining paramedical and other specialist staff for our special schools are adversely affecting the quality of our service and must be dealt with. I also share the concern, too, that it is high time we should have a fresh look at the standards of provision including our teaching and non-teaching staff as well as the question of class size in our special schools - although I would hasten to add that our average pupil to teacher ratio at 5.7 to 1 compares favourably with some advanced countries such as the United Kingdom which happens to have the same ratio. For these reasons, the Administration had asked in mid 1994 the Board of Education to conduct a comprehensive review on special educational services to advise on further development both in the short and longer term. The Board subsequently appointed a Sub-committee to undertake this review. This Sub-committee commenced work in October last year and expects to complete its task by the end of 1995. Separately, a Working Group on Allied Health Personnel has been established under the Health and Welfare Branch to look into the question of shortages of paramedical and other allied health professionals and to propose solutions. I know that this Working Group has selected, as a matter of priority, physiotherapists and occupational therapists as their next targets for examination.

Thus, while I fully share the sentiments and the concerns of Members on the need for further improving our special educational services, it would be presumptuous of me to pre-empt the recommendations of the Board of Education's Sub-Committee and indeed the Board's own considerations of such recommendations by seeking priority funding at this stage to undertake the areas of improvements as set out in the motion. Such action may not adequately reflect the valuable advice which the Working Group on Allied Health Personnel may subsequently tender. Furthermore, to do so would not only do injustice to the Board of Education as a whole, but may be misconstrued - by an outsider if not by the Honourable Member himself - as a sign of disrespect to the Honourable Tik Chi-yuen in his capacity as a member of the Board's Sub-Committee. What I can do is to assure Members that I will accord priority to the examination of the Board of Education's recommendations as and when these are received and to seek funding support for the proposals on the basis of their merits. For the reasons already stated, Mr President, the Administration is unable to support the motion and will abstain from voting.

End/Wednesday, June 14, 1995

Motion debate on economic strategy

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Following is the speech by the acting Financial Secretary, the Hon T H Chau, in the motion debate on economic strategy in the Legislative Council today (Wednesday):

Mr President,

I share the concern expressed by many Honourable Members today about the genuine difficulties encountered by people displaced from jobs they have held for many years. Indeed, my colleagues and I agree with the underlying message of the Motion, which is that everyone who wants a job should be able to find one.

Turning to substance, however, the Motion urges the Government to formulate both short and long-term strategies to stimulate the economy and create employment opportunities. The proposed amendments call for tax concessions or tax incentives, and measures to address high rentals. These apparently attractive requests would, in fact, require a drastic change to Hong Kong's fundamental economic philosophy. This philosophy has helped Hong Kong not only to cope so well with the restructuring of its economy in the past decade but also to become the economic miracle that it is today. Let me explain why.

The Proven Value of Our Economic Philosophy

Despite the impression given by the wording of the Motion, we do have an economic strategy which we have pursued consistently, with conviction, and with proven success. It stems from our fundamental philosophy that allowing market forces to determine the allocation of resources generates the most wealth and the greatest benefit to the community. Within this framework, our economic policy is simple and effective. On the one hand, we refrain from interfering with either the pace or the direction of economic development. On the other hand, we provide what is arguably the best business environment in the world.

It is a policy which recognises that economic development is best guided by the people who stand to win or lose by the business decisions they make. Centrally-determined visions of the future are not only most likely to be wrong, as experience in other economies has clearly and abundantly shown. To the extent that they blind us to alternative paths to economic development, they are also unhelpful. Who, for instance, could have envisioned in 1985, that Hong Kong investors would today, 10 short years later, control a huge trans-border manufacturing base, stretching far up into the Pearl River delta, employing more than three million manufacturing workers in Guangdong province alone, and fuelling an enormous growth in our service sector? Certainly not the bureaucrats, and if one bureaucrat had provided such a vision in 1985, no one, including those then in this Council, no one would have believed it.

Our economic policy recognises that market forces allow Hong Kong's economy to respond far more efficiently and effectively to changing circumstances than any intervention could ever do. It is no accident that despite enormous changes to its economy during the 1980s, Hong Kong suffered remarkably little disruption to employment or to the overall growth in our economy by comparison with many other economies.

Between 1982 and 1994, our manufacturing workforce halved, while industry's contribution to GDP fell from 20% to just over 11%. In many other countries, this rapid change would have spelled disaster. Not in Hong Kong. During the same period, total employment increased from 2.4 million to 2.9 million, an increase of 21%. During the same period, per capita GDP increased in real terms by 80%.

With such a large shift in the economy, it would be surprising if there was no dislocation. Indeed, in an economy as open as ours to the shifting business cycles of our trading partners, cyclical variations in the pattern of labour demand are inevitable. But our economic policy minimises these imbalances and helps to ensure that they are quickly corrected. For example, while the unemployment rate rose to a cyclical high of 4.1% in 1983, it then dropped quickly, falling to 2.6% in 1986, and further to 1.9% in 1987. We firmly believe that remaining true to our basic economic philosophy will be the quickest way of remedying the present problems.

By the same token, we do not agree that there is a need, or that it is desirable, for the Government to intervene to bring down rentals, be they for office, commercial or industrial space. On the contrary, we believe that prices and rentals for office space should continue to be adjusted by market forces. In this connection, it should be clear that what is a reasonable price, what is a reasonable rental, is one that is set by the free-playing of market forces, or by supply and demand. In the case of office accommodation, an additional 500,000 square metres of new office space was completed in 1994, representing an increase of 22% over 1993; and it appears that office prices and rentals are already softening. Large amounts of office space will become available in the next two years, with a further boost from developments connected with the airport railway and reclamation projects, which will certainly include a significant supply of commercial and industrial space. If we were to take precipitate action to reduce rentals, we would simply make it less attractive to construct new buildings, thereby reducing the supply in years to come.

### The Policies and Measures We Pursue to Make Hong Kong Business Friendly

Mr President, through you I would respectfully ask Honourable Members to note that our economic policy is not one of positive non-intervention which is of course a contradicting term and which I have never thought was a particularly clever slogan. Our policy is one of minimum intervention. Our policy of minimum intervention is balanced by a commitment to maintain the most business-friendly environment that we can. We make it easy to set up in business in Hong Kong. Our taxation system is simple and consistent, and levels of tax are very low by world standards. Regulations governing businesses in such areas as employment, the environment and health and safety are transparent and relatively uncomplicated. Our trade regime is straightforward; there are no import or export tariffs, and licensing controls are kept to the minimum.

In addition, we provide an extensive and growing range of services to equip both employers and employees to respond to the changing demands of the market place. As both the Governor and my colleague the Secretary for Education and Manpower have only last week outlined the measures the Government is taking to improve the employment situation over the short to medium term, I will not reiterate those. But I should like to reiterate that measures such as the Employment Retraining Scheme have proved to be genuinely useful in helping displaced workers to re-enter the job market. As the Secretary for Education and Manpower has undertaken, we shall review this and other measures to see how we can make them even more effective.

Since some Honourable Members have drawn particular attention to the need for active measures to help the manufacturing sector, I should like to mention some of the measures we are taking to help manufacturers to adjust to changing economic circumstances.

Now that Hong Kong is no longer a low-wage economy, it is inevitable that many lower value-added processes such as fabrication, assembly and packaging have been relocated elsewhere, notably China. If manufacturers are to remain competitive in world markets, it is vital that they focus on higher value-added activities such as design, tooling, pilot production, manufacture of complex components, testing, marketing, and distribution.

For this reason, we have, over a period of several years, pursued a consistent policy of upgrading Hong Kong's technological infrastructure and support services, in order to help industry move up-market. For example, during the last few years, we have established the Industrial Technology Centre, set up the Industrial Support Fund and the Applied Research and Development Fund, opened a new industrial estate, stepped up accreditation of local laboratories, and expanded the services of the Productivity Council and the Standards and Calibration Bureau.

Incidentally, Mr President, I would dare anyone to say that our industrial support policy is a do-nothing policy or a passive one. When the Industrial Support Fund went up from zero in 1993-94 to \$180 million, an infinite increase in mathematical terms, in 1994-95 and further to \$210 million in 1995-96. On top of all that we also spend \$250 million in building the Industrial Technology Centre and \$180 million in funding it, and further \$200 million has been allocated to the Applied Research Fund.

We intend to go on upgrading our technological infrastructure. Next week, we shall seek approval from the Finance Committee of this Council for funds to establish the Cooperative Applied Research and Development Scheme, to be run by the Applied Research Council in cooperation with research institutions in China. In addition, we are studying the possibility of a second technology centre, a fourth industrial estate, and a science park.

#### Why a More Interventionist Strategy would be Impracticable

But for those Honourable Members convinced that the Government should intervene to stimulate the economy artificially, let us consider what tools we could use:

- \* Not interest rates. Even if we were able to manipulate interest rates, it is by no means certain that lower interest rates would act as a boost to the economy, since many economic activities may not be particularly sensitive to interest rate movements, again as experience in other economies have shown. But the vital importance of maintaining exchange rate and monetary stability in the run- up to 1997 and beyond requires us to maintain the peg with the US dollar. This means that there is no scope for lowering interest rates to stimulate the economy.
- \* Not subsidies. Even if we believed that distorting market forces was a good thing - which we emphatically do not, to provide subsidies to our export-oriented manufacturing industries would be contrary to our obligations under the World Trade Organization and would lay us open to challenge and trade sanctions by our trading partners.
- \* Not more imported labour. Even though the present comparatively modest levels of labour importation secure many more jobs for Hong Kong workers than they displace, I doubt that there would be much support in this Council for even a small increase, let alone a scheme on the much larger scale of that in Singapore, which, incidentally, is one of the reasons why, in the past several years, Singapore has been able to achieve substantially higher economic growth rates than Hong Kong and considerably lower inflation rates than Hong Kong.

- \* Not higher public spending. The policy of keeping the growth of public expenditure in line with the trend growth rate of the economy is a vital ingredient of Hong Kong's success. In any case, adding to our already substantial programme of infrastructure investment would simply divert resources from the private sector, suck in more imports and increase inflationary pressures.
  
- \* And last, but not least, not tax concessions or tax incentives. Given the already low rates of corporate tax in Hong Kong, and the generous depreciation allowances for expenditure on equipment and buildings, tax concessions are more likely to stoke inflation than to stimulate the economy. In any case, substantial tax cuts would either require corresponding cuts in public expenditure, or entail a significant budget deficit, which is not desirable on fiscal grounds.

Finally, Honourable Members may wish to know that a recent IMF (i.e. International Monetary Fund) report suggests that given the economic situation of Hong Kong and the prospective acceleration of infrastructural investment, our budget should be formulated in such a manner as to avoid providing additional stimulus to the economy.

### Conclusion

In sum, given an economy as open as ours and as dependent on world markets as ours, the Government's policy of minimum intervention in market forces is not only the best for Hong Kong. It is the only realistic economic policy. Government measures to stimulate economic activity in order to generate employment opportunities would not only be impracticable within the framework of our economic philosophy, but they would also produce undesirable side-effects, which would negate any beneficial impact that they might have in the short term and damage our economy and our economic prospects in the long term. So while my colleagues and I recognise the sincere concerns underlying this Motion and the proposed amendments and while the Government is committed to alleviating the situation through the measures which my colleague the Secretary for Education and Manpower spelled out clearly and in detail during last week's lengthy motion debate in this Council on unemployment, the ex-officio Members will demonstrate the courage of the Government's convictions by voting against the Motion as well as the proposed amendments.

Mr President, for too long now this Council has been a chamber of doom and gloom. Let me dare to put it to Honourable Members that political leadership does not consist only in exposing the dark side of our community and telling our citizens how badly off they are. Not too long ago, there was an American President who indulged in telling himself and his people, again and again, about the malaise that their country was in. He managed to make American voters feel so depressed that he became a one-term President because, at the next election, most of them voted for his opponent, who ran an upbeat election campaign which made them feel good again about their country.

Mr President, Honourable Members ought to know that there is such a thing as talking the economy down. If people do not feel good about their prospects, their desire to consume is inevitably reduced and that will have unfavourable knock-on effects on the economy as a whole. So, Mr President, at the risk of delaying Honourable Members' supper by a few more minutes, please allow me to take Honourable Members on a tour of the sunlit uplands of our still prosperous economy and to end my speech on an optimistic note by quoting a few facts about Hong Kong, of which the people of Hong Kong can justly be proud.

- \* Hong Kong is today the 8th largest trading entity in the world. If the member states of the European Union are counted as one, which they should be, then Hong Kong is the world's 5th largest trading entity. America with a population 40 times that of Hong Kong, has a total trade value which is only 4 times that of Hong Kong.
- \* Hong Kong's per capita GDP is the highest in Asia after Japan. In the past two years, we have overtaken developed countries such as Canada, Australia and the United Kingdom, which all now have lower per capita GDP than ours.
- \* According to the World Bank, Hong Kong's per capita income, expressed in terms of actual purchasing power, is the 6th highest in the world, after Luxembourg, the United States, Switzerland and two oil-rich Arab states and ahead of Japan and Germany.
- \* Our port is the largest in the world in terms of container throughput.
- \* Our airport is the world's 2nd busiest in terms of international passengers and 4th busiest in terms of international cargo.
- \* Hong Kong is one of the world's leading financial centres - 5th largest in terms of the volume of external banking transactions; 6th largest in terms of foreign exchange transactions; 8th largest in terms of stock market capitalisation.

In short, when you measure all of those achievements against our very small physical size and population and our lack of natural resources, the only conclusion you can come to is that Hong Kong is an economic miracle. This miracle has not come about as a result of any direction or blueprint developed by the Government or indeed any vision provided by bureaucrats like me. The Government's role has been limited to the maintenance of an environment in which business can thrive - a free and open society; the rule of law; a low, simple and stable taxation system; superior physical as well as human infrastructure; and the Government's sound macro-economic policies and firm belief in the benefits of minimum intervention in market forces. Clearly it is not the Government but rather it is a combination of the hard work of the people of Hong Kong, their ingenuity and their entrepreneurial spirit, that has created this economic miracle. And long may this continue to be the case!

Mr President, many commentators have predicted that the 21st century will be the Asia Pacific Century. I am convinced that they are right. I am equally convinced that, under the principle of "one country, two systems", and as a highly autonomous Special Administrative Region under Chinese sovereignty - as a separate customs territory, as a separate member of the World Trade Organization and as a separate economic entity which will continue to enjoy autonomy in the conduct of our external economic relations - Hong Kong is set to enter the Asia Pacific Century as the world's most brilliant example of the triumph of free trade, of free enterprise and of capitalism.

Thank you.

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HK people's interests best served by CFA Bill: AG

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The Attorney General, the Hon Jeremy Mathews, has urged Legislative Councillors to support the passage of the Hong Kong Court of Final Appeal Bill the early enactment which was clearly the wish of both the local and international communities.

Speaking at the second reading of the Bill today (Wednesday), Mr Mathews said Councillors had a clear choice.

"Passage of the Hong Kong Court of Final Appeal Bill will guarantee the establishment of a proper Court of Final Appeal on 1 July 1997 with Sino-British co-operation and in accordance with this Bill, which is based on the established principles and practices of the Judicial Committee of the Privy Council.

"The alternative of rejecting the Bill will leave the establishment of the Court of Final Appeal to the Hong Kong Special Administrative Region after 1 July 1997, creating damaging and unnecessary uncertainty about the eventual form of the Court of Final Appeal," he said.

Mr Mathews pointed out that the major aim in ensuring continuity of the rule of law through the transition was to safeguard two key principles -- that the Court of Final Appeal should be a proper Court of Final Appeal and that there should not be a damaging judicial vacuum in 1997.

The agreement now concluded with the Chinese side on the Court of Final Appeal safeguards both these two points, he said.

He added that the Bill before the Council was based on the principles and practices of the Judicial Committee of the Privy Council, and that its early enactment would end uncertainty about the form of the Court of Final Appeal to be set up.

The Attorney General responded to three queries that had been raised against the agreement.

There was the suggestion that the jurisdiction of the Court of Final Appeal would be restricted by including in the Bill the formulation of "acts of state" in Article 19 of the Basic Law.

This argument is devoid of any legal merit and is, as the Governor has said, a red herring, Mr Mathews said.

He noted that as a matter of law, Article 19 of the Basic Law would operate as from 1 July 1997 and under its provision, HKSAR Courts would have no jurisdiction over acts of state such as defence and foreign affairs. The Hong Kong Court of Final Appeal Ordinance would come into operation on the same day and could not override the Basic Law.

"So as a matter of law, the jurisdiction of the Hong Kong Courts will be subject to Article 19. The recognition of this inescapable fact is not a concession, and nor does it restrict the jurisdiction of the courts further than is provided in the Basic Law," he said.

On the commencement provision in the Bill, Mr Mathews said some had argued that as the legislation would not be in operation before 1 July 1997, it would not be a "law previously in force" and would be unconstitutional because of Article 18 of the Basic Law.

This argument overlooks two vital points, he said: "First the Chinese text of Article 18 does not refer to 'laws previously in force in Hong Kong', but in effect to 'laws which Hong Kong originally had'.

"Secondly, the English text of Article 18 refers to laws previously in force in Hong Kong 'as provided for in Article 8'. Article 8, in referring to 'the laws previously in force in Hong Kong' says 'that is, the common law, rules of equity, ordinances, subordinate legislation and customary law.'

"Once the Court of Final Appeal Bill is enacted it will clearly be an Ordinance, and will therefore be a law previously in force in Hong Kong within the meaning of Article 8...", Mr Mathews said.

As regards the "four plus one" composition of the Court of Final Appeal, Mr Mathews pointed out that the assertion that it breached the Joint Declaration and the Basic Law was incorrect and had been rejected by both British and Chinese Governments.

"Our view that the four plus one composition is consistent with the Joint Declaration and the Basic Law is supported by a number of authoritative and independent legal opinions," he said.

"We have not the slightest doubt that the four plus one composition is a perfectly acceptable way of implementing the provisions in the Joint Declaration and the Basic Law that provide for judges from other common law jurisdictions to sit on the Court of Final Appeal," he added.

Turning to the Bill itself, Mr Mathews said there were provisions which would help to ensure a smooth transition.

"Clause 49 of the Bill provides that any appeal to the Privy Council in respect of which leave to appeal has been granted but which has not been finally disposed of before 1 July 1997 shall proceed in the Court of Final Appeal.

"Clauses 24 and 33 make it possible for appeals to the Court of Final Appeal to be made outside the normal period of 28 days if leave is obtained. This will enable the court to hear appeals from decisions made in the period shortly before the transfer of sovereignty," he said.

Transitional provisions under Clause 49 are set out in Part IV of the Bill which contains miscellaneous provisions. Other Parts of the Bill set out provisions for the establishment of the Court, and provisions in respect of civil appeals and criminal appeals respectively.

End/Wednesday, June 14, 1995

### Hong Kong Court of Final Appeal Bill

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Following is the speech of the Attorney General, the Hon Jeremy Mathews, in moving the second reading of the Hong Kong Court of Final Appeal Bill in the Legislative Council today (Wednesday):

Mr President,

I move the Hong Kong Court of Final Appeal Bill be read the second time. This Bill provides the legislative framework for setting up the Court of Final Appeal in Hong Kong.

#### The Sino-British Agreement

Last Friday, 9 June, Members of this Council were briefed by the Governor about the agreement we had reached with the Chinese side on the question of the Court of Final Appeal, immediately after the agreement had formally been signed by the Senior Representatives of the Joint Liaison Group. The Governor commended the agreement to this Council as an agreement which serves the best interests of Hong Kong. Our objective has always been to find an acceptable way of ensuring the continuity of the rule of law in Hong Kong through the transition in 1997. Our major aim in this process was to safeguard two key principles - that the Court of Final Appeal should be a proper Court of Final Appeal and that there should not be a damaging judicial vacuum in 1997. The agreement we have now concluded safeguards both these important points.

Point 4 of the agreement sets out the Chinese side's agreement to the Court of Final Appeal Bill and also their agreement that the legislative procedures for the Bill should be taken forward immediately to enable them to be completed as soon as possible before the end of July 1995. This guarantees that the Court of Final Appeal to be set up on 1 July 1997 will be in accordance with the Bill now before this Council. This Bill is based on the principles and practices of the Judicial Committee of the Privy Council. Its early enactment will end the uncertainty about the form of the Court of Final Appeal to be set up in Hong Kong, which has had a damaging effect on public and international confidence in the judicial system. It will help maintain that public and international confidence in the Court of Final Appeal and in our judicial system as a whole.

I am pleased that some Members of this Council have already expressed their support for the agreement we have reached with the Chinese side, including the early enactment of the Bill within the current session. However, a few Members have queried some aspects of the agreement. I wish to respond to these queries, with particular reference to the relevant provisions in the Hong Kong Court of Final Appeal Bill.

#### Jurisdiction of the CFA

First I would like to discuss the proposed jurisdiction of the court and to refute the suggestion that we are restricting the jurisdiction of the Court of Final Appeal by including in the Bill the formulation of "acts of state" in Article 19 of the Basic Law. Frankly, I do not understand the logic of this argument, which is devoid of any legal merit. It is, as the Governor has said, a red herring.

Clause 4 of the Bill reflects Article 19 of the Basic Law by providing that the court shall have no jurisdiction over acts of state such as defence and foreign affairs. It has been alleged that the provision is the result of a concession by the British side of the Joint Liaison Group. This allegation has no foundation whatsoever.

Indeed, Mr President, it is strange that when we propose to align the Court of Final Appeal Bill on this point with the Basic Law, we are accused of kowtowing. But when others propose to amend the Bill to align it with the Joint Declaration and the Basic Law then that becomes a matter of principle.

As a matter of law, Article 19 of the Basic Law will operate as from 1 July 1997. Article 19 provides that the Courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs. The Hong Kong Court of Final Appeal Ordinance will come into operation on the same day and cannot, of course, override the Basic Law. So as a matter of law, the jurisdiction of the Hong Kong Courts will be subject to Article 19. The recognition of this inescapable fact is not a concession, and nor does it restrict the jurisdiction of the courts further than is provided in the Basic Law.

Before I leave the jurisdiction of the Court of Final Appeal, I should point out that the Chinese side have agreed that there is no need for any further legislative or other provisions in relation to the power of the courts to enquire into the constitutionality of laws or to provide for post-verdict remedial mechanisms. All members of this Council will, I am sure, agree that this is an important point, as it will ensure that the jurisdiction of Hong Kong's Court of Final Appeal will, subject to the provisions of the Basic Law, be the same as that of the Judicial Committee of the Privy Council.

#### Setting up the Court on 1 July 1997

I now turn to the commencement provision in the Bill. It has all along been our objective to introduce the Court of Final Appeal Bill into this Council with the agreement of the Chinese side, because only that would guarantee that the Court of Final Appeal will endure after 1 July 1997. We have now agreed with the Chinese side that the Court of Final Appeal should be established on 1 July 1997. It is no secret that we would have preferred to establish the Court of Final Appeal by July 1996 to give it about a year to build up experience before the transfer of sovereignty. But we would have had to pay a very high price to achieve that. By introducing the Court of Final Appeal Bill into this Council without Chinese agreement and with no guarantee that any Court set up as a result would survive 1997 would have meant a loss of public and international confidence in the form of the Court of Final Appeal after 30 June 1997.

Thus, as stated in the agreement, the Court of Final Appeal will be established on 1 July 1997 in accordance with the Court of Final Appeal Bill after it has been passed by this Council. Clause 1(2) of the Bill makes it clear that that will be the case. The Court of Final Appeal Ordinance will come into operation on the day after 30 June 1997, that is 1 July, and it will be amended to the extent necessary to ensure that it conforms with the Basic Law.

The provision for this legislation to come into operation on 1 July 1997 has given rise to some legal controversy. Some have argued that it is unconstitutional because of Article 18 of the Basic Law. I wish to reject that suggestion in no uncertain terms. Article 18 of the Basic Law provides that the laws in force in the Hong Kong Special Administrative Region shall include "the laws previously in force in Hong Kong as provided for in Article 8" of the Basic Law. Some have argued that as the legislation will not be in operation before 1 July 1997 it will not be a "law previously in force" and will not therefore be a law in force in the Hong Kong Special Administrative Region.

Mr President, this argument overlooks two vital points. First, the Chinese text of Article 18 does not refer to "laws previously in force in Hong Kong", but (in effect) to "laws which Hong Kong originally had." The Court of Final Appeal Ordinance would clearly be such a law. Secondly, the English text of Article 18 refers to laws previously in force in Hong Kong "as provided for in Article 8". Article 8, in referring to "the laws previously in force in Hong Kong" says (and I quote) "that is, the common law, rules of equity, ordinances, subordinate legislation and customary law". Once the Court of Final Appeal Bill is enacted it will clearly be an Ordinance, and will therefore be a law previously in force in Hong Kong within the meaning of Article 8, even though it is not brought into operation before 1 July 1997. There is therefore no merit whatsoever in the argument that this legislation cannot be brought into operation on 1 July 1997.

The commencement provision, combined with other arrangements I shall refer to shortly, will ensure that there is no judicial vacuum as a result of the establishment of the Court of Final Appeal. Nobody will be deprived of his or her right of appeal because of the inevitable and short gap between the ending of appeals to the Privy Council and the establishment of the Court. As I mentioned earlier, this has been one of our key objectives.

According to the agreement reached in the Joint Liaison Group last week, the preparatory work for the establishment of the court will be done before the transfer of sovereignty. On 1 July 1997, therefore, the judges can be appointed, the rules of court made, and the court can commence work immediately. With regard to appeals lodged before the transfer of sovereignty, the Judicial Committee of the Privy Council will keep its jurisdiction to hear appeals from Hong Kong until 30 June 1997. We have received the British Government's assurance that the Privy Council will continue to retain its jurisdiction over cases from Hong Kong up to 30 June 1997, and will give priority to Hong Kong appeals in the months immediately prior to July of that year.

There are other provisions in the Bill which will help to ensure a smooth transition. First, clause 49 of the Bill provides that any appeal to the Privy Council in respect of which leave to appeal has been granted but which has not been finally disposed of before 1 July 1997 shall proceed in the Court of Final Appeal. That court is empowered to give such directions as to the continuation of the appeal as it thinks fit. We will discuss with the Judicial Committee of the Privy Council and the team designate of the Special Administrative Region the implementation of this transitional provision to ensure the orderly transfer of any business unfinished by 30 June 1997. In addition to clause 49, clauses 24 and 33 make it possible for appeals to the Court of Final Appeal to be made outside the normal period of 28 days if leave is obtained. This will enable the court to hear appeals from decisions made in the period shortly before the transfer of sovereignty.

#### Composition of the CFA

I now turn to the composition of the Court of Final Appeal which, as Members will know only too well, is based on the 4 plus 1 formula. This formula was agreed by the British and Chinese Governments in the Joint Liaison Group in September 1991. According to this agreement, the Court of Final Appeal, in every sitting, will consist of the Chief Justice, three permanent Hong Kong judges and one non-permanent judge, who could be either from Hong Kong or from another common law jurisdiction. The permanent and non-permanent Hong Kong judges could be either local or expatriate.

It has been argued that the 4 plus 1 formula breaches the Joint Declaration and the Basic Law. This assertion is not correct, and has been rejected by both the British and the Chinese Governments. Our view that the 4 plus 1 composition is consistent with the Joint Declaration and the Basic Law is supported by a number of authoritative and independent legal opinions.

I spoke at length on this subject during the Motion Debate in this Council on 3 May, and I will not repeat now what I said then. Suffice it to say that we have not the slightest doubt that the 4 plus 1 composition is a perfectly acceptable way of implementing the provisions in the Joint Declaration and the Basic Law that provide for judges from other common law jurisdictions to sit on the Court of Final Appeal. Indeed the Bill itself reflects this consistency. In Clause 5, which provides for the Constitution of the Court, sub-clause (3) includes the wording of the Joint Declaration and Article 82 of the Basic Law that "the Court may as required invite judges from other common law jurisdictions to sit on the Court". The 4 plus 1 composition is reflected in Clause 16(1) of the Bill, which specifies the composition of the Court when it hears a particular appeal.

### Other Provisions

Mr President, I have dealt so far with those provisions in the Court of Final Appeal Bill which concern the three main questions that have been raised on the agreement reached with the Chinese side on 9 June. I would now like to take Members through the other principal provisions of the Bill.

Part 1 of the Bill sets out the provisions for the establishment of the Court. The appointments of the Chief Justice and of the other Court of Final Appeal judges are provided for in Clauses 6 to 9, which provide that those appointments shall be made by the Governor (the Chief Executive as from 1 July 1997) in accordance with the recommendation of an independent commission. This commission will be known as the Judicial Officers Recommendation Commission.

Clause 12 prescribes the qualifications of the Chief Justice and the other judges of the Court of Final Appeal. These are based on the existing qualifications for appointment to the Supreme Court, and incorporate additional qualifications suggested by both the legal profession and the Preliminary Working Committee.

The tenure of office of the Chief Justice and other judges of the Court of Final Appeal is provided for in Clause 14. The term of office of a permanent judge, including the Chief Justice, may be extended beyond retirement age for a maximum of two terms of 3 years each; and each term of office for a non-permanent judge is to be for 3 years. The term of office of a Chief Justice may be extended by the Governor (the Chief Executive as from 1 July 1997) in accordance with the recommendation of the Judicial Officers Recommendation Commission. The term of office of any other judge may be extended by the Governor (once again the Chief Executive as from 1 July 1997) in accordance with the recommendation of the Chief Justice.

Parts II and III of the Bill set out the provisions in respect of civil appeals and criminal appeals, respectively. These are based on the established principles and practices of the Judicial Committee of the Privy Council. Some of these provisions have been amended to take into account the comments of the Law Society and the Bar Association when the draft Bill was sent to them at the end of last year. I would here like to express my appreciation to those two bodies for their helpful comments on many technical aspects of the Bill.

Part IV contains miscellaneous provisions, including the transitional provisions under Clause 49 to which I referred earlier. Clauses 38-48 provide for the making of rules, the setting up of the Registry, the appointment of the Registrar and the regulation of the sittings and business of the Court of Final Appeal. These provisions are in line with current court practices in Hong Kong.

Clause 50 provides for consequential amendments to other legislation as set out in the Schedule. These are mainly related to the statutory powers of the Chief Justice. They transfer most of the current Chief Justice's statutory powers to the Chief Justice of the Court of Final Appeal, to reflect the fact that the latter will be the head of the Judiciary. However, the current Chief Justice's powers in relation to the operation and jurisdiction of the High Court and Court of Appeal are preserved for the Chief Justice of the Supreme Court. We have also included in the Schedule an amendment to section 83P of the Criminal Procedure Ordinance. The amendment makes it clear that the Governor's power to refer certain cases to the Court of Appeal under that section will apply to appeals heard and determined by the Court of Final Appeal.

### Conclusion

Mr President, Members of this Council now have a clear choice. Passage of the Hong Kong Court of Final Appeal Bill will guarantee the establishment of a proper Court of Final Appeal on 1 July 1997 with Sino-British co-operation and in accordance with this Bill, which is based on the established practices and procedures of the Judicial Committee of the Privy Council; the alternative of rejecting this Bill will leave the establishment of the Court of Final Appeal to the Hong Kong Special Administrative Region after 1 July 1997, creating damaging and unnecessary uncertainty about the eventual form of the Court. I very much hope that Members will agree with the Administration that the interests of the people of Hong Kong are clearly best served by passing this Bill.

The agreement that we have reached with the Chinese side has received a warm welcome from the business community, both in Hong Kong and overseas. Hong Kong's major partners have firmly endorsed it. An independent survey commissioned by Ming Pao has shown that it also has the wide support of the Hong Kong public. It is clear that both the local and international communities wish to see the early enactment of the Court of Final Appeal Bill to provide certainty about the form of the Court of Final Appeal to be set up in Hong Kong on 1 July 1997. I hope that we can count on the support of all Members for the Court of Final Appeal Bill.

End/Wednesday, June 14, 1995

## Mandatory Provident Fund Schemes Bill

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Following is the speech by the acting Secretary for Education and Manpower, Miss Jacqueline Willis, in moving the second reading of the Mandatory Provident Fund Schemes Bill in the Legislative Council today (Wednesday):

Mr President,

I move the Second Reading of the Mandatory Provident Fund Schemes Bill.

The object of this Bill is to provide for the mandatory establishment of non-governmental provident fund schemes for the purpose of funding benefits on retirement. It will be beneficial for those in the workforce. There is then the separate question of social security: this is being reviewed elsewhere.

The Bill itself constitutes a framework for the mandatory provident fund schemes system. Certain matters are provided for substantively in the Bill, while other important matters will be provided for in future subsidiary legislation. The subsidiary legislation will, of course, be the subject of full and detailed discussion with all the parties concerned.

The Bill is divided into six parts, and nine schedules, covering the main features of the Mandatory Provident Fund (MPF) Schemes system, which I believe Members will be familiar with, so I shall concentrate on specific clauses.

### Part I

Clause 4 provides for exemptions from the mandatory provisions of the Bill for persons listed in Part I of Schedule 1. Exempt persons include civil servants who are governed by pensions legislation, teachers to whom the Subsidised Schools Provident Fund Rules and Grant Schools Provident Fund Rules apply, and persons who are already 64 years of age by the time the Schedule comes into operation. There is also provision for exemption for persons coming from overseas to work in Hong Kong who are already covered by a retirement scheme outside Hong Kong; persons, regardless of coverage, who come here from overseas to work for a period of less than 180 days; and also those persons who have been employed for a continuous period of less than 30 days. The employers of such persons are also exempted.

## Part II

Clause 5 of the bill provides for the establishment of the MPF Schemes Authority. The functions of the Authority include ensuring compliance with the provisions of the legislation, the approval, regulation and prudential supervision of trustees, and the registration of provident fund schemes.

## Part III

The heart of the Bill is in clauses 6(1), 6(2) and 6(3). Under clause 6(1), the employer must arrange for a registered provident fund scheme to receive contributions in respect of his relevant employees. Clause 6(2) requires the employer to contribute to the registered scheme the employer's contribution of 5% of relevant income of each relevant employee, to deduct from the relevant income of each relevant employee the employee's contribution of 5% of that income, and to remit the whole contribution to the trustee of the registered scheme no later than seven working days following payday. Clause 6(3) imposes a relevant requirement on self-employed persons to contribute 5% of their income.

Clause 8 of the Bill allows employees or self-employed persons whose relevant income is less than the minimum level specified in Schedule 3 to elect whether or not they wish to contribute to a provident fund scheme. On the advice of the Labour Advisory Board, employers of such persons will still have to contribute, irrespective of the employee's election. The provision will benefit the 240,000 members of our workforce whose income is below the current prescribed level of \$4,000 a month.

Clause 10 of the Bill provides that contributions made in excess of the percentage level specified in Schedule 4, or after retirement age when an employee remains in employment or a self employed person in business, shall be voluntary.

An important feature of a mandatory system of provident fund schemes is the preservation of benefits until retirement age, i.e. under normal circumstances benefits are not paid out upon each change of job, but are preserved until retirement. Benefits may be transferred from one scheme to another upon change of job. Under clause 12, scheme trustees are prohibited from paying out accrued retirement benefits to any scheme member other than in accordance with clause 14. Clause 14 allows preserved benefits to be withdrawn as of right, in a lump sum, once a scheme member reaches the age of 65. It also provides for the early withdrawal of benefits by a scheme member who has reached the age of 60 and who has left the workforce permanently, as well as for early withdrawal under such circumstances as total disability or incapacity, or permanent departure from Hong Kong. Clause 13 deals with the transferability of benefits from scheme to scheme.

A major area of public concern has been the safety of accrued retirement benefits, and the provision for compensation in the event of losses. This is provided for under clause 16(1), which enables the Authority to establish a compensation fund to deal with benefit losses brought about by misfeasance or illegal conduct. Clauses 16(2) and 16(3) provide for a compensation fund to be financed by a levy on the assets of registered schemes, to be paid by approved trustees. Clause 16(5) allows the Financial Secretary to provide grants or loans, payable from general revenue, to the compensation fund. There will be no guarantee against losses arising from poor investment performance as this would only encourage unscrupulous investment managers to take the kind of undue risks which we would all wish to avoid.

#### Part IV

Clause 19 deals with scheme administration. A registered scheme, other than a master trust scheme, must be administered by an approved trustee, who could be an individual or a corporate trustee, while a master trust scheme must be administered by a corporate trustee. Trustees or corporate trustees may apply to the Authority for approval as an approved trustee of a registered scheme. Clause 20 enables approved trustees to apply to the Authority for the registration of a provident fund scheme as a registered scheme.

Clause 22 of the Bill allows the Authority to authorise a corporate trustee to be the approved trustee of a residual provident fund scheme. This would allow access to a scheme for those persons whose employers were unable to find one on the open market, serve as a receptacle for unclaimed benefits from other schemes, and facilitate the portability of benefits between schemes.

Clause 27 allows the Authority, after consultation with the Financial Secretary, to make guidelines in respect of forbidden investment practices, which, if undertaken by approved trustees, might prejudice the financial soundness of these schemes. Clause 28 requires trustees to comply with limitations or prohibitions in respect of restricted investments, i.e. loans to or investments in the employers of scheme members. Clauses 29, 30 and 31 confer power of regulation of trustees by the Authority. The Authority may require special audit reports, disclosure of information and production of documents (Clause 29), appoint inspectors to investigate the affairs of a scheme (Clause 30) and in appropriate circumstances, remove trustees (Clause 31).

Part V

Clauses 33 to 38 deal with the establishment of the Mandatory Provident Fund Schemes Appeal Board, and matters relating to appeals.

Part VI

Clauses 39 and 40 deal with the disclosure of information acquired while carrying out any function under the Bill.

Clause 41 provides for offences which may be committed by employers, self-employed persons and scheme trustees. We believe that offences in respect of mandatory contributory provident fund schemes are serious, especially where an employer may deduct the relevant employee contribution, for example, but fails to remit it to the scheme trustee within the stipulated time, and therefore the penalties provided for in clause 43 are commensurate with the gravity of the offences.

Clauses 44 and 45 enable the Governor in Council and the Authority respectively to make regulations and rules regarding a wide range of issues, for the effectual carrying out of the provisions and objects of the Ordinance, including provision for the early withdrawal of benefits, the operation of the compensation fund, the management of registered schemes and the maintenance of employees' accounts.

End/Wednesday, June 14, 1995

**Road Traffic Ordinance**

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Following is the speech by the Secretary for Transport, Mr Haider Barma, in moving the motion in the Legislative Council today (Wednesday) regarding the number of public light buses as specified in the Road Traffic Ordinance:

Mr President,

I move the motion standing in my name on the Order Paper.

Section 23(1) of the Road Traffic Ordinance provides for the Governor-in-Council to specify a limit on the number on any class of vehicles, whilst section 23(3) provides for the Legislative Council to extend the period for such a limit remains in force. In exercise of these powers, the number of public light buses (PLBs) has been limited to 4,350.

PLBs play an important supplementary role in our transport network, particularly in providing essential feeder services. That is why the Administration continues to convert non-scheduled red minibus services to green minibus services which operate on specified schedules along fixed routes at approved fares.

But the fact remains that PLBs are less efficient road users than high capacity franchised buses. They also cause traffic and other problems. That is why it has been our policy to limit their numbers.

The last major review of the policy on the role of PLBs was conducted in 1988. It is now time to undertake another comprehensive review and I intend to put this in train. In the meantime we need to maintain the status quo on the number of PLBs. Mr President, the motion before Honourable Members provides for this.

Sir, I beg to move.

End/Wednesday, June 14, 1995

#### Revision of the Births and Deaths Registration Ordinance

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Following is the speech by the acting Secretary for Security, Mr Ken Woodhouse, in moving the motion in the Legislative Council today (Wednesday) that the fees and charges specified in the Births and Deaths Registration Ordinance be revised:

Mr President,

I move the first motion standing in my name on the Order Paper. This proposes increases in the fees specified in the Births and Deaths Registration Ordinance for the registration of births and deaths and related matters.

A recent review of fees and charges collected by Immigration Department has indicated that in various areas, the Department is not recovering its costs : these are, the registration of persons, where the average shortfall is about 16%; the registration of births, deaths and marriages, where the average shortfall is about 26%; and the issue of travel documents, where the average shortfall is about 16%.

It is Government policy to provide services to the public on a cost-recovery basis, unless there are good reasons for doing otherwise. We are, therefore, proposing to revise the fees in the three areas I have mentioned. Full details of the increases proposed are contained in the Annex which I have tabled for the information of Members.

The fees to be revised were last revised in July 1994. If approved, the new fees will be introduced on 1 July this year.

Mr President, I beg to move.

End/Wednesday, June 14, 1995

#### Revision of Foreign Marriage Ordinance

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Following is the speech by the acting Secretary for Security, Mr Ken Woodhouse, in moving the motion for fees and charges specified in the Foreign Marriage Ordinance be revised in the Legislative Council today (Wednesday):

Mr President,

I move the second motion standing in my name on the Order Paper. It seeks to increase the fees specified in the Foreign Marriage Ordinance.

The Foreign Marriage Ordinance provides a means whereby Commonwealth citizens, can give a notice of marriage in Hong Kong, even though the marriage has taken place at the British Embassy abroad. Fees are payable for the issue of a certificate by the Registrar of Marriage. The fees were last revised in July 1994 and it is now proposed to increase them from \$40 to \$55, for a certificate by the Registrar of Marriages, given under Section 5, and from \$400 to \$540, for a Governor's licence, given under Section 6 of this Ordinance.

Mr President, I beg to move.

End/Wednesday, June 14, 1995

Revision of Legitimacy Ordinance

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Following is the speech by the acting Secretary for Security, Mr Ken Woodhouse, in moving the motion in the Legislative Council today (Wednesday) that the fees and charges specified in the Legitimacy Ordinance be revised:

Mr President,

I move the third motion in my name on the Order Paper. It seeks to increase the fees specified in the Schedule to the Legitimacy Ordinance.

The Legitimacy Ordinance provides for the re-registration of the births of legitimated persons. Fees collected relate to the re-registration of births and the issue of certified copies of entries of the birth of legitimated persons. The fees were last revised in July 1994. It is now proposed to revise the fees from \$200 to \$270, for re-registration of births, and from \$80 to \$110, for a certified copy of an entry of the birth.

Mr President, I beg to move.

End/Wednesday, June 14, 1995

Legal Aid (Amendment) Bill 1995: second reading

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Following is the speech by the acting Chief Secretary, the Hon Michael Suen, in the resumption of the second reading of the Legal Aid (Amendment) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

On 25 January this year, the Legal Aid (Amendment) Bill was introduced into this Council. This Bill seeks to implement the recommendations made by an interdepartmental working group set up to undertake a comprehensive review of the law, policy and practice governing the provision of legal aid services, taking into account the comments on a consultation paper published in April 1993. The objective of the Bill is to improve the scope and the operation of legal aid services in Hong Kong.

I would first like to thank Members of the Bills Committee, especially its Chairman, the Honourable Mr. Ronald Arculli, for their hard work and thorough examination of the Bill. We have responded positively to most of the ideas put forward by Members of the Bills Committee and these are reflected in the CSAs which I will move later. I believe the Bill has the support of most Members of the Committee, and I hope it will now receive the full support of this Council.

Mr President, I would now like to continue by outlining briefly the three major elements of the Bill.

First, the Bill will raise the financial eligibility limit for the standard legal aid scheme from \$120,000 to \$144,000. This proposed increase has taken into account the level of inflation since the current limit was set in 1992. The Administration will in future revise the limit every two years in the light of inflation. We will also conduct a comprehensive review of the overall approach that we take to assessing the financial eligibility of applicants every five years.

Secondly, the Bill seeks to expand the scope of the standard civil legal aid scheme. It gives the Director of Legal Aid the discretion to waive the financial eligibility limit in any civil cases where an applicant has a meritorious Bill of Rights (BOR) claim. This will include individuals making election petitions based on meritorious BOR claims. As a matter of human rights policy, legal aid will also be extended to persons making applications to the Mental Health Review Tribunal against detention in a mental hospital or the Correctional Services Department Psychiatric Centre.

Thirdly, the Bill introduces improvements to the Supplementary Legal Aid Scheme which provides assistance to the "sandwich class" whose financial resources are in excess of the amount prescribed for the standard legal aid scheme, but may not be sufficient to meet the high costs of conducting litigation on a private basis. The first improvement is to increase the upper financial limit under this supplementary scheme from \$280,000 to \$400,000, taking into account inflation since the introduction of the Scheme in 1984. This limit will also be revised in future on a biennial basis to take inflation into account.

At present, legal aid under the supplementary scheme is restricted to a number of civil proceedings, including certain claims in the District Court for damages and compensation for personal injuries. The Bill now expands the scope of the supplementary scheme to cover claims involving professional negligence on the part of medical doctors, dentists and lawyers, the three professions which have most frequent contacts with individual members of the public.

We have heard just now that both the Honourable Mr Simon Ip and the Honourable Dr C H Leong are in favour of expanding the Supplementary Legal Aid Scheme to cover professional negligence against all professions. We are concerned however, that any further expansion at this stage to cover more new types of cases would jeopardise the financial viability of the scheme. Furthermore, we have a practical problem in defining "all professions" for this purpose. But however let me say it for the record and let me reassure Members that we will keep the operation of the scheme under review and negligence claims against members of other specific professions will be considered for inclusion at a later date when we consider that the scheme is financially capable of further expansion.

Finally, in the light of the operational experience of the Legal Aid Department, the Bill includes a number of detailed amendments to formalise or to improve the practices relating to the provision of legal aid in both civil and criminal cases. For example, it recognises the present practice whereby the Director of Legal Aid does not impose a first charge on maintenance payment to children.

Mr President, with these remarks, and subject to the Committee Stage Amendments proposed by the Administration, I commend the Legal Aid (Amendment) Bill 1995 to Honourable Members for approval.

End/Wednesday, June 14, 1995

Legal Aid (Amendment) Bill 1995: committee stage

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Following is the speech by the acting Chief Secretary, the Hon Michael Suen, at the committee stage of the Legal Aid (Amendment) Bill 1995, in the Legislative Council today (Wednesday):

Mr President,

I move that the clauses specified be amended as set out in the paper circulated to Members.

The amendment to clause 2 seeks to expand the definition of "domestic proceedings", to include cases under the "Matrimonial Causes Ordinance (Cap 179)" and "the Guardianship of Minors Ordinance (Cap 13).

The amendment to clause 4 seeks to give the Director of Legal Aid the discretion to waive the financial eligibility limit in any civil case where an applicant has been granted a legal aid certificate in proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue.

The amendment to clause 6 is mainly technical in nature.

The amendment to clause 8 seeks to clarify some technical concerns expressed by the legal profession.

The amendment to clause 9 seeks to remove the potential criminality for people who breach confidentiality.

The amendment to clause 12 seeks to clarify how the Director of Legal Aid will apportion the contribution payable by a person aided under both the standard legal aid scheme and the Supplementary Legal Aid Scheme.

The amendment to clause 13(2)(a) is related to the amendment to clause 4. This also clarifies that applicants will not be subject to double merits tests.

The amendment to clause 13(2)(d) better defines the excepted proceedings and clarifies the term "derivatives of securities".

Mr President, I beg to move.

End/Wednesday, June 14, 1995

#### Amend clauses of Merchant Shipping (Seafarers) Bill

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Following is the speech by the acting Secretary for Economic Services, Mrs Elizabeth Bosher, in committee stage amendments of the clauses of the Merchant Shipping (Seafarers) Bill in the Legislative Council today (Wednesday):

Mr Chairman,

I move that the clauses specified be amended as set out in the paper circulated to Members.

Members will recall that the Merchant Shipping (Seafarers) Bill is part of our on-going exercise to localise UK legislation applying to Hong Kong so that the existing system of laws will continue after 1997. The Bill will also consolidate existing Hong Kong legislation which regulates the employment and conditions of work of seafarers.

All but one of the proposed amendments are changes to the Chinese text, which would remove possible discrepancies in meaning between the two texts of the Bill.

The other is in respect of Clause 124 of the Bill which empowers the Seafarers' Authority, meaning the Director of Marine, to prescribe various forms. These forms, which will be prescribed to replace the current sets in use, are routine, administrative documents which enable the Seafarers' Authority to discharge his functions effectively. The existing forms are not subsidiary legislation. We intend to maintain this system in the Bill and the proposed amendment will make this clear.

Mr Chairman, I beg to move.

End/Wednesday, June 14, 1995

Amend schedule of Merchant Shipping (Seafarers) Bill

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Following is the speech by the acting Secretary for Economic Services, Mrs Elizabeth Bosher, in the committee stage amendments of the schedule of the Merchant Shipping (Seafarers) Bill in the Legislative Council today (Wednesday):

Mr Chairman,

I move that the Schedule specified be amended as set out in the paper circulated to Members.

Schedule 2 to the Merchant Shipping (Seafarers) Bill sets out the consequential amendments to various enactments required by the Bill. Since the Bill's introduction, we have identified additional provisions which also require minor consequential amendments to make them consistent with the Bill. Some of the consequential amendments have to be replaced because the authentic Chinese texts of the affected ordinances have been declared since the publication of the Bill.

Mr Chairman, I beg to move.

End/Wednesday, June 14, 1995

Nuclear Material Bill: committee stage

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Following is the speech by the acting Secretary for Economic Services, Mrs Elizabeth Bosher, at the committee stage of the Nuclear Material (Liability for Carriage) Bill, in the Legislative Council today (Wednesday):

Mr Chairman,

I move that the clauses specified be amended as set out in the paper circulated to Members.

The purpose of the Nuclear Material (Liability for Carriage) Bill is to replace, through the enactment of local legislation, the relevant provisions of the United Kingdom's Nuclear Installation Act 1965, as applied to Hong Kong by three Orders in Council made between 1972 and 1986.

The purpose of the proposed amendments to clauses 4 and 8(2) of the Chinese text of the Bill is to reflect better the meaning of the words "incurred" and "jettisoned" in the corresponding clauses of the English text of the Bill.

The proposed amendments to clause 16 of the Chinese text of the Bill are consequential to the authentication of the Chinese text of the Foreign Judgments (Restriction on Recognition and Enforcement) Ordinance which took place on 24 February 1995.

Mr Chairman, I beg to move.

End/Wednesday, June 14, 1995

Intimidating witnesses liable to be prosecuted: AG

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Those who try to intimidate witnesses or interfere with witnesses are liable to be prosecuted with the offence of attempting to pervert the course of public justice which carries a maximum penalty of seven years imprisonment, the Attorney General, the Hon Jeremy Mathews, said in the Legislative Council today (Wednesday).

Replying a question raised by the Hon James To, Mr Mathews said the courts were also equipped with the power to punish those who refuse to give evidence.

He said: "Under section 21(4) of the Magistrates Ordinance, if a person comes before a magistrate as a witness but refuses to be sworn, or, having been sworn, refuses to answer questions put to him, he is liable to be imprisoned for a period of up to 12 months.

"Section 36 of the Criminal Procedure Ordinance confers a similar power on the High Court and District Court to punish such witnesses for contempt of court up to a maximum period of two years' imprisonment," he added.

Mr Mathews said the Government was making every effort to ensure that witnesses would be given adequate protection and assurance where necessary.

"The Police have in place a wide range of witness protection arrangements. A Police Central Witness Protection Unit has been set up to implement and co-ordinate these arrangements," he said.

In addition, the Criminal Procedure (Amendment) Bill 1995 now being studied by the Legislative Council contained proposals which would enable witnesses in fear to give evidence in all levels of court through live television link, Mr Mathews said.

The Attorney General said it was a civic duty of every citizen to give true and full evidence in legal proceedings.

"The Government has published posters and leaflets to assure the public of their rights as a witness and to give sensible and useful guidance to witnesses as to what is expected of them when giving evidence in court," he said.

There were also Announcements of Public Interest and television programmes like "Crime Watch" and "Police Magazine" to encourage witnesses to come forward to testify in court, he noted.

Mr Mathews said these arrangements provided a comprehensive range of measures designed to ensure that criminal cases were heard on their merits with witnesses willing and confident to give full testimony in court.

"In order to support the rule of law we also need the co-operation of the community to come forward, report offences and give evidence in court," he said.

Mr Mathews said in the past three years, there had been three out of 2,299 cases in the High Court where defendants were acquitted because key prosecution witnesses gave evidence at the trial which was contradictory to their earlier statements. All three were murder cases.

During the same period, there were 27 out of 4,481 District Court cases where the defendants were acquitted because key witnesses for the Prosecution either suffered a lapse of memory or gave evidence in court contradictory to their earlier statements and damaging to the Prosecution's case.

End/Wednesday, June 14, 1995

"Forgetful" witnesses

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Following is a question by the Hon James To and a reply by the Attorney General, the Hon Jeremy Mathews, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council:

- (a) of the annual breakdown, by types of offences, of cases in the past three years which have resulted in the discontinuance of prosecution on account of the witnesses claiming to have forgotten details of the events or contradicting their testimony made previously; and
- (b) what measures the Government will take to prevent cases as described in (a) above so as to ensure justice and safeguard the rule of law in the territory?

Reply:

Mr President,

In the past three years, there have been three cases in the High Court where defendants were acquitted because key prosecution witnesses gave evidence at the trial which was contradictory to their earlier statements. All three were murder cases.

During the same period, there were 27 District Court cases where the defendants were acquitted because key witnesses for the Prosecution either suffered a lapse of memory or gave evidence in court contradictory to their earlier statements and damaging to the Prosecution's case. A breakdown of such cases by reference to the type of offences is shown at the table attached to this reply. We do not have statistics of such cases in the Magistrate's Courts. To put these figures into context, during the past 3 years, there have been 2,299 cases in the High Court and 4,481 cases in the District Court.

As regards the second part of the question, the following arrangements are already in place:

- (a) It is a civic duty of every citizen to give true and full evidence in legal proceedings. The Government has published posters and leaflets to assure the public of their rights as a witness and to give sensible and useful guidance to witnesses as to what is expected of them when giving evidence in court. There are also Announcements of Public Interest and television programmes like "Crime Watch" and "Police Magazine" to encourage witnesses to come forward to testify in court;
- (b) The Government is making every effort to ensure that witnesses will be given adequate protection and assurance where necessary. The Police have in place a wide range of witness protection arrangements. A Police Central Witness Protection Unit has been set up to implement and co-ordinate these arrangements;
- (c) Those who try to intimidate witnesses or interfere with witnesses are liable to be prosecuted, subject to the availability of evidence, with the offence of attempting to pervert the course of public justice which carries a maximum penalty of 7 years imprisonment; and

- (d) The courts are equipped with the power to punish those who refuse to give evidence. Under section 21(4) of the Magistrates Ordinance, if a person comes before a magistrate as a witness but refuses to be sworn, or, having been sworn, refuses to answer questions put to him, he is liable to be imprisoned for a period of up to 12 months. Section 36 of the Criminal Procedure Ordinance confers a similar power on the High Court and District Court to punish such witnesses for contempt of court up to a maximum period of 2 years' imprisonment.

Mr President, in addition, the Criminal Procedure (Amendment) Bill 1995 now being studied by this Council contains proposals which will enable witnesses in fear to give evidence in all levels of court through live television link. This will add to the existing arrangements I have just mentioned.

These arrangements provide a comprehensive range of measures designed to ensure that criminal cases are heard on their merits with witnesses willing and confident to give full testimony in court. In order to support the rule of law we also need the co-operation of the community to come forward, report offences and give evidence in court.

District Court Cases

<u>Types of Offences</u>	<u>Failure of Prosecution Due to</u>	
	<u>Contradictory evidence</u>	<u>Lapse of Memory</u>
Attempt to Pervert the Course of Public Justice	1	
Blackmail	2	1
Causing Grievous Bodily Harm	1	
Counselling and Procuring Blackmail		1
Criminal Intimidation		1
False Imprisonment	1	
Lending Money at an Excessive Rate	2	
Possession of identity card relating to another person	1	
Robbery	2	
Trafficking in dangerous drugs	1	
Unlawful Sexual Intercourse with girls under 13	1	
Wounding with intent	10	2
	—	—
	22	5
	—	—

Sit-in protest outside NCNA

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Following is a question by the Hon Frederick Fung Kin-kee and a reply by the acting Secretary for Security, Mr Ken Woodhouse, in the Legislative Council today (Wednesday):

Question:

On the evening of 23 May, a political group petitioned the Xinhua News Agency (NCNA) for the release of a political dissident in China, but the police did not allow the group consisting of ten people to stage a sit-in at the entrance to NCNA. In view of this, will the Government inform this Council of:-

- (a) the number of organisations allowed to stage sit-ins at the entrance to the NCNA, as well as the number of those prohibited from doing so, in the past year; and
- (b) the criteria adopted by the police in determining whether sit-ins should be allowed to take place at the entrance to the NCNA?

Reply:

Mr President,

As regards the first part of the question, during the past twelve months, the Police have had to deal with 191 public gatherings outside NCNA. None of the organisations which took part in these gatherings were allowed to stage sit-ins at the entrance to NCNA. However, on two occasions in the past year, demonstrators acted contrary to police advice and staged sit-ins at the entrance to NCNA. After repeated police advice and warnings, the demonstrators subsequently moved away from the main entrance to less obstructive locations, where they continued their demonstrations.

As regards the second part of the question, as a general rule, the Police do not allow petitioners to stage sit-ins at the entrance to the NCNA, because they would cause obstruction and inconvenience to other members of the public.

End/Wednesday, June 14, 1995

Successful applicants under British Nationality Selection

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Following is a question by Dr the Hon Leong Che-hung and a reply by the acting Secretary for Security, Mr Ken Woodhouse, in the Legislative Council today (Wednesday):

Question:

In the light of the recent media report that some persons who have been successful with their applications for a British Passport under the British Nationality Selection Scheme have given up their British passports and instead applied for the British National (Overseas) passports, will the Administration inform this Council :

- (a) of the actual number of such persons;
- (b) of the actual number of those who have given up their certificates of registration as a British Citizen; and
- (c) whether the Government will ensure that the quota of the Scheme thus released will be reallocated to those still on the waiting list until the total quota of 50,000 families have been exhausted?

Reply:

Mr President,

As regards the first part of the question, as the British passports issued to successful applicants under the British Nationality Selection Scheme are the same as those issued to all other British citizens, we cannot distinguish scheme beneficiaries from other British citizens who give up their British citizen passport. Therefore, we do not have statistics on the number of beneficiaries who have given up their British passports. However, we believe the number to be low.

As regards the second part of the question, so far, six successful applicants under the British Nationality Selection Scheme have renounced British citizenship. However, the places taken up by them cannot be re-allocated to other applicants, because, under the law, these persons are entitled to revoke their renunciation and to resume their British citizenship, provided they apply before 1997.

As regards the third part of the question, subject to the caveat concerning the small number of renunciations I have just mentioned, every step possible will be taken to ensure that all 50,000 places available under the scheme are taken up.

End/Wednesday, June 14, 1995

Duty of the Stock Exchange of Hong Kong

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Following is a question by the Hon Chim Pui-chung and a reply by the Secretary for Financial Services, Mr Michael Cartland, in the Legislative Council today (Wednesday):

Question:

The recent incidents of non-compliance with the regulations of the Stock Exchange of Hong Kong Limited (SEHK) by the chairmen and directors of certain listed companies concerning non-declaration of their criminal offence records have aroused public concern. In this connection, will the Government inform this Council :

- (a) what kind of an organisation is the SEHK;
- (b) whether SEHK is empowered to formulate regulations which have a legally binding effect; and
- (c) whether persons who do not comply with the regulations of SEHK are legally responsible for such non-compliance?

Answer:

- (a) Mr President, The Stock Exchange of Hong Kong Limited (SEHK) is a company incorporated in Hong Kong which has the right to establish, operate and maintain a stock market in Hong Kong pursuant to section 27(1) of the Stock Exchanges Unification Ordinance (Cap. 361). Due to its unique role in our financial markets, the Stock Exchange has a duty to perform in the public interest. This is stipulated in section 27A of the Ordinance which requires the Exchange to ensure an orderly and fair market in securities trading through its facilities. In performing this duty, the Stock Exchange shall act in the interests of the public, in particular the investing public, and must ensure that such interests prevail where they are in conflict with any other interests that the Exchange is required to perform under any other law.

In the regulatory framework for securities trading, the Stock Exchange is a front line regulator responsible for the day-to-day monitoring of the operation of the Hong Kong stock market. The Securities and Futures Commission has a statutory function to be responsible for supervising and monitoring the activities of the Exchange and to promote and develop self-regulation by the Exchange and other relevant bodies.

- (b) The Listing Agreement between an issuer and the Stock Exchange of Hong Kong Limited setting out the continuing obligations which the issuer undertakes to comply with as a condition of listing is a legally binding contract. Section 34(1)(a) of the Stock Exchange Unification Ordinance empowers the Exchange to make rules in respect of listing requirements. However, the regulations are not subsidiary legislation of the Ordinance and there are no penalties under Ordinance for contravention of the regulations. The regulations are enforced under the Listing Agreement which is a commercial contract.
- (c) Persons who do not comply with the regulations of the Stock Exchange may be sanctioned under the rules and regulations of the Exchange. However, contravention of such regulations is a civil matter and not a criminal offence.

End/Wednesday, June 14, 1995

#### New franchise for CMB

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Following is a question by the Hon Lee Wing-tat and a reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question:

It is learnt that the China Motor Bus Company Limited (CMB) has refused to negotiate with the Government its franchise and that the company has purchased expensive fuel oil from an oil company, both of which are to the detriment of the interests of passengers. In this connection, will the Government inform this Council:

- (a) of the present progress of the negotiation on the renewal of CMB's franchise?
- (b) of the criteria adopted in determining whether CMB's franchise should be renewed; and
- (c) whether the Government will consider introducing measures to make the CMB management accountable to both this Council and the public; if so, what the details are?

Reply:

Mr President,

The China Motor Bus Company Limited's franchise will expire on 31 August 1995. The Administration is prepared to award CMB a new franchise. This has been supported by the Transport Advisory Committee in principle. We have been negotiating the terms and conditions with CMB for several months and have now reached the final stages of this exercise. I expect to be able to put a recommendation to the Executive Council within the next few weeks.

Let me provide some basic facts: CMB now operates about 1000 buses on 133 routes and carries some 540,000 passengers per day. The Administration's prime consideration is to ensure that this level of demand can be satisfied through the provision of an efficient bus service. In this respect, the main criterion in determining whether or not CMB should be awarded a new franchise is whether CMB can provide a standard of service which is acceptable.

Admittedly, there have been many complaints about CMB and its service. It is not for the Administration to defend the company but it is our responsibility to assess CMB's performance in a dispassionate manner.

The Administration's conclusion is that, whilst there is certainly room for CMB to further improve its overall performance there have nonetheless been improvements since its current franchise was granted in September 1993 when 26 routes were excised. Transport Department's surveys show that CMB has been able to meet the scheduled requirement. In short CMB at least deserves a pass mark and for that reason we are prepared to offer a new 3-year franchise to CMB which will comprise a reduced network of routes which we believe CMB can effectively manage.

Regarding accountability on the part of the CMB management, the measures now in place will be retained and further steps taken. At present the Transport Department closely monitors CMB's daily services and where deficiencies are found warning letters will be issued to require CMB to rectify the situation. Failure to comply will result in the imposition of severe financial penalties which have to be borne by their shareholders. These procedures follow the provisions laid down in the Public Bus Services Ordinance. As part of the new franchise conditions, we shall also make it a mandatory requirement for CMB to disclose certain financial and operational information. At present, the provision of such information is only on a voluntary basis.

Mr President, the Administration is satisfied that, all factors taken into account, the award of a new franchise to CMB is in the interests of the travelling public.

End/Wednesday, June 14, 1995

On-the-Job Training Scheme

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Following is a question by the Hon James To and a reply by the acting Secretary for Education and Manpower, Miss Jacqueline Willis, in the Legislative Council today (Wednesday):

Question:

Regarding the On-the-Job Training Scheme, will the Government inform this Council of the following :

- (a) whether it will promote the Scheme to a larger number of establishments in the private sector so as to reduce the number of the unemployed in the territory;
- (b) the current number of corporate participants in the Scheme; the respective percentages of participants from the service sector and the manufacturing sector out of the total number of participants, as well as the respective numbers of trainees involved; and
- (c) the number of trainees who will stay on their jobs after completing the three-month on-the-job training; and whether the three-month training period is sufficient; if not, whether the training period will be extended?

Reply:

Mr President,

- (a) The Employees Retraining Board (ERB) and the Labour Department have been actively promoting the On-the-Job Training (OJT) Scheme through their liaison networks with major employers' associations and individual employers. Over 20,000 OJT pamphlets have been sent by the ERB to employers informing them of the Scheme. The ERB training bodies also contact employers in their locality to promote the OJT Scheme and to assist in the placements of retrainees. The ERB reviews such promotion efforts regularly and will step up publicity where necessary. In the coming months, the government will conduct a more detailed survey on job vacancies. The information will help the ERB to target the retraining at the occupational groups with high vacancy rates and those jobs that would benefit more through OJT rather than the more traditional classroom studies.

- (b) By the end of May 1995, 1,314 firms have joined the OJT Scheme. Of this total, 64% are from the service sector and 22% are from the manufacturing sector. The number of trainees currently undergoing OJT are 1803 in the service sector and 363 in the manufacturing sector.
- (c) Although we do not keep statistics on the number of OJT participants who remain in employment after completing 3 months' training, the feedback from individual employers indicated that the majority of participants have stayed on their jobs. Furthermore, the finding of an independent study commissioned by ERB indicated that the turnover rate of ERB trainees has been relatively lower than that of other employees.

A large proportion of the jobs under this scheme are general clerical jobs which do not require a high level of skill. The duration of three months for the OJT Scheme is therefore considered adequate. However, if there are other job types suitable for the OJT scheme which require longer training, the ERB will consider whether the duration should be extended in order to enhance the effectiveness of the Scheme.

End/Wednesday, June 14, 1995

Increase of water bills due to sewage charge

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Following is a question by the Hon Howard Young and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

In view of the concern expressed by restaurants and hotels regarding the substantial increase in their water bills because of the recently introduced sewage charge, will the Government inform this Council of the following:

- (a) What measures restaurants and hotels can take to reduce such charges;
- (b) What the Government has done to publicise the measures mentioned in (a) above to the establishments concerned; and

- (c) What assistance and advice can such establishments expect from the relevant departments on water conservation or sewage treatment?

Reply:

Mr President,

It may be useful to first clear up some degree of confusion regarding water charges and sewage charges which are different utility charges. Water is charged at \$4.58 per cubic meter whilst the general sewage charge is \$1.20 per cubic meter. The general sewage charge, which is paid by those who discharge effluent into the public sewerage system, is billed together with the water charge by the Water Supplies Department. In addition, a Trade Effluent Surcharge, which is paid by those trades and industries whose strength of effluent is higher than that for domestic discharges, is billed separately by the Drainage Services Department. The trades and industries who are subject to this surcharge, and the respective rates of the surcharge, are specified by the Sewage Services (Trade Effluent Surcharge) Regulation. The Sewage Charge and Trade Effluent Surcharge are based on the Polluter Pays Principle whereby the more one pollutes, the more one pays for its treatment.

- (a) The following measures will help reduce sewage charges - (i) install on-site treatment facilities to reduce the strength of effluent: a less polluted discharge as measured by its COD (Chemical Oxygen Demand) would reduce sewage charges; (ii) reduce the volume of discharge by good housekeeping methods to conserve water; and (iii) proper installation and maintenance of grease traps.
- (b) The Government has publicised the measures mentioned in (a) above via a booklet on the proper design, installation and maintenance of grease traps (published and distributed by the Environmental Protection Department in 1993, shortly to be reprinted), the provision of materials and briefings by the Drainage Services Department to all their customers to explore measures to take to reduce the pollution level of restaurant and hotel effluent, and through Municipal Council health inspectors when they visit restaurants and hotels.
- (c) Apart from disseminating the information described above, assistance are provided by the Trading Fund Branch of the Drainage Services Department on information regarding in-house measures for waste water treatment; by the Environmental Protection Department's Local Control Offices on advice on sewage treatment measures; and by the Water Supplies Department on water conservation measures. In addition, the Planning, Environment and Lands Branch has set up a liaison group with representatives of restaurateurs to discuss their concerns.

End/Wednesday, June 14, 1995

Redevelopment of Kwun Tong bus depot

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Following is a question by the Hon Fred Li Wah-ming and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

It is learnt that the Kowloon Motor Bus Company Limited (KMB) is negotiating with the Government the redevelopment plan of its depot in How Ming Street, Kwun Tong, and that the KMB intends to rent the vacant site in the neighbourhood of Shun Lee Estate for use as its temporary depot during the redevelopment period. In this connection, will the Government inform this Council:

- (a) of the number of bus parking spaces the KMB plans to provide in the redeveloped How Ming Street depot, and what is the number of parking spaces which the Government requires the KMB to provide;
- (b) whether the Government intends to carry out an environmental assessment to examine if the site near Shun Lee Estate is suitable for constructing a temporary depot before deciding whether the site should be leased; if not, why not; and
- (c) whether the Government will consult the Kwun Tong District Board and local residents about leasing the site near Shun Lee Estate to the KMB for use as a temporary depot; if so, when such consultation will take place; if not, why not?

Answer:

Mr President,

- (a) KMB's proposed re-development is still being considered by the Government. In this connection, KMB has also applied for a short term tenancy near Shun Lee Estate to facilitate its redevelopment project. However, the release of this temporary site to KMB will be considered in conjunction with the redevelopment proposal. The existing depot provides 159 bus parking spaces, mainly for parking 2-axle double deck buses. According to the proposal, the new development will provide 215 bus parking spaces, including 146 for 3-axle double deck buses, 63 for medium coaches and 6 for small coaches. The proposed provision will meet the Government's requirement for KMB's overnight bus parking in East Kowloon.

- (b) Government does not intend to carry out a full environmental impact assessment covering the proposed temporary site near Shun Lee Estate because the site is quite far away (about 180 meters) from residential areas. The two adjoining users are a playground, and a temporary housing area which will shortly be cleared for the proposed Fire Service Recreational Club. Environmental Protection Department has however been consulted, and in the event that the tenancy to KMB does proceed, adequate environmental safeguards will be included into the tenancy conditions.
- (c) Kwun Tong District Office has sought the preliminary views of individual District Board members and the Area Committee. They have raised no objection to the proposed tenancy subject to the provision of a physical partition to protect users of the adjoining playground.

End/Wednesday, June 14, 1995

#### Security services in public housing estates

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Following is a question by Dr the Hon Tang Siu-tong and a written reply by the Secretary for Housing, Mr Dominic Wong, in the Legislative Council today (Wednesday):

Question:

The Housing Authority has decided to provide entrance grilles, closed-circuit TVs and 24-hour security services in most public housing estates. In this connection, will the Government inform this Council whether :

- (a) the Housing Authority will provide round-the-clock security services in public housing blocks where iron grilles have not yet been installed at the entrances; and
- (b) the Housing Authority has any plan to provide entrance grilles, closed-circuit TVs and round-the-clock security services in all public housing blocks; if so, when the work is expected to be completed?

Answer:

Mr President,

The Housing Authority has a security improvement programme for different types of public rental housing blocks. All new and existing Harmony and Trident blocks will be provided with security devices including gates at all entrances, doorphones and closed circuit television (CCTV) inside lifts and at the main entrance. A guard will also be provided at the main entrance of each block round the clock. For blocks of other designs, CCTV will be installed inside lifts, with link-up to a control room for central monitoring by security guards.

Under the programme, about 1 000 rental blocks, other than blocks to be redeveloped shortly or without lifts, will be provided with security devices by the end of 1997 in phases. Installation work is now in progress.

Given the open environment in public housing blocks where gates have not yet been installed at the entrances, the Housing Authority will not provide round-the-clock security service as it will involve several thousand security guards and will not be cost-effective. Meanwhile, the Housing Authority has deployed additional security guards to patrol in estates where crime rates are relatively high.

End/Wednesday, June 14, 1995

#### Foreign exchange investors protection

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Following is a question by the Hon Frederick Fung Kin-kee and a written reply by the Secretary for Financial Services, Mr Michael Cartland, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council:

- (a) what measures are currently adopted by the Securities and Futures Commission to control foreign exchange investment companies which have not been issued with licences in the territory; and

- (b) what protection is provided to investors in the event of the closure of such companies due to operational problems?

Answer:

- (a) Under the Leveraged Foreign Exchange Trading Ordinance (Cap. 451) (LFETO), it is an offence for any person to carry on a business of leveraged foreign exchange trading without a licence. The maximum penalty on conviction for such an offence is \$10 million and 7 years' imprisonment.

Since the coming into force of the LFETO on 1 October 1994, there have been no complaints from the public of unlicensed leveraged foreign exchange trading. Nevertheless, the Securities and Futures Commission (SFC) has committed substantial resources to preventing unlicensed activity. 23 addresses which were identified as possible locations where unlicensed activity might be occurring were visited by SFC staff but no unlicensed activity has been detected.

Separately, there has been one successful prosecution of a company which held itself out as carrying on a business of leveraged foreign exchange trading whilst unlicensed. The company was fined \$60,000 and ordered to pay SFC's costs of \$30,495.

In two other cases, search warrants were executed. The first case involved a securities dealer who was suspected to have offered facilities to his clients to trade foreign exchange on a leveraged basis. The other case involved the issue of a pamphlet to a solicitor which offered a scheme involving investment in foreign exchange in a manner which could infringe the LFETO. Enquiries into both these cases are continuing.

SFC will continue to take vigorous action against unlicensed leveraged foreign exchange traders to protect investors. However, a distinction should be drawn between unlicensed companies operating illegally and those which have applied for a licence under the transitional provisions of the LFETO. These latter companies, although legally unlicensed, are allowed to continue trading until their applications have been determined. In order to apply for a licence, these companies are required to have a minimum \$30 million capital, *ab initio*, but they do not have to comply with the Financial Resources Rules, the Conduct of Business Rules and the Accounts and Audit Rules until they are licensed.

In actual practice, however, such companies by and large tend to respect the regulatory requirements pending approval of their licences, as they are not in a position to forecast when a licence may be issued but will have to meet these rules once a licence is approved.

For this reason, since the introduction of the Ordinance, the number of complaints against the industry has fallen dramatically. The nature of the complaints has also changed - from essentially fraud related complaints prior to the introduction of the legislation to essentially trade dispute related complaints since the introduction.

In the event of an application being rejected, the LFETO obliges the company to cease trading within 14 days and provides SFC with the necessary powers to ensure that investors' positions are closed out in an orderly manner and that their assets are protected.

- (b) Apart from the normal civil remedies, there is no protection for clients of an unlicensed leveraged foreign exchange trader in the event of a closure.

While the legal position is largely the same in respect of licensed leveraged foreign exchange companies, the combination of the capital requirements under the financial resources rules and the segregation of client assets requirements under the conduct rules which licensed companies are required to respect, is likely to afford an appropriate level of protection of client assets should a licensed company go into liquidation.

For this reason, in addition to its enforcement efforts, SFC has repeatedly urged investors to ensure that they deal only with leveraged foreign exchange companies which are authorised to conduct such activities. To assist investors, SFC has established a hotline service to advise whether the companies they are dealing with are indeed authorised.

End/Wednesday, June 14, 1995

Prisoners' wages

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Following is a question by the Hon Tam Yiu-chung and a written reply by the acting Secretary for Security, Mr Ken Woodhouse, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council of the system adopted to adjust the wages received by the prisoners for their work and the prices of the canteen items they are permitted to purchase during imprisonment; and whether the Government will consider adjusting the wages of the prisoners and the prices of the canteen items simultaneously; if not, why not?

Reply:

Mr President:

The tender for the supply of canteen items is renewed once a year, in October. When the result of the tender is known, the prices of canteen items can be fixed; prison wages are then adjusted correspondingly in order to maintain prisoners' purchasing power.

Prisoners' wages may also be adjusted in line with increases in the prices of some canteen items which are dutiable items. This typically happens in March each year, at the time of the budget, but may exceptionally happen at other times of the year.

All adjustments in prisoners' wages are made at the same time as increases in canteen prices.

End/Wednesday, June 14, 1995

Land use in industrial estates

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Following is a question by Dr the Hon Huang Chen-ha and a written reply by the Secretary for Trade and Industry, Mr T H Chau, in the Legislative Council today (Wednesday):

Question:

Regarding the land use in industrial estates, will the Government inform this Council :

- (a) how many hectares of land in the industrial estates at Tai Po, Yuen Long and Tseung Kwan O are now available for leasing respectively;
- (b) how many hectares of land were leased, and at what prices, in each of the industrial estates last year and in the first quarter of this year;
- (c) whether the joint applications made recently by a number of pharmaceutical factories, as well as a number of electroplating factories, for the grant of land in the industrial estates reflect that there is demand for industrial land among the medium-sized and small enterprises; if so, whether the Hong Kong Industrial Estates Corporation will review its existing policy on the leasing of land in industrial estates with a view to meeting the growing demand of the medium-sized and small enterprises; and
- (d) when the Hong Kong Industrial Estates Corporation will decide on the joint applications for the grant of land made by the pharmaceutical and electroplating factories; what factors will be taken into consideration in making the decision and whether the size of the factories is a decisive one?

Answer:

- (a) The Hong Kong Industrial Estates Corporation (HKIEC) presently has 4.3 hectares available for leasing at its estate in Tai Po, 7.5 hectares in Yuen Long, and 5.8 hectares in Tseung Kwan O.

- (b) The HKIEC's figures are collated on the basis of the financial, rather than the calendar year. During the year ending 31 March 1994, 1.34 hectares was granted at Tai Po, 4.75 hectares at Yuen Long, and 3.37 hectares at Tseung Kwan O. Since 1 April 1995, no land has been leased at Tai Po or Yuen Long, but 1.1 hectares has been leased at Tseung Kwan O, and a further 4.08 hectares has been offered to applicants. The land premiums per square metre are as follows : \$2,500 at Tai Po (\$2,200 up to 31 March 1994), \$2,000 at Yuen Long (\$1,800), and \$2,400 and \$3,000 respectively for inland and waterfront sites at Tseung Kwan O (\$2,100 and \$2,650).
- (c) As only two groups of small and medium-sized enterprises have expressed interest in leasing land from the HKIEC, it is not possible to say whether this reflects a more general demand for industrial land from such enterprises. It is likely that only enterprises which cannot operate in conventional industrial buildings would seek land, because of the additional financial commitment which development entails.

The HKIEC's existing policy already allows it to consider joint applications from multiple users, including small and medium-sized enterprises.

- (d) A group of pharmaceutical companies has submitted a joint application, and detailed discussions are taking place. It is not possible to say when these will be concluded. Preliminary discussions have also taken place with a group of electroplating companies, although no application has been received to date.

All applicants must show that they meet the HKIEC's basic criteria, which are that applicants' activities must be of a nature which cannot effectively be carried out in an ordinary multi-storey building, they must not be classified as an offensive trade, and the primary activity must not be storage or warehousing. Practical considerations, such as the financial ability of joint applicants to complete the project, and how they would replace occupants of a multi-user building who vacate their premises, will also be taken into account.

District officers' attendance at functions

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Following is a question by the Hon Zachary Wong and a written reply by the acting Secretary for Home Affairs, Mr Joseph Wong, in the Legislative Council today (Wednesday):

Question:

Regarding the attendance of District Officers at various kinds of ceremonies, will the Government inform this Council:

- (a) of the respective number of ceremonies attended by each of the District Officers last year, together with a breakdown by month of the number of attendance and the time spent thereof by each officer;
- (b) of the criteria adopted by the District Officers in deciding whether to attend such ceremonies or not; and
- (c) how District Officers can avoid causing disruption to other areas of their work as a result of their frequent attendance at ceremonial functions?

Reply:

Mr President,

- (a) No statistics pertaining to attendance of District Officers at various kinds of functions have been kept. As a rough indication, District Officers attend an average of 4 to 5 functions each month and spend between one to two hours at each function.
- (b) Attendance by District Officers at functions is an indication of Government support. In deciding whether or not to attend a particular function, District Officers generally take into account factors such as the purpose of the occasion, the status of the organisation, and whether their attendance would contribute positively to Government's community building efforts.
- (c) As invitations to functions are received well in advance, District Officers are able to plan their work schedule around these functions. Also, many of the functions are held outside office hours.

End/Wednesday, June 14, 1995

Stench emission from Tin Shui Wai stormwater sewer

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Following is a question by Dr the Hon Tang Siu-tong and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Residents of Kingswood Villas in Tin Shui Wai, especially those living in Tin Oi Court, have been suffering from the stench emitted from the nearby stormwater sewer. In connection, will the Government inform this Council of:

- (a) The reasons for the emission of stench from the stormwater sewer despite the closing down of the pig rearing industry; and
- (b) The measures and the time frame for cleaning up the polluted sewer so that residents will no longer have to suffer from the stench?

Reply :

Mr President,

- (a) The odour in the stormwater channel near Tin Oi Court is the result of water pollution from the indiscriminate dumping of waste, particularly livestock waste, upstream. There is also a minor problem with domestic sewage discharges.
- (b) A number of measures are being implemented to alleviate the problem. Eighteen Low Flow Interceptors (LFI), commissioned in 1994, intercept the polluted base flow during the dry season and divert it to the public sewerage system for proper treatment and disposal. An inflatable dam assists in the downstream dispersal of the pollutants in the channel. A full scale desilting of the channel, completed in January 1995, removed polluting material deposited, thus removing odour and improving flows. The Deep Bay area, which covers the Tin Shui Wai catchments, was declared a Water Control Zone in December 1991; factories in Kiu Tau Wai are now required to connect their industrial effluents into the public sewers newly completed. This has resulted in diverting a total flow of over 2,000 cubic meters per day and a pollution load equivalent to about 10,000 people away from the channel. The small number of domestic sewage discharges into the channel will also be removed when new sewers are provided under Stage 2 of the Yuen Long and Kam Tin Sewage Master Plan in mid 1999. Finally, livestock waste, the main cause of odour problem in the channel, will be controlled under the Livestock Waste Control Scheme when controls for the Tin Shui Wai catchments are implemented in mid-1996.

Length of time for retrained workers to find jobs

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Following is a question by Dr the Hon David Li Kwok-po and a written reply by the acting Secretary for Education and Manpower, Miss Jacqueline Willis, in the Legislative Council today (Wednesday):

Question:

The unemployment rate has increased in the recent months against the background of a faster than expected growth in the territory's labour force. The growth rate of the labour force in 1994 was 3.5%, which was the highest recorded in the last three years. It has been suggested that one of the reasons for this rapid growth in labour force is that most retrained workers take a long time to find a job. In this connection, will the Government inform this Council how long retrained workers take on average to find a job after they have received retraining under the Employees Retraining Scheme?

Reply:

Mr President,

Most of the participants of the retraining programmes who wish to acquire new skills with a view to taking up employment are already unemployed persons. They are by statistical definition already part of our labour force. The length of time they need to find a job after retraining has therefore no impact on both the growth rate of our labour force and the overall unemployment figure.

According to the statistics gathered by the Employees Retraining Board, the average time for a retrainee who is an active job seeker to secure a job after retraining ranges from one to four weeks. As far as those retrainees who seek employment assistance at the Local Employment Service of the Labour Department are concerned, about 60% are able to find jobs within one month after registration.

End/Wednesday, June 14, 1995

Fund-raising activities by hospitals

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Following is a question by the Hon Michael Ho and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question :

Will the Government inform this Council:

- (a) the system adopted by various hospitals under the management of the Hospital Authority (HA) in determining the use of funds raised in fund-raising activities; and
- (b) a detailed breakdown showing how each HA hospital allocated and spent the funds raised in last year's fund-raising activities?

Reply:

Mr President,

The use of donations generated from fund-raising activities organised by individual hospitals is determined by the Hospital Governing Committees or charitable trusts set up for this purpose. A breakdown showing the donations received by different public hospitals in 1994/95 and their way of disbursement is at Annex.

Some charitable organisations are engaged in a wide spectrum of community services not confined to those provided by public hospitals. As a historical practice, the governing boards of these organisations including the Tung Wah Group of Hospitals, Yan Chai Hospital and Pok Oi Hospital may determine and allocate the use of donations obtained from fund-raising activities. Government has no intention to interfere with this established arrangement.

The Hospital Authority Board will review on a regular basis the philosophies, directions and parameters for fund-raising activities as part of its overall strategy on community involvement.

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**Disbursement of Funds Generated  
From Fund Raising Activities in 1994/95**

	<b>Queen Mary Hospital</b>	<b>Pamela Youde Nethersole Eastern Hospital</b>	<b>Queen Elizabeth Hospital</b>	<b>Princess Margaret Hospital</b>	<b>Prince of Wales Hospital</b>	<b>Kwai Chung Hospital</b>	<b>Tuen Mun Hospital</b>
Amount of donations obtained from fund-raising activities	\$7.5 million	\$2.7 million	\$12,000	\$207,480	\$6.675 million	\$256,000	\$300,000
Use of donations obtained from fund-raising activities	Patient education and screening for high-risk cancer patients	Patient Resource Centre.	Staff Welfare Fund.	Patient Service Centre	Pending formation of a charity trust	Patient Resource Centre	Hospital Open Day

Foreign domestic helpers as drivers

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Following is a question by the Hon Tam Yiu-chung and a written reply by the acting Secretary for Security, Mr Ken Woodhouse, in the Legislative Council today (Wednesday):

Question:

Will the Government review the Immigration Ordinance and other related ordinances with a view to clearly stipulating that foreign domestic helpers are prohibited from taking up employment as drivers, so that the employment opportunities of local drivers will not be affected?

Reply:

Mr President,

Foreign domestic helpers are admitted for employment with specific employers under a standard employment contract. Domestic duties are defined in the Explanatory Notes of the employment contract to include domestic cooking, household chores, baby-sitting and child minding, but this is not an exclusive definition.

Under the present arrangements, whether foreign domestic helpers are allowed to perform driving duties depends on whether the driving duty is incidental to, or forms part of, the foreign domestic helper's domestic duties. In other words, it has to depend on the context and circumstances in which the duties are performed. Therefore, each case is considered on its merits. At present, we have no plans to review the Immigration Ordinance, or other Ordinances, in relation to this matter.

End/Wednesday, June 14, 1995

Works in Land Development Corporation sites continue

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Following is a question by the Hon Chim Pui-chung and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Regarding the suspension of works on some Land Development Corporation sites, will the Government inform this Council:

- (a) whether those development projects which have been approved by the Town Planning Board will be cancelled due to the suspension of works on those sites;
- (b) whether it will consider allowing the owners to redevelop their own properties; and
- (c) if the answer to (b) is in the negative, whether those owners can demand compensation on the ground that their properties cannot be redeveloped; if not, why not?

Answer:

Mr President,

The Land Development Corporation is currently redeveloping five sites. Works have not been suspended on any of these sites. The Corporation has re-confirmed its intention to complete the developments as early as possible.

In the light of the above, we have no comment on parts (a), (b) and (c) of this question.

End/Wednesday, June 14, 1995

Remedies for unemployment problem

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Following is a question by the Hon Hui Yin-fat and a written reply by the acting Financial Secretary, the Hon T H Chau, in the Legislative Council today (Wednesday):

Question:

Regarding the unemployment problem caused by the structural transformation of the territory's economy, will the Government inform this Council of the following :

- (a) whether, taking into account the economic restructuring and the ups and downs of different industries, the Government has formulated development strategies to deal with problems arising in the course of such restructuring; and whether the Government has come to grips with the present situation; and if so, why the Government has not yet adopted appropriate preventive and remedial measures;
- (b) whether the concept and mode of training under the Employees Retraining Scheme as well as the source of income of the Employees Retraining Fund will be reviewed, so that the Scheme may be changed to one which will enhance community education for adults, providing occupational training to employees in various industries and help employees to become more flexible and adaptive in changing over to other occupations in future; and
- (c) whether it has any plan to encourage employers in the manufacturing sector to place more emphasis on human resources investment locally, so as to remove the mentality of short-term investment and solve the problem in recruiting skilled labour?

Answer:

(a) The Government's economic policy is to allow market forces to determine the pace and direction of economic development, while providing an environment that is as friendly and as supportive to business as possible. This policy has enabled rapid and large-scale restructuring of the economy to take place with remarkably little impact upon employment. During restructuring, some impact upon employment is inevitable, given the mismatch between the skills demanded by employers, and those offered by employees. Since the scale and speed of the process depends upon market forces, it is not possible to predict in advance precisely what the impact will be. To mitigate the effects of unemployment upon those displaced from their jobs, the Government operates the Employees Retraining Scheme, to enable displaced workers to retrain for other jobs.

(b) The primary objective of the Employees Retraining Scheme is to provide retraining courses to help those displaced by the economic restructuring process to re-enter the workforce. To this end, the Employees Retraining Board (ERB) provides training in both job-related technical skills and general techniques for adapting to new job requirements. On the other hand, the adult education programme, which is coordinated by the Education Department, provides general educational opportunities for adults who may have missed the opportunity to receive formal education.

The ERB is funded by a specific levy imposed on employers of imported workers, which is solely designated to finance the Scheme set up in accordance with the Employees Retraining Ordinance. It is not appropriate to expand the role of the ERB and the ambit of this levy to cover adult education and other purposes which are already provided and funded separately.

(c) The Government already operates a number of schemes which are intended to encourage manufacturers to upgrade the skills of their workforce. These include the New Technology Training Scheme, which offers matching grants to employers training staff in new technologies, the Engineering Graduate Training Scheme which subsidise employers who provide graduate engineers with the training needed to meet the requirements of the Hong Kong Institute of Engineers or similar professional bodies, and the Employees Retraining Programme, under which employers are offered subsidies to retrain people in skills for which there is unfulfilled demand.

End/Wednesday, June 14, 1995

Equal status of Chinese and English under language law

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Following is a question by the Hon Cheung Man-kwong and a written reply by the acting Chief Secretary, the Hon Michael Suen, in the Legislative Council today (Wednesday):

Question:

Regarding section 3(2) of the Official Languages Ordinance which stipulates that both English and Chinese possess equal status and enjoy equality of use, will the Government inform this Council :

- (a) of the number of ordinances requiring that documents should be set out or submitted to the authorities concerned in English, together with the titles and summaries of the contents of such ordinances, excluding those ordinances listed in the Chief Secretary's reply to a question regarding the measures to implement the provisions in section 3(2) of the Official Languages Ordinance at the Council sitting on 16 November 1994, and
- (b) whether a schedule will be drawn up for all the ordinances stated in (a) above to be amended in stages before 1 July 1997, so that their provisions will accord with the spirit of section 3(2) of the Official Languages Ordinance; if so, what the details are; if not, why not; and whether the Government has considered the effect of non-compliance with Article 9 of the Basic Law of the Hong Kong Special Administrative Region in respect of those ordinances which have not been amended?

Answer:

Mr President,

- (a) The Ordinances listed in the Chief Secretary's reply on 16 November 1994 related to documents which were required to be submitted in English only. There are also a number of Ordinances which require documents to be set out or submitted to the authorities concerned in English as well as Chinese. These are listed in the Annex.

- (b) A review of all ordinances is being undertaken by a unit in the Legal Department to ascertain whether amendments to these ordinances could be introduced to provide for bilingualism in the preparation of the documents involved. The Government is fully aware of the need for consistency between Hong Kong Laws and the Basic Law, and the Chinese side is being consulted on proposed amendments to the laws where necessary.

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Annex

Landlord and Tenant (Consolidation) Ordinance Cap. 7

- Section 47(1) The forms in the Second Schedule are prescribed for use under this Part and shall in each case be accompanied by a translation thereof in the Chinese language.

Boilers and Pressure Vessels Ordinance Cap. 56

- Section 15(2) Where a copy of a document referred to in subsection (1) is not written in the English or Chinese language, it shall be accompanied by an English translation.

Births and Deaths Registration Ordinance Cap. 174

- Section 4(3) ...Entries of births and deaths shall, in the case of non-Chinese, be in the English language and, in the case of Chinese shall be both in the English and the Chinese languages.

Matrimonial Causes Rules Cap. 179 sub. leg. A

- Rule 40(2) Where a document produced by virtue of paragraph (1) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit or affirmation.

Rule 109(3)(b) ... if the petition is to be served ..... and there is reasonable ground for believing that the person to be served does not understand English, the petition shall be accompanied by a translation ..... in the official language of the country in which service is to be effected .....

Commodities Trading Ordinance Cap. 250

Section 45(2) The records referred to in subsection (1) shall be kept -

- (a) in writing in the English language; or
- (b) in such a manner as to enable them to be readily accessible and readily converted into written form in the English language.

[The records referred to in subsection (1) are those records to be kept by a dealer which will sufficiently explain the transactions, and reflect the financial position, of the business of trading in commodity futures contracts carried on by the dealer and will enable true and fair profit and loss accounts and balance sheets to be prepared from time to time.]

Housing Ordinance Cap. 283

Section 35 If any dispute arises in respect of any difference between the English version and the Chinese version of any lease, assignment, agreement, deed of mutual covenant, letter, notice or other documents required, granted, issued or made by, under or for the purposes of this Ordinance, the English version shall prevail.

Adoption Rules Cap. 290 sub. leg. A

Rule 2(3) In any discrepancy between the English and the Chinese version of any matter or in any form, the English version shall prevail.

Securities Ordinance Cap. 333

Section 83           The records referred to in subsection (1) shall be kept -

- (a)   in writing in the English language; or
- (b)   in such a manner as to enable them to be readily accessible and readily converted into written form in the English language.

[The records referred to in subsection (1) are those records to be kept by a dealer which will sufficiently explain the transactions, and reflect the financial position, of the business of trading in securities carried on by the dealer and will enable true and fair profit and loss accounts and balance sheets to be prepared from time to time.]

Demolished Buildings (Re-development of Sites) Ordinance Cap. 337

Section 7(1)       Where a re-development notice has been served in respect of any property, there shall be published in the Gazette and (with a translation in Chinese) affixed to the property .....

End/Wednesday, June 14, 1995